



GEORGE GASCON  
DISTRICT ATTORNEY  
CITY AND COUNTY OF SAN FRANCISCO

June 22, 2018

Marita Kwiatkowski  
California Department of Insurance  
2400 Del Paso Road, Suite 250  
Sacramento, CA 95834

Dear Ms. Kwiatkowski:

Enclosed please find the original of the 2018-2019 Automobile Insurance Fraud Grant Application for the Office of the District Attorney for the City and County of San Francisco. A CD containing a digital copy of the application is also included in this package.

Please note that a copy of County Ordinance 391-97 is included in this grant application in lieu of a certified resolution. This Ordinance authorizes County Department Heads to apply for and to expend grant proceeds. Specifically, the Ordinance states (in Section 10.170-1) that Programs that are recurring or have continuous funding from year to year shall be included in the budget submission by the department. This eliminates the necessity for a new resolution each year. For fiscal year 2018-2019, the District Attorney's proposed budget will include an expenditure of up to \$338,663 for the investigation and prosecution of automobile insurance fraud.

Our year-end report for fiscal year 2017-2018 is in the process of being completed. Our office will forward the report to you once it is finalized. As you will note, there will be an estimated \$7,872 in carry over funds at the end of the current fiscal year.

Thank you for your attention to this request. Should you have any questions or need additional information, please feel free to contact Kelly Burke at (415) 551-9523.

Very truly yours,



George Gascon  
District Attorney

**TABLE OF CONTENTS  
FISCAL YEAR 2017-2018**

**TABLE OF CONTENTS**

1.	Grant Application Checklist and SEQUENCE (FORM 01) .....	2
2.	Program Contact Form (FORM 03).....	4
3.	Resolution (FORM 04).....	5
4.	County Plan	
	a. County Plan Qualifications (FORM 05).....	10
	b. Staff Qualifications (FORM 06(a)).....	18
	c. Organizational Chart (FORM 06(b)).....	19
	d. Program Report (FORM 07).....	20
	e. County Plan Problem Statement (FORM 08) .....	21
	f. County Plan Program Strategy (FORM 09).....	28
5.	Project Budget (FORMS 10-12).....	31
6.	Equipment Log (FORM 13).....	34
7.	Joint Plan (Attachment "A")	
8.	Case Descriptions (Attachment "B")	

**GRANT APPLICATION CHECKLIST and SEQUENCE  
FISCAL YEAR 2018-2019**

**THE APPLICATION MUST INCLUDE THE FOLLOWING:**

	<u>YES</u>	<u>NO</u>
1. <b>GRANT APPLICATION TRANSMITTAL (FORM 02)</b> completed and signed by the district attorney?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. <b>PROGRAM CONTACT FORM (FORM 03)</b> completed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Original or certified copy of the <b>BOARD RESOLUTION (FORM 04)</b> included? If NOT, the cover letter must indicate the submission date.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. <b>TABLE OF CONTENTS</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. The County Plan includes:		
a) <b>COUNTY PLAN QUALIFICATIONS (FORM 05)</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <b>STAFF QUALIFICATIONS (FORM 06(A))</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <b>ORGANIZATIONAL CHART (FORM 06(B))</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <b>PROGRAM REPORT (DAR OR FORM 07)</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <b>COUNTY PLAN PROBLEM STATEMENT (FORM 08)</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) <b>COUNTY PLAN PROGRAM STRATEGY (FORM 09)</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Projected <b>BUDGET (FORMS 10-12)</b> included?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) <b>LINE-ITEM TOTALS VERIFIED?</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <b>PROGRAM BUDGET TOTAL (FORM 12)</b> matches amount requested on FORM 02?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. <b>EQUIPMENT LOG (FORM 13)</b> completed and signed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. <b>JOINT PLAN (Attachment A)</b> completed and signed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. <b>CONFIDENTIAL CASE DESCRIPTIONS (Attachment B)</b> Is all content readable? A partial narrative is not acceptable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. <b>ELECTRONIC VERSION (CD/DVD)</b> included?	<input checked="" type="checkbox"/>	<input type="checkbox"/>



**AUTOMOBILE INSURANCE FRAUD PROGRAM  
PROGRAM CONTACT FORM  
FISCAL YEAR 2018-2019**

1. Provide contact information for the person with day-to-day operational responsibility for the program, who can be contacted for questions regarding the program.

- a. Name: Kelly S. Burke
- b. Title: Assistant District Attorney
- c. Address: 732 Brannan Street
- d. San Francisco, CA 94103
- e. E-mail address: Kelly.Burke@sfgov.org
- f. Telephone Number: (415) 551-9523 Fax Number: (415) 551-9501

2. Provide contact information for the District Attorney's Financial Officer.

- a. Name: Eugene Clendinen
- b. Title: Chief Financial Officer
- c. Address: 850 Bryant Street, Suite 322
- d. San Francisco, CA 94103
- e. E-mail address: Eugene.Clendinen@sfgov.org
- f. Telephone Number: (415) 553-1895 Fax Number: (415) 553-9700

3. Provide contact information for questions regarding data collection/reporting.

- a. Name: Kelly S. Burke
- b. Title: Assistant District Attorney
- c. Address: 732 Brannan Street
- d. San Francisco, CA 94103
- e. E-mail address: Kelly.Burke@sfgov.org
- f. Telephone Number: (415) 551-9523 Fax Number: (415) 551-9504

**City and County of San Francisco Ordinance 391-97****SEC. 10.170. GRANT – APPLICATION PROCEDURE.**

(a) Applications for federal, State, or other grants involving any project or program shall be filed on behalf of a department upon the approval by the department head.

(b) For annual or otherwise recurring grants of \$5,000,000 or more, the department head shall submit a resolution articulating the grant application to the Board of Supervisors at least 60 days prior to the grant deadline for review and approval. The department shall provide as supporting documents to the resolution all relevant materials, including but not limited to the funding source's grant criteria, the department's most recent draft of its grant application materials, anticipated funding categories that the department will establish in the subsequent Request for Proposals (RFPs) process, and comments from any relevant citizen advisory body. Should the department fail to submit the resolution and/or supporting documents prior to the 60-day deadline, all funds received through the grant application shall be placed on reserve at the Board of Supervisors.

For applications for annual or otherwise recurring grants of \$5,000,000 or more that anticipate the issuance of Requests for Proposals, the department head shall submit a resolution articulating anticipated funding categories to the Board of Supervisors at least 60 days prior to the issuance of the RFPs for review and approval. The department shall provide as supporting documents to the resolution all relevant materials, including but not limited to the funding source's grant criteria, the department's most recent draft of its grant application materials, and comments from any relevant citizen advisory body. Should the department fail to submit the resolution and/or supporting documents prior to the 60-day deadline, all funds received through the grant application shall be placed on reserve at the Board of Supervisors.

The Board of Supervisors shall approve the resolution before the department head issues the RFPs. Should the Board of Supervisors neither approve nor disapprove a resolution submitted by a department head for review and approval by three business days prior to the issuance date for RFPs, the department head may issue the RFPs.

In exercising its powers of review and approval of the aforementioned grant applications, the Board of Supervisors shall take into account whether, and to what degree, its policy priorities, and those expressed by the Mayor's Office and any applicable citizen advisory bodies, have been addressed.

(c) The provisions of subsection (b) above are not intended to apply to annual or otherwise recurring Department of Homeland Security grants, grants for equipment purchases, or capital grants used only for capital improvements or as authorized by federal or State law.

(Amended by Ord. 93-86, App. 3/21/86; Ord. 204-90, App. 6/8/90; Ord. 401-90, App. 12/20/90; Ord. 187-91, App. 5/23/91; Ord. 301-91, App. 8/6/91; Ord. 931-97, App. 10/17/97; Ord. 265-05, File No. 051414, App. 11/18/2005)

**SEC. 10.170-1. GRANT FUNDS – ACCEPTANCE AND EXPENDITURE.**

(a) Any department, board, or commission that seeks to accept and expend federal, State, or other grant funds must comply with any applicable provisions of this Section.

(b) The acceptance and expenditure of federal, State, or other grant funds in the amount of \$100,000 or more is subject to the approval by resolution of the Board of Supervisors. If, as a condition of the grant, the City is required to provide any matching funds, those funds shall be included in determining whether the grant meets the \$100,000 threshold. This subsection (b) shall also apply to an increase in a grant where the increase, alone or in combination with any other previous increases to that grant, would raise the cumulative total amount of the grant to \$100,000 or more. The department, board, or commission requesting approval shall submit the following documents to the Board prior to its consideration:

(1) A proposed resolution approving the acceptance and expenditure of grant funds, or a proposed ordinance as required under subsection (d), signed by the department head, the Mayor or his or her designee, and the Controller;

(2) A completed "Grant Information Form." The Clerk of the Board shall prepare the form; it shall include a disability access checklist, indirect cost recovery, and other information as the Board of Supervisors may require;

(3) A copy of the grant application;

(4) A letter of intent to award the grant or acknowledgment of grant award from the granting agency; and,

(5) A cover letter to the Clerk of the Board of Supervisors substantially conforming to the specifications of the Clerk of the Board.

(c) **Grants or Increases to Grants of Less Than \$100,000.** The Controller may prescribe rules for the acceptance and expenditure of federal, State, or other grant funds in amounts less than \$100,000, or for increases to grants where the increase, alone or in combination with any other previous increases to that grant, would not raise the cumulative total amount of the grant to \$100,000 or more. The Controller may also prescribe rules for the acceptance and expenditure of increases to grants, where the original grant or any subsequent increase to the grant has been approved by the Board of Supervisors under subsection (b) or (d) and where the latest increase would be in an amount less than \$50,000.

