Addressing the Issue of Child Care Welfare Fraud Within Los Angeles County

October 2006

CITIZENS' ECONOMY & EFFICIENCY COMMISSION
LOS ANGELES COUNTY
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The purpose of the Commission is to examine any function of county government at the request of the Board of Supervisors, on its own initiative, or as suggested by others and adopted, and to submit recommendations to the Board which will improve local government economy, efficiency and effectiveness.

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October 5, 2006

The Honorable Michael D. Antonovich
Mayor of Los Angeles County
Kenneth Hahn Hall of Administration, Room 869
Los Angeles, CA 90012

Dear Mayor Antonovich,

On July 11, 2006 your Board requested that the Economy and Efficiency Commission conduct a study to make recommendations on immediate actions that could be taken by the Department of Public Social Services (DPSS) or other County departments to prevent Stage 1 child care welfare fraud. As a result of our efforts to respond to your request we have come to recognize that child care welfare benefits provide significant assistance to Welfare-to-Work Program participants in achieving their goal of self-sufficiency. In spite of this value to the individual and to society, we have also come to recognize from current prosecutions and convictions that there is fraud in the program, although in our view the level of this fraud cannot be accurately determined. This report addresses this potential for fraud by making 35 recommendations that the Commission feels will strengthened the program, not the least of which is the establishment of an objective measure of child care welfare fraud with which increasingly effective public policy decisions can be implemented.

We would like to acknowledge the input that has been received from departments within the County and other public and private agencies outside of the County. It is hoped that our efforts will not only assist in the enhancement of anti-fraud measures within the DPSS and the child care community, but that it will also contribute to the dialog on this issue among the various agencies involved in providing child care within the CalWORKS Program.

The Economy and Efficiency Commission is pleased to have had the opportunity to present this report to your Board and remains eager to assist the County and it's departments in the implementation of any of the recommendations that have been presented.

Regards,

Jaclyn Tilley Hill
Chair

C: Los Angeles County Board of Supervisors

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Executive Summary

This report is the result of a limited review for the purpose of identifying those actions that can be taken to contribute to a strategically based anti-fraud program in the delivery of the Stage 1 child care benefit within Los Angeles County. The following directions provided the foundation for the scope and content of this report:

(1) This the report **was** undertaken at the direction of Board of Supervisors to identify actions that could be taken in the immediate term to reduce fraud within the Stage 1 child care benefit of California Work Opportunity and Responsibility to Kids (CalWORKs) Program.[1]

(2) This report **was not** undertaken to independently consider the numerous other pressing and emotional issues that have recently been raised concerning such items as the appropriateness or outreach activities of the child care welfare program, establishing CalWORKs eligibility, the establishment of a specific level (percentage) of fraud within the program, or any other such questions not specifically related to impacting a reduction in child care welfare fraud.

A matter of significant concern that has been identified in this report is the inability to objectively measure the level of existing fraud within the Child Care Program. Without such a measure it is impossible for decision-makers to develop effective governmental policies that provide direction to operational departments, while at the same time assuring the public that everything is being done to guarantee accountability in the management of the program. Other recommendations that have been made are designed to identify actions that could improve anti-fraud responsiveness and place additional emphasis on the issue of child care welfare fraud prevention.

To assist in understanding the magnitude of this problem, the District Attorney (DA) has reported that between September 2004 and February 2006 there were 49 convictions for child care welfare fraud in the amount of $3,421,578. From January 2005 to December 2005 the DA filed approximately 90 child care welfare fraud cases. Furthermore, from January 2006 to June 2006 (latest data available as of the date of this report) the DA has filed approximately 40 child care welfare fraud cases.

[1] To be eligible for child care assistance, the focus of this report, an applicant must participate in the CalWORKs Program. While in this program the recipient is expected to take instruction in job-related skills and to seek employment as a condition of receiving aid. The child care welfare benefit is a component of CalWORKS that is designed to assist the recipient (parent) by providing for child care assistance to support accomplishing the objectives of the program – the employment of the recipient (parent).