(d) **Grant Funded Positions.** No position funded by a grant, regardless of the amount of the grant, shall be authorized or filled unless the classification, duration, and number of positions to be funded by the grant are specifically set forth in an ordinance approving acceptance and expenditure, which ordinance shall also contain appropriate amendments to the annual salary ordinance to reflect the positions proposed to be funded through the grant.

(e) **Recurring Grants.** Grants that provide funding to departments or programs of the City and County in a recurring manner or continue funding from one year to the next shall be included in the annual budget submission by the Department.

The Department budget submission shall also include a budget detail, explanations, and substantiations of the grant funding. If it is not possible for the Department to include recurring grant funds in its annual Department budget submission, the acceptance and expenditure of a recurring grant shall follow the procedure set forth in subsection (b).

(f) **Indirect Costs.** Every grant shall contain provisions for the reimbursement of indirect costs. Such indirect cost provisions shall reimburse the City and County from grant funds for administrative services that are necessary for the administration and performance of the project or program. Every department, office, board or commission shall establish a rate for such

indirect costs that is approved by the Controller and fixed in accordance with a directive issued by the Controller. The indirect cost rate shall be included in the grant budget that is submitted to the Board of Supervisors and in the authorizing resolution.

The receipt and expenditure of grant funds shall not be approved by the Board of Supervisors unless the Controller has certified that provisions for appropriate indirect cost reimbursement is included in the grant budget.

If indirect costs are not allowed by the funding agency, or for other reasons indirect costs cannot be included in the budget, these reasons shall be stated in the authorizing resolution. Upon approving acceptance and expenditure, the Board of Supervisors may waive the requirement for the inclusion of reimbursement of indirect costs.

(g) **Grant Budget.** Every department, board, commission, agency, or office submitting a budget for a grant of public funds to the Board of Supervisors pursuant to this Section shall submit such budget in a format that conforms to and provides the detail substantiation that is required of similar appropriations in the annual budget for the City and County. The mission and goals statement, which is required as part of the annual budget, is not required by this Section for submittal of a grant budget.

(h) **Grant Budget Revision.** A department, agency, or office may reallocate or transfer funds of line item expenditures within an approved grant budget, if such reallocations or transfers are within the total of the approved budget and are allowed by the granting agency. If any line item of a Federal or State grant is modified or increased by more than 15 percent, copies of documentation of such modification or increase which are transmitted to Federal or State agencies shall also be transmitted to the Board of Supervisors.

(i) **Grant Draw Down of Funds.** Departments, agencies, boards, and commissions shall promptly draw down grant funds from a Federal, State, or other funding agency and deposit such funds in the Treasury of the City and County of San Francisco to minimize the displacement of City funds that support grant activities.

(j) **Grant Transportation Authority.** The provisions of this Section shall not be applicable to applications for or expenditure of funds from the San Francisco County Transportation Authority. The Controller shall prescribe rules for the acceptance and expenditure of such funds.

(k) **Certain Transportation Funds (Proposition 1B Funds).** The voters of California adopted Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, at the November 7, 2006 California General Election. Under the Proposition, the State will appropriate two billion dollars (\$2,000,000,000) into the Local Streets and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006 ("Proposition 1B Local Street and Road Improvement Funds"). These funds will be distributed to cities and counties for improvements to transportation facilities that will assist in reducing local traffic congestion and further deterioration, improving traffic flows, or increasing traffic safety that may include, but not be limited to, street and highway pavement, maintenance, rehabilitation, installation, construction and reconstruction of necessary associated facilities such as drainage and traffic control devices, or the maintenance, rehabilitation, installation, construction and reconstruction of facilities that expand ridership on transit systems, safety projects to reduce fatalities, or as a local match to obtain state or federal transportation funds for similar purposes. The Proposition requires that the funds distributed to the City be deposited in a local account that is designated for the receipt of state funds allocated for local streets and roads.

(1) The Board of Supervisors finds that while there are a range of projects involving various City departments that could benefit from the Proposition 1B Local Street and Road Improvement



Funds, implementing a coordinated planning process for use of those funds will help ensure the effective and efficient expenditure of funds in a manner that will maximize the benefit to the City and its residents.

(2) The Board of Supervisors further finds that given the range of projects and the Citywide impact of transportation-related projects, it is appropriate for the Board to review proposed expenditures of Proposition 1B Local Street and Road Improvement Funds, and to be kept apprised of the progress on projects that are receiving Proposition 1B Local Street and Road Improvement Funds.

(3) The Board of Supervisors shall not appropriate any Proposition 1B Local Street and Road Improvement Funds, as referenced above, until the Board has received from the department or departments requesting the appropriations a specific and detailed spending plan for the funds. The Spending Plan (the "Plan") shall set forth projects, programs and other improvements to be funded over the next ten years (10) years by Proposition 1B Local Street and Road Improvement Funds, and shall include a budget, scope, and schedule, as well as any other information requested by the Board. The Plan should also address the relative need or urgency, cost effectiveness, and fair geographic distribution of resources, taking into account the various needs of San Francisco's neighborhoods. The Plan shall be coordinated with other relevant City agencies including the Planning Department and the Municipal Transportation Agency, as well as the San Francisco Transportation Authority. The Plan should identify attempts to leverage or match Proposition 1B Local Street and Road Improvement Funds with funding from other sources, including any other state or federal funds. No City Department shall expend or encumber any Proposition 1B Local Street and Road Improvement Funds without approval from the Board of Supervisors pursuant to this ordinance. Any Proposition 1B Local Street and Road Improvement Funds received by the City and County of San Francisco will be deposited into a local account named "The Proposition 1B Local Account," and shall remain in such account until the Board of Supervisors approves a department's specific spending plan. Under no circumstances will Proposition 1B Local Street and Road Improvement Funds be mixed with other funds prior to the approval of the spending plans as outlined in this paragraph. Proposition 1B Local Street and Road Improvement Funds can be appropriated as part of the annual budget process only if the requirements of this paragraph are met. The Board of Supervisors further encourages any department seeking such an appropriation to consult and work with its commission if any, the public, and the Board on the development of such spending plans.

(4) Any department that receives an appropriation of Proposition 1B Local Street and Road Improvement Funds shall report back to the Board of Supervisors beginning six months from the date of the appropriation, and at six-month intervals thereafter until the appropriation has been spent. The report required by this Section shall state the amount of Proposition 1B Local Street and Road Improvement Funds expended as of the reporting date and shall describe the progress on the project, the projected date of completion, and such additional information as the Board may require as a condition of the appropriation.

(Added by Ord. 391-97, App. 10/17/97; amended by Ord. 230-06, File No. 060852, App. 9/14/2006; Ord. 102-07, File No. 070316, App. 5/4/2007; Ord. 97-12, File No. 120192, App. 5/29/2012, Eff. 6/28/2012; Ord. 166-13, File No. 130541, App. 8/2/2013, Eff. 9/1/2013; Ord. 6-17, File No. 161081, App. 1/20/2017, Eff. 2/19/2017)

**SEC. 10.170-2. ACCOUNTING FOR GRANTS; DUTIES OF CONTROLLER, OFFICERS, BOARDS OR COMMISSIONS.**

Upon receipt of a federal, State or other grant, the officer, employer, board or commission authorized to file application therefor pursuant to the provisions of Section 10.170 hereof, shall forthwith notify the Controller of such receipt. The Controller shall keep accounts of all such grants adequate to record the status of any such grant during the life thereof. All officers and employees shall keep such records and render to the Controller such grant reports as the Controller may require to comply with the provisions of this Section.

(Added by Ord. 129-73, App. 4/5/73; amended by 391-97, App. 10/17/97)

**SEC. 10.170-2.5. LIMITATIONS UPON EXPENDITURE OF GRANT FUNDS.**

Notwithstanding the provisions of Section 11.1 of Ordinance No. 244-77 (Annual Appropriation Ordinance, Fiscal Year 1977-1978), no federal, State or other grant funds received by any officer, employee, board or commission pursuant to an application filed in accordance with the provisions of Section 10.170 of this Article shall be expended in whole or in part unless and until such expenditure is approved by the Board of Supervisors.

(Added by Ord. 469-78, App. 10/20/78)

**COUNTY PLAN: QUALIFICATIONS  
FISCAL YEAR 2018-2019**

*Description of San Francisco's experience in investigating and prosecuting automobile insurance fraud during the last two (2) fiscal years:*

**SUCCESSFUL AREAS OF THE SFDA  
AUTOMOBILE INSURANCE FRAUD PROGRAM**

Over the last two fiscal years, the San Francisco District Attorney's Automobile Insurance Fraud Program (SFDA Program) has investigated and prosecuted multiple types of cases, including claimant fraud, auto body shop fraud, organized insurance fraud rings, and staged collisions. Many of our successful prosecutions originated from leads and referrals resulting from our outreach to the enforcement community. We continue to conduct regular case reviews with Department of Insurance (CDI) detectives from the Golden Gate Regional Office and meet regularly with members of carriers' Special Investigations Units (SIUs) to discuss case referrals, develop effective investigative plans, and prepare cases for prosecution.

**A. Medical Provider Investigations and Prosecutions**

The SFDA Program recognizes medical provider fraud cases are an important part of the Program. The SFDA Program is working to identify innovative ways to detect and investigate medical provider fraud cases. Working with agencies and groups such as NICB, the San Francisco Bay Area Mini Medical Fraud Task Force, and the Health Care Task Force will allow the SFDA Program to further identify any automobile insurance fraud cases involving medical providers.

**B. Success through SFDA's Program's Own Investigations**

**1. Complex and organized auto insurance fraud investigations**

The SFDA Program investigates cases that involve complex insurance fraud schemes. For example, passenger transportation companies and auto body shops can be complex investigations where the loss is often much greater than claimant fraud cases, the schemes are more sophisticated and difficult to detect, and more conspirators are potentially involved. The following are examples of complex investigations and prosecutions that have been handled by the SFDA Program:

- Through the collaborative efforts of the assigned prosecutor, then-assigned Program District Attorney Investigator Pollie Pent, CDI, and the SIU of a major insurance carrier, the SFDA Program initiated a massive investigation into a multi-faceted fraud enterprise. Because the case is currently under investigation, the details are mentioned in Attachment B and identified as case #2015-0028. The case involves an airport transportation company employer who used fake identifications to purchase

insurance, and in ten separate claims, alleged overstated “loss of use” of the transportation vans by falsifying documents with inflated average profits. In addition, company van owners staged collisions. The investigation involves at least seven suspects. This case continues to be investigated between the SFDA Program and CDI.

- The SFDA Program is closing in on a two-year-long investigation, involving nine claims, in which the working partner of an automotive repair shop subscribed to each estimate drawn up by the insurance company, but then performed substandard repairs or made repairs using non-OEM replacement parts. Sometimes this partner waived the insureds’ deductibles for repairs. In all instances, inspections uncovered substandard repairs or repairs using non-OEM replacement parts. The shop did not disclose these substandard repairs to the carrier. The differences between the repairs for which the insurance companies paid and what the insureds actually got in repairs ranged between \$700 and \$3,000 per claim.
- An enormous current investigation involves a body shop in San Francisco. The auto body shop runs a towing company, a towing storage company, a vehicle rental company, and an automobile insurance company. Suspects within or affiliated with the shop are suspected of staging many of the collisions, or claiming there were collisions when there were none – oftentimes using vehicles they own. It is suspected that they are staging collisions involving vehicles owned by the body shop. There are fraud complaints from nine different carriers based on claims for what is suspected to be preexisting vehicle damage created by the shop. An auto body shop employee claims to be a different person and the driver of the vehicle in some of these claims. The auto body shop seeks coverage for fraudulent tow fees or inordinately high storage fees for vehicles. The auto body shop routinely makes false statements. In some cases the shop used substandard parts to repair at a cost lower than what had been fraudulently billed to the insurance companies. The SFDA Program has collected forty FD-1s associated with the auto body shop, spanning a 12 year period beginning in 2006.
- A current investigation involves an owner of a transportation company who has multiple vehicles in his fleet. The suspect has filed numerous suspected false claims of damage. An employee driver has confirmed that the owner directed him to falsify a collision claim. There are several auto insurance carriers in the San Francisco Bay Area that are impacted by this operator in San Francisco.

The SFDA Program recognizes that automobile insurance fraud needs to be investigated at all levels, including standard fraudulent claims that have been made by individuals. The following are examples of that type of less complex automobile insurance fraud matters that are being handled by the SFDA Program:

- One case involves a suspect whose boyfriend was driving her car when he got into an accident with a vehicle driving the opposite direction. The suspect’s insurance had lapsed at the time; however, she filed a claim with the insurance company anyway.

Because she never had coverage for her boyfriend, she lied and said she had been the driver. After her original claim was denied, she purchased insurance through a different company. She then lied about when the accident had occurred, claiming it had occurred after the purchase of the insurance. She also lied about who had been driving, and the circumstances surrounding the accident. She filed a false police report in support of the false claim to the second insurance company.

- Another case involves two suspects. The first suspect got into a solo car accident. She called the second suspect, who owns a towing company, to tow her car. Then the first suspect purchased automobile insurance. She later filed a claim stating that the accident had occurred the day after she purchased the insurance. The first suspect asked the second suspect (the tow company owner) to change the date of the tow invoice to be consistent with the lie she had told the insurance company about when the accident had occurred, and he did so.
- A third case involves a suspect who lied about the circumstances and the date of the collision. She said she had been sideswiped in a hit and run, but an inspection of the vehicle revealed that this was not the likely cause of the damage. The suspect lied when she told the insurance company that the collision had occurred hours after she purchased a collision and comprehensive coverage policy. The tow invoice reflected a date that was three days before the purchase of comprehensive and collision coverage. She ultimately admitted to the material misrepresentation.
- One case involves a suspect who cashed two checks for the same vehicle damage claim. In that case, the suspect cashed a check from the insurance company for the collision in which he was involved. Then, several days later, he falsely told the insurance company that he had never received payment, and he demanded that the insurance company reissue the check.
- A suspect filed four separate claims with his insurance company, all for the same damage, while misrepresenting the date of the hit-and-run each time.
- A suspect filed two claims with two different insurance companies for the same damage, while misrepresenting the date when his car had been vandalized.
- Two suspects who were involved in an auto collision made material misrepresentations to their carriers. The first suspect was uninsured and subsequently purchased automobile insurance. However, the investigation revealed that the first suspect was never at the accident and that a female had been driving the suspect's car at the time of the collision. Two days later, the first suspect reported that he had been in an automobile collision on that day. The second suspect, who was the driver of the second car, also lied to her separate insurance company, stating that the collision had happened the same date that the first suspect claimed it happened, which was two days after the actual collision.

- Another case involved a suspect who upgraded his insurance policy from “liability only” to a full coverage policy. The same day that he upgraded his coverage on his policy, he reported having been in a collision. However, the actual date of the accident occurred prior to the change in the policy as indicated by the driver of the other vehicle, which was also corroborated by the metadata of the photographs taken by the suspect.
- A suspect had an expired insurance policy and rear-ended another driver. The suspect provided only her personal information to the other driver before leaving the scene. The suspect then secured an insurance policy and filed a false police report claiming that she had been the victim of a hit-and-run crime. She filed a claim for damage with her new carrier using the false police report to support her claim.

## **2. Successful Prosecutions that originated from SFDA Program investigations**

Through the collaborative efforts of the assigned SFDA Program prosecutor and inspector with carrier SIUs, the SFDA Program initiated its own investigations in many cases that have resulted in several successful felony prosecutions in the past two fiscal years:

- In People v. Alicia Alvarado, the SFDA Program secured a felony Penal Code section 550(b) conviction in April 2018. The defendant purchased Esurance hours after she was involved in an auto accident. She later filed a claim, falsely stating that the accident had happened after the inception of her policy. However, the other driver and the metadata from the photos taken at the scene revealed fraud. The potential loss to the carrier was \$3,368.22.
- In People v. Douglas Harper, the SFDA Program secured a three-year prison sentence on a PC 550(a)(4) felony conviction in November 2017. The defendant falsely reported his vehicle stolen to the San Francisco Police Department. He subsequently filed a claim for payment of a stolen vehicle and received \$13,205.54 from GEICO. Nearly three years later, the same vehicle was located by the Roseville Police Department at the defendant’s former residence, establishing that the defendant had falsely reported that his car had been stolen.
- In People v. Ricky McLane, the SFDA Program secured a misdemeanor Penal Code section 550(b) conviction in October of 2017. This defendant purchased a GEICO policy, and two days later filed a claim stating that his car had been struck while parked in a lot, sustaining damage to both sides. However, when confronted, the defendant admitted that the damage had been sustained in two separate collisions, both of which occurred prior to the purchase of his policy. Had the fraud gone undetected, GEICO would have been responsible for \$2,500.
- In People v. Jian Le Liu, the SFDA Program secured a felony Penal Code section 550(b) conviction in May 2017. The defendant in that case got in an accident, and conferred with the driver of the other vehicle. They both filed false claims stating

that the defendant's vehicle had been parked when it was struck by the other car. An accident reconstruction specialist opined that some of the damage to the vehicles was consistent with both having been in motion at the time of the collision, and that the remaining damage had conclusively not been caused by a collision between these two specific vehicles. When confronted, the defendant admitted that he lied because he had been driving drunk. Had the fraud gone undetected, GEICO would have paid out almost \$25,000.

- In February 2017, the SFDA Program secured a misdemeanor Penal Code section 550(b) conviction in the case of People v. Maricruz Fernandez. There the defendant reported to Pioneer Pacific/AFA Claims that her vehicle had been damaged by a hit-and-run driver while it was parked. She later admitted that she lied about the circumstances surrounding the collision and that an excluded driver had actually been driving the vehicle. Defendant then filed another claim, involving more extensive damage to her vehicle in the same area that had been affected by the first collision, whereby she claimed that her car struck a parked car. Finally she filed a third claim, wherein she said was driving and a victim of a hit-and-run. Again, her car suffered damage in the same area. However, as to the third claim, eyewitness testimony established that defendant had struck a parked vehicle. Had the fraud not been discovered, AFA would have paid out \$7,465.
- In People v. Sharon Lau, the SFDA Program secured a misdemeanor Penal Code section 550(b) conviction in January 2017. This defendant lied to CNA and claimed that an insured male driver caused damage from not only the collision in which her car was struck while parked, but also from another subsequent collision. The defendant submitted her claim for \$3,718.43. Due to a photograph of the defendant's vehicle taken by the male driver, as well as the defendant's subsequent admission, CNA detected the fraud.
- In January 2017, the SFDA Program secured a felony Penal Code section 550(b) conviction in People v. Cassandra Carter, a case that was handled by our SFDA Program inspector. In this case, the defendant misrepresented the circumstances of the collision. The defendant filed a claim for \$2,199 in damage stating that she swerved to avoid hitting a fox and struck a cement barrier. She later admitted that she had been driving drunk when she struck a wall.