The following is a presentation of the recommendations made in this report:

Overview of Child Care Welfare Fraud

1.That the Board of Supervisors provide the necessary resources and direct the Auditor-Controller to contract with a consultant who has demonstrated expertise in the field of child care welfare fraud to work with all affected organizations to review the current fraud methodology with the objective of:

(a) developing an objective measure of fraud that is understandable and reflects the best practices in the field; and

(b) presenting a clear and accurate measure that can be shared with the public.

2. That the Board of Supervisors direct the Department of Public Social Services (DPSS), with the cooperation of the District Attorney (DA) and all impacted agencies, to coordinate the use of a newly developed fraud measure to modify intra-county policies so as to effectively respond to any identified problems or trends in child care welfare fraud.

3. That the Board of Supervisors direct the Chief Administrative Office (CAO) to prepare for submission to the State of California suggested legislative and regulatory changes that would permit actions by the County to use available collection techniques to recover erroneously paid child care benefits and to impose any other legal and appropriate penalties for those committing fraud, regardless of the level of that fraud.

Child Care Fraud in Los Angeles County

4. That the Board of Supervisors direct the DPSS, in coordination with the District Attorney, to expand the current statistical information base to include the reasons for opening a case of suspected child care welfare fraud, cases referred, action taken and results of that action, i.e. the nature of the fraud committed, for the purpose of clarifying resulting trends and supporting an ongoing review of fraud indicators. (With this information the DPSS and the DA will be able to review weaknesses within the existing program policies and procedures.)

5. That the Board of Supervisors direct that the DPSS ensure that Alternative Payment Providers (APPs) review their hiring practices for employees working under the APP's contract with DPSS to make certain that all possible steps have been taken to identify those applicants for employment that may be predisposed to potentially fraudulent activities.

Child Care Fraud Control Operating Plan

6. That the Board of Supervisors direct that the DPSS complete a Child Care Welfare Fraud Control Plan to include, as a minimum, those elements identified in this report. (The purpose of this Plan is to develop an anti-fraud strategy that addresses the fraud prevention needs of the program, develops program objectives that are specific, measurable, realistic, time sensitive and performance based, and ensures the effective utilization of risk management resources.)

7. That the Board of Supervisors direct that the DPSS emphasize, as an element of the Child Care Welfare Fraud Control Plan, the completion of a program fraud risk assessment with the objective of quickly establishing the means by which the department can identify program vulnerabilities.

8. That the Board of Supervisors direct the DPSS, in coordination with the District Attorney's Office, to develop a strong and proactive communication strategy that aggressively publicizes successful child care welfare fraud prosecutions and programs used to curtail such fraud.

9. That the Board of Supervisors request that the District Attorney establish a unique Child Care Welfare Fraud Hotline and upon its establishment have this number appear on the child care application and all documents furnished to the participants, provider and the APP - this information should be in bold print at the bottom of each form.

10. That the Board of Supervisors direct that the DPSS, in coordination with the CAO, to develop and implement a countywide policy that establishes when and how information on child care welfare fraud related matters is to be released to the media.

11. That the Board of Supervisors direct that the DPSS, with the assistance of the District Attorney, develop a clear statement of client rights that can be incorporated into DPSS manuals and training guides to provide a clear framework for the operation of the early fraud detection and prevention program.

12. That the Board of Supervisors direct that the DPSS, with the assistance of the District Attorney, utilize the statement of client rights developed above to create a printed brochure that can be used as an ongoing reference document to inform applicants of their rights, their responsibilities, the nature of fraud within the program, and the consequences they should commit a fraudulent act.

13. That the Board of Supervisors direct DPSS, with the consultation of the District Attorney's Office, to expand upon its periodic training to child care program and APP staff to ensure that they are knowledgeable on the prevention and detection of fraud in the child care system, the impacts of fraud on program policies and to ensure that procedures are applied correctly, specifically in the area of child care welfare fraud prevention and detection.