### **3. Current Prosecutions from SFDA Program Investigations**

The assigned SFDA Program inspector and prosecutor collaborated for the investigation and prosecution of the following case, which is pending in Court:

- In June 2018, the SFDA Program filed felony Penal Code 550(a) and 550(b) charges in People v. Madison Alexander, a case where the defendant got into an accident while driving for Uber – with a passenger in the car – and fled the scene. The victim followed the suspect for a period of time, and then filed a police report when the suspect did not stop driving. The defendant made a claim with his personal auto

insurance, and stated that he had not been driving for Uber at the time of the accident. The suspect also lied about the circumstances of the accident. When the Uber passenger later complained of pain to Uber, her claim went through Uber's auto insurance. However, the defendant's personal insurance company initially paid for the damages to the defendant's car and the victim's car based on the material misrepresentations the defendant made in his claim to them.

### **C. Success through Our Partnerships**

During FY 2016-18, the SFDA Program continued to enjoy a close partnership with CDI. The SFDA Program worked on multiple investigations with CDI, and kept CDI apprised of pending prosecutions. At the moment, the Program and CDI are actively collaborating on a number of open investigations (please see Attachment B for more details).

During FY 2016-18, the SFDA Program also worked collaboratively with NICB and a multiple SIUs for multiple carriers in connection with a large investigation involving a body shop in San Francisco. The auto body shop runs a towing company, a towing storage company, a vehicle rental company, and an automobile insurance company. Suspects within or affiliated with the shop are suspected of staging many of the collisions, or claiming there were collisions when there were none – oftentimes using vehicles they own. It is suspected that they are staging collisions involving vehicles owned by the body shop. There are fraud complaints from nine different carriers based on claims for what is suspected to be preexisting vehicle damage created by the shop. An auto body shop employee claims to be a different person and the driver of the vehicle in some of these claims. The auto body shop seeks coverage for fraudulent tow fees or inordinately high storage fees for vehicles. The auto body shop routinely makes false statements. In some cases the shop used substandard parts to repair at a cost lower than what had been fraudulently billed to the insurance companies. The SFDA Program has collected forty FD-1s associated with the auto body shop, spanning a 12 year period beginning in 2006.

The SFDA Program prosecutors and inspectors met with Special Agents from the NICB, who have been providing the SFDA Program with information about the extensive auto insurance fraud associated with this auto body shop and one of its employees, who is also a licensed insurance agent.

### **Unfunded Contributions**

The SFDA Program prosecutor is only partially funded by the California Department of Insurance Fraud Program. As illustrated by our Organizational Chart (described in Form 06(b) below), automobile insurance fraud is a branch of our Economic Crimes Unit and falls under the supervision of the managing attorney, Kelly Burke. Ms. Burke, who supervises the auto insurance fraud prosecution team, spends more than 15% of her time supervising the investigation and prosecution of auto insurance fraud cases: she reviews all FD-1s submitted to our office; communicates directly with the SIUs and law enforcement on cases initially presented to our office; approves all investigative plans; edits and approves all search warrants and arrest warrants; conducts regular team meetings to monitor the progress of pending investigations and prosecutions; arranges and oversees case reviews with the local regional office; identifies and



directs operational issues with the SFDA Program personnel; and oversees all negotiations of auto insurance prosecutions. Ms. Burke's salary is not funded by the SFDA Automobile Insurance Fraud Program.

Lt. Robert Guzman, the supervisor of the District Attorney Inspectors in the Economic Crimes Unit, is also unfunded. He spends more than 5% of his time supervising the automobile insurance fraud inspectors: he assists in the drafting and execution of their search or arrest warrants; oversees and manages their investigations in conjunction with the managing attorney; oversees and participates in field operations involving the inspectors, such as surveillance and witness interviews; tracks and logs grant related inspector activity; and supervises the execution of insurance fraud related search warrants and arrest warrants. Lt. Guzman's salary is not funded by the SFDA Automobile Insurance Fraud Program.

### Continuity of Assigned Personnel

The San Francisco District Attorney's Office does not have a formal rotations policy. However, the Office understands the importance of continuity when investigating and prosecuting complex automobile insurance fraud cases. Maintaining control over investigations and fostering relationships with outside agencies, such as CDI and carrier SIUs, is crucial to our Program's success, which is why the San Francisco District Attorney's Office continues to ensure that two seasoned career law enforcement professionals are assigned to the task at all times.

Assistant District Attorney **Alexis Fasteau** has served as the Program prosecutor since March 2016. Ms. Fasteau has worked for the San Francisco District Attorney's Office for almost twelve years. She is a highly experienced attorney who has had forty-five jury trials during her fourteen years as a prosecutor. She previously worked at the Solano County District Attorney's Office. Ms. Fasteau has spent the bulk of her prosecutorial career in the following specialized units: Child Assault and Sexual Assault, Economic Crimes, Public Integrity, and Domestic Violence. She has tried high profile and complex cases involving charges of premeditated attempted murder, aggravated mayhem, torture, stalking, criminal threats, possession and distribution of child pornography, child molest, and child endangerment resulting in death. In the Economic Crimes Unit, she has also prosecuted cases involving workers' compensation insurance fraud, life insurance and annuity fraud, and major fraud/embezzlement. Ms. Fasteau graduated Phi Beta Kappa in Economics from the University of California, Berkeley, where she also attended law school. She speaks Spanish fluently.

District Attorney Inspector **John O'Reilly** has served as our Program's inspector since January 2018. He became a peace officer in February of 1991 for the Oakland Police Department. In the 27 years he worked for the Oakland Police Department, he held the position of Police Officer where he was assigned to the Patrol Division, Community Policing Division and the Recruiting and Backgrounds Unit. While in Patrol, Community Policing, and Recruiting and Backgrounds he served as an Acting Sergeant when needed by the department. He conducted criminal investigations involving a variety of crimes including murder, rape, robbery, assault, burglary, theft, fraud, forgery, embezzlement, possession of firearms and narcotics. He also conducted hundreds of civilian and sworn Peace Officer Standards and Training (POST)

compliant background investigations for sworn and civilian positions with the City of Oakland. He holds a Bachelor of Arts degree in History from Saint Mary's College of California, and possesses an Advanced Certificate from the California Commission on POST.

### **Governmental Agencies**

The SFDA Automobile Insurance Fraud Program has developed collaborative relationships with the United States Attorney's Office, Northern District; United States Postal Service; Internal Revenue Service; Federal Bureau of Investigations; California Department of Insurance, Bureau of Investigations; California Department of Consumer Affairs, Bureau of Automotive Repair; California Department of Transportation; California Franchise Tax Board; California State Board of Pharmacy; California State Board of Chiropractic Examiners; California State Bar; California Highway Patrol; University of California, San Francisco Hospital; San Francisco Police Department; San Francisco Sheriff's Department; San Francisco Fire Department; San Francisco Department of Parking and Traffic; San Francisco Municipal Transit Authority; San Francisco General Hospital; Alameda County District Attorney's Office; Marin County District Attorney's Office, Santa Clara County District Attorney's Office, and Solano County District Attorney's Office.

### **Frozen Assets**

No frozen assets were distributed.

**COUNTY PLAN: STAFFING  
FISCAL YEAR 2018-2019**

List the name of the Program’s prosecutor(s) and investigator(s). Include position titles and percentages for any vacant positions to be filled. For each, list:

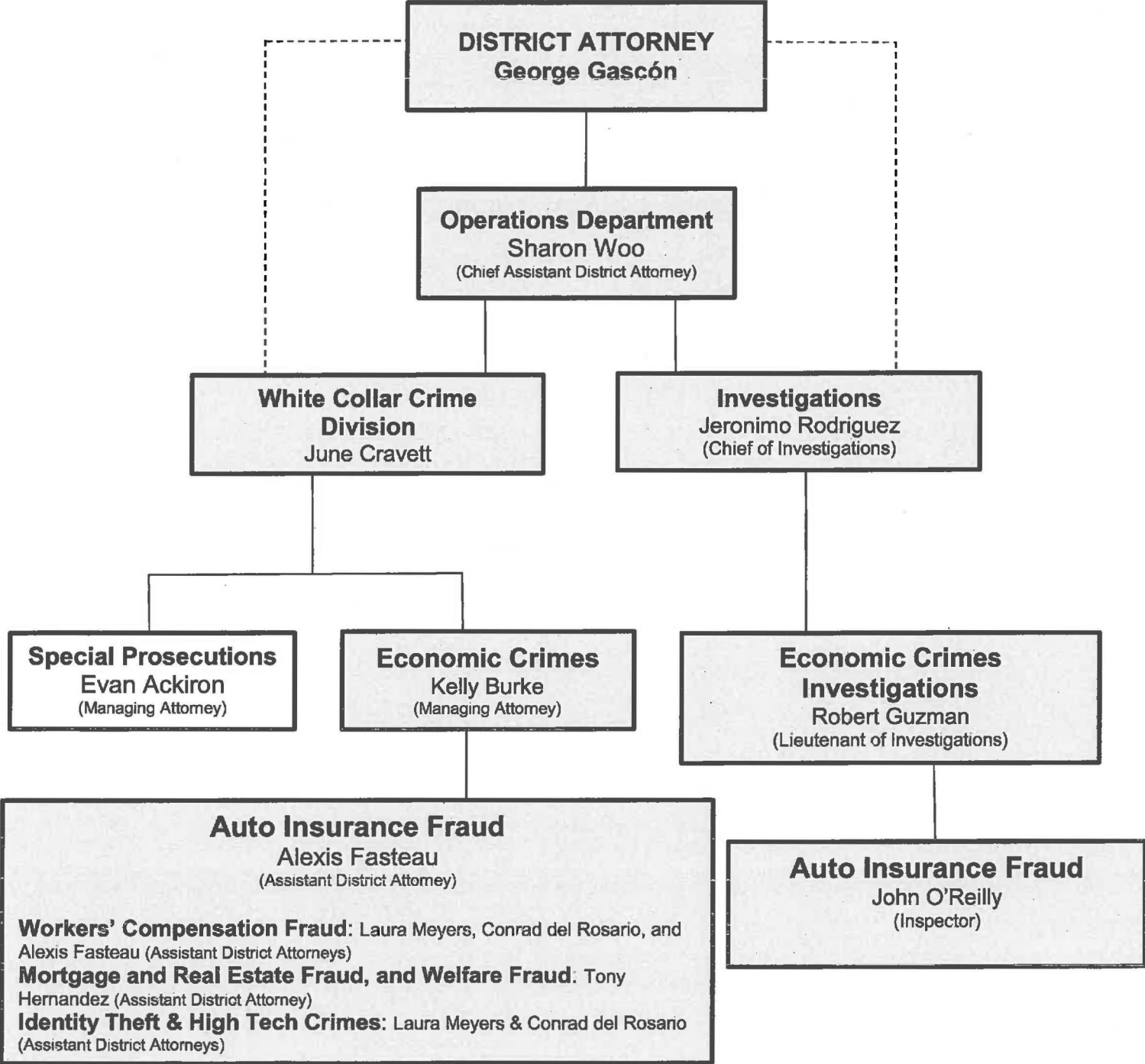
- 1. The percentage of time devoted to the Program
- 2. How long the prosecutor(s)/investigator(s) have been with the Program

**COUNTY PLAN: STAFFING  
FISCAL YEAR 2018-2019**

COUNTY OF SAN FRANCISCO		
<b>Prosecutors</b>	<b>% Time</b>	<b>Time With Program Start Date/End Date</b>
Alexis Fasteau	50%	March 2016 – present

COUNTY OF SAN FRANCISCO		
<b>Investigators</b>	<b>% Time</b>	<b>Time With Program Start Date/End Date</b>
John O’Reilly	80%	January 2018 – present

# Organizational Chart



**QUALIFICATIONS  
PROGRAM REPORT**

For this application, statistical information from July 1, 2017 to June 15, 2018 will be electronically entered online.

## COUNTY PLAN PROBLEM STATEMENT

### **Sources and Causes of Automobile Insurance Fraud**

Automobile insurance fraud is generally motivated by the prospect of financial gain. The fraud can exist when an uninsured motorist is seeking coverage after an accident, or when a body shop owner is looking to make money by falsely representing that a car was repaired as estimated, when in reality, the shop owner used substandard replacement parts or performed a substandard repair. Basic greed appears to drive each offender, no matter how large or small.

Opportunities present themselves where first-time uninsured offenders may look to capitalize on a single, quick, and easy fraudulent claim to pay for damage or injuries. On the other hand, repeat offenders – encouraged by past success – continue to defraud insurance carriers on either: 1) subsequent claims; or 2) multiple scams at once in a more sophisticated manner.

In addition, the SFDA Program continues to review referrals, open investigations, and prosecute cases involving fraud perpetrated by those who orchestrate and stage accidents as well as insurance “insiders” who abuse their positions to cheat victim carriers. The Program also pursues dishonest repair facilities, medical providers, and anyone else who seeks to capitalize from the claims process by reaping undue profit. For example, as described in Attachment B case #2015-0028, the SFDA Program has been collaborating with a CDI investigator involving a large-scale organized automobile fraud investigation into a private ground transportation company suspected of staging accidents and filing fraudulent claims on automobile insurance policies that were sold to fictitious persons.

### **Economic and Social Impact of Automobile Insurance Fraud**

Automobile insurance fraud presents obvious costs to the insurance industry at large, as carriers are faced with absorbing the costs of fraudulent claims, costs of internal investigations, and costs associated with assisting law enforcement and being witnesses for court proceedings. Automobile insurance fraud also costs law-abiding consumers who diligently pay their automobile insurance premiums and then potentially face increased prices when carriers must raise rates to cover costs associated with losses suffered as a result of criminal activity. Fraud also presents costs to law enforcement agencies, such as the District Attorney’s offices, the Enforcement branch of the Department of Insurance, and local police agencies tasked with investigating and prosecuting such cases. Moreover, successful, unrestrained fraudsters invite others to follow their lead.

## **Aspects Unique To San Francisco**

### *Dense Population and High Concentration of Roadways*

A unique aspect of San Francisco is its dense population and high concentration of roadways, indicating the prevalent role of vehicles in the City and County. According to the 2017 U.S. Census, the City and County of San Francisco, despite its relatively small size (49 square miles), had a population of 884,363.<sup>1</sup> However, U.S. Census statistics have shown that people who commute into San Francisco increase the City's daytime population by 21 percent.<sup>2</sup>

Moreover, in 2010, San Francisco County's estimated population density was 17,179.2 per square mile of land area.<sup>3</sup> By contrast, Alameda County's estimated population density in the same year was 2,047.6 people per square mile<sup>4</sup> and Santa Clara County's 2010 estimated population density was 1,381.0 people per square mile.<sup>5</sup>

The City and County of San Francisco has 1,088 total miles of roads,<sup>6</sup> 59 miles of which are freeways including ramps to freeways and freeway-to-freeway exchanges.<sup>7</sup> Both Highway 1 and Route 101 run through San Francisco on surface streets, 19<sup>th</sup> Avenue to Park Presidio and Van Ness Avenue, respectively. In all, San Francisco has 19,500,000 square feet of paved street area<sup>8</sup> and an estimated 7,200 intersections.<sup>9</sup> San Francisco's street pattern is much more grid-like than the more suburban communities that surround the County. These statistics emphasize the importance that vehicles play in San Francisco.

## **Identified Forms of Automobile Insurance Fraud**

### **Staged Accidents**

As referenced in the Qualifications Section above, the SFDA Program has launched an organized auto insurance fraud investigation. Because the investigation is continuing, the case is described in Attachment B as case #17BA023448.

### **Insider Fraud**

The aforementioned organized auto insurance fraud investigation mentioned in Attachment B case #17BA023448 also includes one or more possible corrupt sales agents who knowingly issued fictitious policies to facilitate the scheme.

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<sup>1</sup> U.S. Census Bureau, 2017 Census.

<sup>2</sup> U.S. Census Bureau, Commuter Adjusted Daytime Population: 2009-2013 5-year American Community Survey.

<sup>3</sup> U.S. Census Bureau, 2010 Census.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> San Francisco County Transportation Association (SFCTA).

<sup>7</sup> SFCTA.

<sup>8</sup> San Francisco Department of Public Works.

<sup>9</sup> San Francisco Municipal Transportation Agency (SFMTA), Traffic Sign, Pain and Signal Shops.

## Auto Body & Repair Shops

Insurance fraud in San Francisco County is also driven by a combination of demographics unique to San Francisco that create a very fertile environment for local auto body and repair shops to simultaneously defraud their customers and California's insurance carriers.

A current complex investigation involves the owner and employees of a large auto body shop. The auto body shop runs a towing company, a towing storage company, a vehicle rental company, and an automobile insurance company. Suspects within or affiliated with the shop are suspected of staging many of the collisions, or claiming there were collisions when there were none – oftentimes using vehicles they own. It is suspected that they are staging collisions involving vehicles owned by the body shop. There are fraud complaints from nine different carriers based on claims for what is suspected to be preexisting vehicle damage created by the shop. One auto body shop employee claims to be a different person and the driver of the vehicle in some of these claims. The auto body shop seeks coverage for fraudulent tow fees or inordinately high storage fees for vehicles. The auto body shop routinely makes false statements. In some cases the shop used substandard parts to repair at a cost lower than what had been fraudulently billed to the insurance companies. The SFDA Program has collected forty FD-1s associated with the auto body shop, spanning a 12-year period beginning in 2006.

The SFDA Program has also handled the following auto body case during the current fiscal year: in a pending investigation being conducted by the SFDA Program, the manager and working partner of an auto body shop committed fraud by performing substandard repairs. Inspections of some of the vehicles revealed that they were not repaired as paid for by the insurance company, and were often repaired with substandard or inferior replacement parts.

### *Dense Population and High Concentration of Roadways*

As evidenced by the statistics listed generally above under *Aspects Unique to San Francisco*, our city is densely populated and has a high number of streets and intersections for a county of its geographical size. Judging by the large number of injury accidents above, it is safe to assume that San Francisco experiences an even higher number of property-only accidents than a jurisdiction with less population density, longer distances between intersections, and freeways that are separated from the regular surface streets. As stated above, these property-only accidents are generally not documented by the police department, thereby enabling the auto body shops to overestimate or exaggerate the damage incurred in these collisions. Similarly, many of the property-only collisions occur at lower speeds due to the frequency of intersections, which results in lesser dollar amounts of damage. Lower claim amounts will receive less scrutiny from the auto insurance carriers, which also provides a greater opportunity for auto body shops to submit fraudulent claims to the carriers.