14. That the Board of Supervisors direct DPSS, with the consultation of the District Attorney's Office, to expand upon its periodic training of managers and supervisors on child care welfare fraud so that they are able to help their employees identify and solve fraud related problems and are able to bring to bear all of the resources that are available in combating fraud.

15. That the Board of Supervisors direct that CAO review and evaluate the value of cross-training among the staffs of the District Attorney, DPSS, APPs and any other appropriate agencies with the objective of improving the understanding of cross-departmental operations and providing new insight on various strategies that may be available to combat fraud and report the outcome of this evaluation to the Board of Supervisors within 60 days.

16. That the Board of Supervisors direct the CAO to pursue the approval of the State of California to have each APP require that every provider approved to accept payments in the child care assistance program attend a mandatory one-time orientation and introductory training session to make certain that each provider understands, not only the overall program, but also the agency-specific policies and procedures, including program rules and provider responsibilities, prior to receiving their first reimbursement check.

17. That the Board of Supervisors direct the DPSS to ensure that upon receiving the brochure on client rights each applicant should be required to read it in the presence of the eligibility worker and to sign a statement attesting that they understand the material that was presented. If they are unable to read, the brochure should be read to them and explained by the eligibility worker prior to having a statement signed attesting that the applicant understands the material.

18. That the Board of Supervisors request that the District Attorney prepare for distribution by the Alternative Payment Providers (APPs) a letter to those applying for child care benefits that informs them of their rights and requests their assistance in protecting their benefits by preventing fraud.

19. That the Board of Supervisors direct that the DPSS review all opportunities that could lead to an increase in the reporting of suspected fraud. This should include emphasizing the reasons why it is necessary for the public to become involved using such means as expanding Internet reporting capabilities and improving the display and publication of the Child Care Welfare Fraud Hotline.

20 That the Board of Supervisors commits an appropriate level of attention to the issues of child care welfare fraud by making compliance with the overall strategy and objectives identified in the Child Care Welfare Fraud Control Plan an element in the department head's performance review.

21. That the Board of Supervisors direct the DPSS to undertake, with the coordination of the District Attorney and APPs, a formal and on-going study of child care welfare fraud and annually report to the Board on the results of that study.

22. That the Board of Supervisors direct the DPSS, with the cooperation of the District Attorney and APPs, to offer a means of communicating the results of the previously recommended study on fraud prevention operations in order to improve public dialogue on the progress being made in fighting child care welfare fraud.

The Organization of Investigative Resources

23. That the Board of Supervisors direct the CAO to review and report back on the appropriateness of the current DPSS child care welfare fraud investigative staffing relative to existing case load.

24. That the Board of Supervisors direct the DPSS to review the impact(s) of requiring the direct deposit of the child care program benefits, which is currently permitted, and report to the Board on its possible implementation.

25. That the Board of Supervisors direct that the DPSS, with the assistance of the District Attorney, conduct an independent review to ensure that all APPs are employing uniform procedures and forms.

26. That the Board of Supervisors direct DPSS review current participant documentation requirements and assess whether any modification to these requirements would reduce the instance of child care welfare fraud. This should include a requirement that the applicant appear personally before a representative of the DPSS to permit their being photographed and the requirement to provide the child's Social Security Number (SSN). (Any proposed modification to legislated documentation requirements would have to be addressed by making appropriate recommendations to the state.)

27. That the Board of Supervisors direct the CAO, in cooperation with the Auditor-Controller, to prepare an analysis of alternative organizational possibilities for child care welfare fraud investigative resources.

28. That the Board of Supervisors direct the CAO to develop an independent field visitation program, in conjunction with DPSS, District Attorney, and APPs, designed to visit residences, employment and the child care provider for the purpose of detecting and preventing fraud at the child care application stage and on a continuing basis thereafter.

29. That the Board of Supervisors request that the District Attorney be sensitive to providing continuity in the staffing of investigators assigned to child care welfare fraud.