According to the latest statistics from the San Francisco Municipal Transit Authority, the annual total of fatal vehicle collisions in San Francisco was 20 in 2017. According to the latest statistics, the annual total of approximately 3,100 non-fatal injury collisions in 2015 has changed little since 2006. Pedestrian collisions were 724 in 2015.

In a recent statistical study, San Francisco was identified as having the most factors contributing to dangerous driving conditions in California. The statistic study considered such



factors as: collision rate, fatality rate, injury rate, alcohol-related crash rate, speed-related crash rate, hit and run rate, and population density.<sup>10</sup>

*Language and Cultural Barriers*

Additionally, the County has a large population of residents who are isolated from the rest of the community by language and cultural differences.<sup>11</sup> The U.S. Census Bureau estimated that from 2012-2016, of San Francisco’s total population, 34.9% were foreign-born. Furthermore, 94.4% of people were age five and older with the City’s total population as of 2016, and the data for the language spoken at home by these San Franciscans was estimated as follows:

- 44 % speak a language other than English;
- 11.1 % speak Spanish;
- 6.2 % speak Other Indo-European languages;
- 26.0 % speak Asian and Pacific Island languages; and
- 1.0 % speak other languages.

In addition, the U.S. Census Bureau defines a *limited English speaking household* as one in which no member age 14 years and over (1) speaks only English or (2) speaks English “very well.”

The 2012-2016 5-year ACS estimated the following figures for the number of *limited English speaking* households located in San Francisco County, the State of California, Alameda County, and Santa Clara County (margin of error for each estimate is in parenthesis):

**State of California:**

All households	9.4% (+/- 0.1)
Households speaking --	
Spanish	20.7% (+/-0.2)
Other Indo-European languages	16.3% (+/-0.3)
Asian and Pacific Island languages	27.3% (+/-0.2)
Other languages	19.3% (+/-0.8)

**San Francisco:**

All households	12.2% (+/-0.4)
Households speaking --	
Spanish	21.0% (+/-1.5)
Other Indo-European languages	17.0% (+/-1.5)

<sup>10</sup> Study by Liljegren Law Group and 1point21 Interactive. Based on source data from California Office of Traffic Safety and CHP SWITRS Data for 2015.

<sup>11</sup> In response to concerns expressed by data user groups, the Census Bureau decided to eliminate the term “linguistic isolation” for data products issued starting in 2011. The terminology was changed to be more descriptive and less stigmatizing. The phrase that will appear in all new products will be “Households in which no one 14 and over speaks English only or speaks a language other than English at home and Speaks English ‘Very Well.’” (April 18, 2011 email from David S. Johnson, Chief, Housing and Household Economic Statistics Division of the U.S. Census Bureau.)

Asian and Pacific Island languages	36.2% (+/-1.2)
Other languages	13.1% (+/-3.7)

**Alameda County:**

All households	9.8% (+/-0.3)
Households speaking --	
Spanish	22.1% (+/-1.0)
Other Indo-European languages	10.9% (+/-0.9)
Asian and Pacific Island languages	27.9% (+/-0.9)
Other languages	22.4% (+/-3.0)

**Santa Clara County:**

All households	11.0% (+/-0.3)
Households speaking --	
Spanish	17.9% (+/-1.0)
Other Indo-European languages	10.4% (+/-0.8)
Asian and Pacific Island languages	26.5% (+/-0.9)
Other languages	13.1% (+/-2.3)

As illustrated by the data above, with respect to the number of *limited English speaking* households, San Francisco County is clearly:

- above the state-wide average *and*
- above (or at least comparable to) that of two other major counties within the Bay Area region.

Insurance fraud perpetrators can take advantage of linguistically isolated individuals' lack of English language comprehension, cultural traits and deep-seated habits. One would expect linguistically isolated individuals to feel more comfortable around people of the same background, and to trust people who speak the same language who have been referred to them by a relative, friend or co-worker – as was the case in one of the automobile body shop fraud cases described above.

For these reasons, fraudulent automobile auto body or repair shops that cater to linguistically isolated individuals may be more likely to exaggerate the amount of damage to their vehicles or to charge for brand new replacement parts when the shop simply pulled, filled, and painted over the dents or scratches. Such shops know that a monolingual customer may not know the available enforcement remedies, or will not realize they have been defrauded in the first place. Alternatively, auto and repair shops that cater to a linguistically isolated community often hire monolingual employees who may be asked to facilitate schemes where the customers are committing fraud, but those employees are likely unaware of the criminal consequences that result from submitting exaggerated damage estimates or falsified invoices in support of fraudulent claims.

The losses due to fraud therefore flow in two directions: 1) the linguistically isolated person can be defrauded because they did not receive the quality of repairs to which they were

entitled; and/or 2) the insurance carrier is defrauded because it overpaid for the services actually rendered.

We are investigating a case in which the Spanish speaking manager of an auto body shop dealt primarily with monolingual Spanish speakers. He waived some of the insureds' deductibles for repairs, possibly as an incentive to have the insureds repair their cars at his shop. However, subsequent inspections of eight vehicles involved in nine claims revealed that they were improperly repaired. No parts were replaced, or substandard or inferior replacement parts were used, despite the insurance companies' payouts. The differences between the repairs for which the insurance companies paid and what the insureds actually got in repairs ranged between \$700 and \$3,000 per claim.

### **Claimant Fraud**

During the fiscal years 2016 -2018, the SFDA Program has continued to investigate and prosecute claimant fraud cases, as evidenced by the following sample of felony filings, arrests, and prosecutions:

- In People v. Alicia Alvarado, the SFDA Program secured a felony Penal Code section 550(b) conviction in April 2018. The defendant purchased Esurance hours after she was involved in an auto accident. She later filed a claim, falsely stating that the accident had happened after the inception of her policy. However, the other driver and the metadata from the photos taken at the scene revealed fraud. The potential loss to the carrier was \$3,368.22.
- In People v. Douglas Harper, the SFDA Program secured a three-year prison sentence on a PC 550(a)(4) felony conviction in November 2017. The defendant falsely reported his vehicle stolen to the San Francisco Police Department. He subsequently filed a claim for payment of a stolen vehicle and received \$13,205.54 from GEICO. Nearly three years later, the same vehicle was located by the Roseville Police Department at the defendant's former residence, establishing that the defendant had falsely reported that his car had been stolen.
- In People v. Ricky McLane, the SFDA Program secured a misdemeanor Penal Code section 550(b) conviction in October of 2017. This defendant purchased a GEICO policy, and two days later filed a claim stating that his car had been struck while parked in a lot, sustaining damage to both sides. However, when confronted, the defendant admitted that the damage had been sustained in two separate collisions, both of which occurred prior to the purchase of his policy. Had the fraud gone undetected, GEICO would have been responsible for \$2,500.
- In People v. Jian Le Liu, the SFDA Program secured a felony Penal Code section 550(b) conviction in May 2017. The defendant in that case got in an accident, and conferred with the driver of the other vehicle. They both filed false claims stating that the defendant's vehicle had been parked when it was struck by the other car. An accident reconstruction specialist opined that some of the damage to the vehicles was

consistent with both having been in motion at the time of the collision, and that the remaining damage had conclusively not been caused by a collision between these two specific vehicles. When confronted, the defendant admitted that he lied because he had been driving drunk. Had the fraud gone undetected, GEICO would have paid out almost \$25,000.

- In February 2017, the SFDA Program secured a misdemeanor Penal Code section 550(b) conviction in the case of People v. Maricruz Fernandez. There the defendant reported to Pioneer Pacific/AFA Claims that her vehicle had been damaged by a hit-and-run driver while it was parked. She later admitted that she lied about the circumstances surrounding the collision and that an excluded driver had actually been driving the vehicle. Defendant then filed another claim, involving more extensive damage to her vehicle in the same area that had been affected by the first collision, whereby she claimed that her car struck a parked car. Finally she filed a third claim, wherein she said was driving and a victim of a hit-and-run. Again, her car suffered damage in the same area. However, as to the third claim, eyewitness testimony established that defendant actually struck a parked vehicle. Had the fraud not been discovered, AFA would have paid out \$7,465.
- In People v. Sharon Lau, the SFDA Program secured a misdemeanor Penal Code section 550(b) conviction in January 2017. This defendant lied to CNA and claimed that an insured male driver caused damage from not only the collision in which her car was struck while parked, but also from another subsequent collision. The defendant submitted her claim for \$3,718.43. Due to a photograph of the defendant's vehicle taken by the male driver, as well as the defendant's subsequent admission, CNA detected the fraud.
- In January 2017, the SFDA Program secured a felony Penal Code section 550(b) conviction in People v. Cassandra Carter, a case that was handled by our SFDA Program inspector. In this case, the defendant misrepresented the circumstances of the collision. The defendant filed a claim for \$2,199 in damage stating that she swerved to avoid hitting a fox and struck a cement barrier. She later admitted that she had been driving drunk and struck a wall.

## COUNTY PLAN PROGRAM STRATEGY

### 1. Plans to address the issues described in the Problem Statement

The SFDA Program will continue to investigate and prosecute automobile insurance fraud through our continued outreach efforts and aggressive prosecution of viable cases.

We maintain regular contact with CDI's Golden Gate Regional Office regarding case referrals. The managing attorney schedules regular case-review sessions with CDI's detectives regarding the status and direction of open investigations to ensure that time and resources are allocated appropriately. These case reviews and frequent communications between the SFDA Program staff and CDI detectives ensure: (1) a close working relationship with CDI for reviewing suspected fraud complaints; (2) guidance and advice on open CDI investigations to expedite filings and ensure the best evidence will be secured for prosecution; and (3) timely closure of investigations as soon as prosecutions no longer become viable.

In addition, the managing attorney, the assigned Program prosecutor, and the assigned Program inspector have established close working relationships and open lines of communication with numerous carrier SIUs. We have always reached out to victim carriers to identify, understand, and improve their investigations for fraud referrals. Regardless of whether a fraud referral comes from a large insurer from which we receive regular suspected fraud referrals, or from a smaller company reaching out to our fraud unit, we contact the witnesses who were involved in identifying the suspect criminal activity.

### 2. Plans to meet goals of the Insurance Commissioner

The SFDA Program believes that a balance of enforcement actions and public education can discourage people from committing automobile insurance fraud.

As to the problems that we have identified in San Francisco (e.g., staged accidents, insider fraud, auto body or repair shop fraud), the SFDA Program maintains open communications with carrier SIUs and agencies such as CDI and the Bureau of Automotive Repair (BAR) concerning possible case referrals.

As mentioned above, the organized auto insurance fraud investigation mentioned in Attachment B, case #2015-0028, was developed as a result of the SFDA Program working directly with a major carrier's SIU.

The SFDA Program also remains committed to contributing its time and efforts to CDI Programs aimed at combatting automobile insurance fraud. For instance, our Memorandum of Understanding with the Golden Gate Regional Office ensures our close working relationship with CDI detectives and their operations.

### **3. Goals requiring multi-year commitment**

An automobile insurance fraud case will often take several months to go from an SIU complaint to final disposition in court. Quite often, it takes at least one month to receive the carrier's claim file and supporting evidence after we formally commence an investigation. After the claim file is received, the investigator and prosecutor must carefully review its contents before making a decision to develop an investigative plan. Depending upon the nature of the suspected fraud, further investigation may be required to truly assess the case: we may need to obtain follow-up statements from witnesses, and/or obtain search warrants for materials such as cell phone records or bank records.

After we have completed the investigation, obtained an arrest warrant, and charged the case, it may still take time to locate a defendant. Further, despite the efforts of the prosecuting attorney to move towards a swift disposition, automobile insurance fraud cases also typically take several months before going to preliminary hearing. Due to the amount of documentary evidence that we often turn over to the defense, additional time is usually required to allow the defense to carefully review the discovery. Defense attorneys are often granted continuances before the court schedules formal evidentiary hearings.

In short, automobile insurance fraud cases can require more than one year from the initiation of the investigation to conviction. In the case of a massive investigation, significant time will be required to review and process several individual policy *and* claim files; numerous audio recordings; individual repair estimates; and other documents before we can begin to interview the many witnesses who will help us establish the existence of a criminal enterprise of such magnitude.

### **4. Training and outreach**

Received: Our currently assigned SFDA Program prosecutor, Ms. Fasteau, attended the Auto Insurance Fraud Training presented by the Alameda County District Attorney's Office, the California Department of Insurance, and the National Insurance Crime Bureau in May of 2018. Ms. Fasteau has attended past annual conferences sponsored by the Anti-Fraud Alliance, CDI, CDAA and NICB, specifically their seminars on automobile insurance fraud. She has been to lectures on subjects including claimant fraud investigations, auto body shop fraud investigations, auto fraud ring investigations, accident reconstruction, digital vehicle forensics, trial techniques, and prosecutorial ethics. Also, the SFDA Program staff and managing attorney have attended quarterly SIU roundtables sponsored by the NICB throughout Northern California. Finally, Ms. Fasteau attends weekly in house trainings offered by the SFDA as part of her continuing legal education.

As an Inspector for the San Francisco District Attorney's Office, Inspector O'Reilly has attended the following trainings in 2018: the Northbay High Impact Workers' Compensation Fraud Consortium, sponsored by the National Insurance Crime Bureau (NICB); the 29th Annual Anti-Fraud Conference, sponsored by the National Insurance Crime Bureau, Anti-Fraud Alliance (AFA), California District Attorneys Association (CDAA), and California Department Insurance (CDI).

Provided: Within the current fiscal year, the entire SFDA Program has met on numerous occasions with carrier SIUs and CDI detectives to discuss active and potential case referrals regarding fraudulent behavior.

**5. Efforts to obtain fines and restitution**

The SFDA Program actively seeks restitution in each prosecution involving automobile insurance fraud. Whenever feasible, we insist that each defendant – as part of his/her plea agreement – make full and complete restitution on or before the date of the sentencing hearing. Included in the restitution calculations is the cost the carrier expended in identifying and investigating the claim. We notify the local representative of the victim carrier (usually the assigned SIU investigator) to attend the sentencing hearing and personally receive a cashier’s check to recover restitution, including the costs of their investigation.

In cases where full and complete restitution cannot be paid by a defendant prior to sentencing, the SFDA Program ensures that the sentencing court reserves jurisdiction over the issue of restitution for purposes of collection during the defendant’s probationary period. Further, the SFDA Program requests that the judge sign a Judicial Council CR-110 criminal restitution form that specifies the amount of restitution and which enables the victim to easily obtain a civil judgment.

**6. Performance objectives**

The SFDA Program anticipates being able to initiate 20-25 new investigations during Fiscal Year 2018-2019.

The SFDA Program anticipates being able to initiate 10-15 new prosecutions during Fiscal Year 2018-2019. The SFDA Program inspectors are currently preparing arrest warrants for multiple suspects in unrelated cases.

**7. County plan to utilize grant funds**

\$338,663 FY 2018-2019 Grant REQUEST	\$ 233,020 FY 2017-2018 Grant AWARD	\$ 105,643 FY 2018-2019 Increase Requested
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Utilization Plan: The SFDA Program has an investigator designated to work full-time on the investigation of auto insurance fraud cases. Several arrest warrants are currently in preparation, and multiple other investigations are pending. We also have more than one large, complex investigation, which require the analysis of voluminous evidence. The SFDA Program expects that the coming year will see many prosecutions and investigations, including those very large and complex cases (described in Attachment B).

**AUTOMOBILE INSURANCE FRAUD PROGRAM**

**BUDGET: PERSONNEL SERVICES**

**FISCAL YEAR 2018-2019**

**COUNTY NAME:** SAN FRANCISCO

<b>A. PERSONNEL SERVICES: Salaries and Employee Benefits</b>					<b>COST</b>
<u>Description</u>	<u>Bi-weekly</u>	<u># pay periods</u>	<u>FTE</u>	<u>Amount</u>	
<b>8177 Trial Attorney</b>	\$ 7,680	26	0.5	\$ 99,836	<b>\$99,836</b>
<b>Fringe benefits</b>					
Social Security	\$ 8,249			\$ 4,125	
Social Sec. - Medicare	1.45%			\$ 1,448	
Health Ins	\$ 3,261			\$ 1,631	
Dependent Coverage	\$ 11,771			\$ 5,886	
Retirement	23.92%			\$ 23,881	
Unemployment Insurance	0.27%			\$ 270	
Dental Rate	\$ 1,517			\$ 759	
<b>Total Benefits</b>	<b>38%</b>				<b>\$38,000</b>
<b>8550 Investigator</b>	\$ 5,014	26.0	0.8	\$ 104,282	<b>\$104,282</b>
<b>Fringe benefits</b>					
Social Sec. - Medicare	1.45%			\$ 1,101	
Health Insurance	\$ 3,084			\$ 2,775	
Dependent Coverage	\$ 11,579			\$ 11,486	
Retirement	31.08%			\$ 20,494	
Unemployment Insurance	0.27%			\$ 205	
Dental Rate	\$ 1,520			\$ 1,742	
<b>Total Benefits</b>	<b>45%</b>				<b>\$47,151</b>
<b>TOTAL SALARY</b>	<b>\$ 204,118</b>				
<b>TOTAL FRINGE</b>	<b>\$ 85,151</b>				
<b>TOTAL PERSONNEL</b>	<b>\$ 289,269</b>				
<b>A. PERSONNEL SERVICES TOTAL 1.30</b>					<b>\$289,269</b>



**AUTOMOBILE INSURANCE FRAUD PROGRAM  
PROGRAM BUDGET: OPERATING EXPENSES  
FISCAL YEAR 2017-2018**

**COUNTY NAME:** SAN FRANCISCO

<b>B. OPERATING EXPENSES</b>		<b><i>COST</i></b>
Office Space Lease	\$16,222 per FTE	\$21,089
Audit Expense	1% of personnel cost	\$2,893
Travel & Training Expense	Registration, travel, hotel, ground transportation, per diem, mileage	\$5,000
Indirect Cost	10% of direct salary	\$20,412
<b>B. OPERATING EXPENSE TOTAL</b>		<b>\$49,394</b>

<b>AUTOMOBILE INSURANCE FRAUD PROGRAM</b> <b>PROGRAM BUDGET: EQUIPMENT</b> <b>FISCAL YEAR 2017-2018</b>	
<b>COUNTY NAME:</b> <u>SAN FRANCISCO</u>	
<b>C. EQUIPMENT</b>	<b>COST</b>
None requested	\$0
<b>C. EQUIPMENT TOTAL</b>	<b>\$0</b>
<b>D. PROGRAM BUDGET TOTAL</b>	<b>\$338,663</b>

**AUTOMOBILE INSURANCE FRAUD PROGRAM  
PROGRAM BUDGET: EQUIPMENT LOG  
PRIOR FISCAL YEAR 2017-2018**

**COUNTY NAME:** SAN FRANCISCO

Equipment Ordered	Equipment Cost	Date Ordered	Date Received	Serial Number	Equipment Tag Number

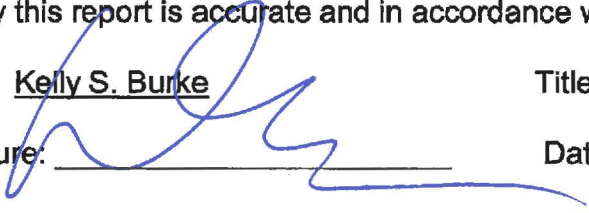
Rows can be inserted as needed.

**No equipment purchased.**

I certify this report is accurate and in accordance with the Grant guidelines.

Name: Kelly S. Burke

Title: Managing Attorney

Signature: 

Date: June 21, 2018

25

# ATTACHMENT A

## SAN FRANCISCO DISTRICT ATTORNEY'S OFFICE DEPARTMENT OF INSURANCE, FRAUD DIVISION

### JOINT INVESTIGATIVE PLAN

#### Goals

The purpose of this Joint Plan is to ensure that the Department of Insurance, Fraud Division and the San Francisco District Attorney's Office will continue to operate in a cooperative effort to achieve successful insurance fraud prosecutions in the County of San Francisco. Members of both offices will meet with each other on a regular basis to share information and to coordinate activities. By this agreement, it is hoped that both agencies will avoid duplicating efforts, and will maximize the use of the limited resources of both offices.

Insurance Code Section 1871 requires that a joint operational plan be in effect between the Fraud Division and each local district attorney's office.

This Joint plan shall be effective from July 1, 2018 until June 30, 2019, and shall supersede the joint plan currently in effect.

#### Objectives

1. Utilize Fraud Division and County resources in a coordinated manner to reduce the impact of auto insurance fraud and other related criminal activity.
2. Develop investigative and prosecution strategies that will significantly deter incidents of auto insurance fraud.
3. Investigate and prosecute individuals, professionals, businesses, and enterprises that commit or attempt to commit auto insurance fraud or other related criminal activity.
4. Work together to educate employers and employees and the general public about the costs of fraud in terms of loss of profits, loss of jobs, and high costs of payouts.
5. Form alliances with entities and agencies in both the public and private sectors whose common goal is the detection, investigation and prosecution of auto insurance fraud.

## **Receipt and Assignment of Investigations**

All procedures now in effect in this area will remain in effect in the next fiscal year. The Insurance Code requires that suspected fraudulent auto insurance claims be reported to the Fraud Division. In some instances, a suspected fraudulent claim may also be reported to the local district attorney; however, as a practical matter, the majority of investigations originate with the Fraud Division. Simple investigations will therefore be conducted by the agency that first receives the report. If, for some reason, the primary agency is unable to initiate or complete an investigation, the secondary agency may assist or take over the investigation. Complex investigations will be handled jointly by both agencies with the Fraud Division generally as the lead investigator. If needed, a separate investigative plan may be drafted to fit a particular investigation.

In matters where an apparently simple case might require extensive time and effort, both offices will work together to expeditiously complete the investigation to bring the matter to a successful conclusion.

Regular monthly meetings will continue to be conducted at the Golden Gate Regional Office of the Fraud Division. The captain of the Golden Gate Regional Office and investigators from that office will meet with attorneys from the San Francisco Economic Crimes Unit to discuss new cases and the status of ongoing investigations. Initial determination will be made whether the matter appears to be appropriate for further investigation, or should be closed immediately. This will avoid a needless waste of valuable investigative resources. The insurance company which referred a case that is rejected will be notified of the rejection. Should the insurance company request information about a rejection, the Fraud Division and the district attorney will make themselves available to discuss the file.

In an additional effort to avoid unnecessary duplication of investigative efforts, when an insurance company, private investigator, employer or third party administrator asks for a meeting with a member of the district attorney's office or the Fraud Division to present a "documented referral," both offices will be invited to be present. If one agency is unable to attend such meeting, the other member agency will advise whether the referral merits the opening of an investigation.

Once an investigation is opened, an investigator and an attorney will be assigned and an investigative plan, including a proposed timeline, will be initiated. All parties agree that any timeline is a projection and may be modified as the investigation dictates.

In addition to regular case review meetings, the manager of the District Attorney's Economic Crimes Unit and the captain of the Golden Gate Regional Office are in frequent, regular contact by phone, e-mail and in person. These regular meetings are meant to keep both agencies informed about issues relating to the common goal of fighting insurance fraud.

## **Investigations**

Investigators from the Golden Gate Regional Office and district attorney investigators will use all of their skill and resources to develop cases and to pursue investigations. In addition, investigators and prosecutors from both agencies will use outreach and education in the business community to develop sources for potential fraud referrals. Investigators from both offices have a long standing personal working relationship and a tradition of mutual aid. It is generally understood that most investigations will be conducted by the Fraud Division. If one agency or the other needs assistance, all reasonable effort will be made to render that assistance. Once a case is filed, it is also generally understood that a district attorney investigator will handle follow up investigative work.

Ongoing investigations will be discussed at the regular meetings between the agencies. A San Francisco prosecutor is assigned to each investigation to assist with any legal issues that might arise and to insure that all elements of the case are present to meet charging requirements. That prosecutor is directly available to the investigator throughout the course of the investigation. This team concept will reduce unnecessary investigative efforts and will guarantee that a matter will be terminated at the earliest possible time if it becomes apparent that no further amount of work will result in a prosecution.

In the event that a complex investigation and prosecution will involve extensive efforts by both agencies, or will require the assistance of outside allied agencies such as EDD, the Medical Board, Franchise Tax, or the like, a memorandum of understanding and a joint investigative plan may be created to delineate the roles and responsibilities of each agency.

## **Undercover Operations**

All undercover operations will be conducted in a professional manner giving priority to officer and public safety. The progress of any ongoing undercover investigation will also be a topic at the regular review meetings and in conversations between the manager of the insurance fraud unit and the captain of the Golden Gate Regional Office.

If the Fraud Division undertakes the goal of conducting a joint undercover operation, they will do so only after the mutual agreement of the District Attorney's Office. Prior to the commencement of any joint undercover operation involving both the Fraud Division and members of the District Attorney's Office, a separate joint investigative plan will be drafted setting forth the roles of investigators from both agencies, the estimated time frame of the investigation, the duties of each agency with respect to collection and storage of evidence, secretarial duties, and the like.

If, in the opinion of either agency, the integrity of the investigation, the safety of officers, or the safety of the public is at risk, the investigation will be terminated. It is also agreed between the two agencies that the conduct of any undercover investigation will be treated with the highest priority, and that any personnel participating in the investigation will be given complete support during their involvement in the operation.

## **Informants**

There may be occasions when an informant may be utilized to develop and investigate a case. The use of informants will be consistent with the policies of each agency, with procedures agreed upon by members of the two agencies, and with the laws of the State of California.

## **Filing Requirements**

Both agencies understand that the charging of a suspect with criminal conduct is the sole duty of the district attorney. San Francisco has adopted the filing protocol of the California District Attorneys' Association (CDAA). Copies of that protocol are located in the offices of both agencies. In most insurance fraud matters, cases are filed as felonies. The district attorney has the discretion to select other options available in the county.

Before a case is filed, the District Attorney's Office must be satisfied that there is sufficient admissible evidence present to prove a case beyond a reasonable doubt to a judge or jury. Cases must contain:

Complete investigative reports and supporting documents including search warrants, videos, photos, and the like;

Copies of all items in the possession of the investigator, or, if voluminous, a description of such items and where they may be viewed;

A list of all actual and potential witnesses, including exculpatory witnesses, together with a criminal history check on each civilian witness, and information about any inducements or agreements regarding their statements or potential testimony;

A complete description of all suspects.

## **Training**

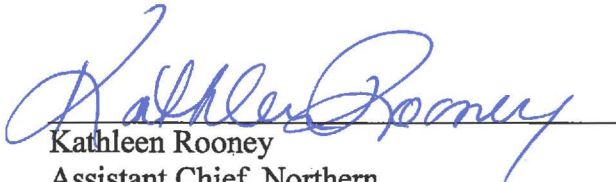
Both agencies will work together to provide training to insurance industry personnel, third party administrators, self-insured, employers, employee organizations and the general public. Both agencies have outreach plans in effect, and both agencies will continue to work together to host training sessions. A schedule of training opportunities will be discussed at each case review meeting. Both the Fraud Division and the District Attorney's Office will respond as promptly as possible to requests for training sessions.

In addition to outreach, San Francisco Economic Crimes Unit personnel and members of the Golden Gate Regional Office will periodically meet to discuss any new or innovative fraud fighting techniques, and to share intelligence on fraud activity in Northern California.


**Problem Resolution**

Prosecutors and investigators from both agencies have enjoyed a close working relationship. As a result, very few disputes arise which cannot be resolved between the parties at the lowest possible level. It is anticipated, however, that there may be a need for resolution of a disagreement at a higher level. As in the past, should there be such a need, the matter will be handled between the captain of the Golden Gate Regional Office and the manager of the San Francisco District Attorney's Economic Crimes Unit. Charging decisions will be the ultimate decision of the District Attorney's Office.

DATED: June 20, 2018

  
Kathleen Rooney  
Assistant Chief, Northern  
Department of Insurance, Fraud Division

DATED: June 19, 2018

  
Kelly S. Burke  
Managing Attorney, Economic Crimes Unit  
San Francisco District Attorney's Office