30. That the Board of Supervisors direct that DPSS require that each APP designate a management level employee who would assist the District Attorney and DPSS with investigations, witness coordination, etc.

31. That the Board of Supervisors request that the DPSS and the District Attorney to meet routinely to review opportunities for reducing fraud within the child care program.

Additional Strategies to Prevent and Detect Fraud

32. That the Board of Supervisors direct the DPSS to create an executive level position of Fraud and Error Control Officer.

33. That the Board of Supervisors direct the DPSS, with the cooperation and participation of all affected departments, to create a Child Care Welfare Fraud Review Committee to monitor audits and other available program documentation involving instances of fraud with the purpose of developing corrective action plans through which fraud can reduced or eliminated.

34. That the Board of Supervisors direct the DPSS to expand upon its efforts to review those systems involved in child care delivery with objective of identifying and modifying those policies and procedures that may facilitate the commission of child care welfare fraud.

35. That the Board of Supervisors direct that DPSS, in coordination with the Chief Information Office (CIO) and consistent with privacy legislation, ensure that the DPSS, In-Home Supportive Services (IHSS)[2], and APP systems (and request the Federal Government to include the Social Security Income (SSI) system) are able to communicate with each other so as to identify potential fraud at the outset of the application process. This comparison of data should be undertaken at the time of application and be monitored at least every 6 months.

[2] The In-Home Supportive Services (IHSS) Program will help pay for services provided to the recipient so that he/she can remain safely in his/her own home. To be eligible, the recipient must be over 65 years of age, or disabled, or blind. Disabled children are also eligible for IHSS. IHSS is considered an alternative to out-of-home care, such as nursing homes or board and care facilities. See: http://www.cdss.ca.gov/cdssweb/In-HomeSup_173.htm

Authority

This report has been prepared at the request of the Los Angeles Board of Supervisors in a July 11, 2006 motion. This Board action directed the Economy and Efficiency Commission to "Conduct a study and make recommendations on those immediate actions that can be taken by the Department of Public Social Services (DPSS) or other County departments to cost effectively prevent fraud, while ensuring the eligibility of those individuals who are in need of assistance." The Commission was originally given 60 days within which to respond to this Board direction, and was granted a 30 day extension to accommodate the coordination required in the preparation of this report.

Project Scope

The scope of this report is defined by two factors: (1) the requirements of the stage of child care (Stage 1) for which the County is responsible and (2) by the time restrictions and resources available to devote to the development of this document.

Although time constraints have limited the ability of the Commission to undertake extensive in-field study of program processes and procedures, the objectives as envisioned by the Board of Supervisors can be accomplished by conducting a broad overview of the fraud potential within the child care welfare program using documented resources and input from individuals who are involved in this program. The nature of this approach will afford a foundation from which to initially identify areas that may offer opportunities for further improvement. Additionally, it is anticipated that this review will be used as a catalyst to provoke further discussion and investigation on broader issues involving public policy on child care welfare. The furtherance of such a discussion would assist the County in pursuing all strategies designed to address the issues arising from the existence of fraud within the Child Care Welfare Program, and possibly, offering the potential for taking into account fraud across the wider spectrum.

In developing its presentation and arriving at its recommendations, the Economy and Efficiency Commission has benefited from comments by the Los Angeles and San Diego County District Attorney Offices; the Los Angeles County Chief Administrative Office, the Auditor-Controller's Office, and Department of Public Social Services (DPSS); and a number of Alternative Payment Providers (APP). In addition, research was undertaken using various County and industry documents and news articles on the subject. Using the information that was gathered and information on the actions taken by other public and private organizations that have faced similar problems, this report has arrived at 35 recommendations that are intended to enhance the ability of the County to deter, detect, investigate and prosecute child care welfare fraud.

Important Notes on Scope

1. Some of the recommendations that have been made in this report may include actions that are already being taken by one or more of the various agencies involved in the Los Angeles County Child Care Welfare Program. In spite of that, the Commission feels that each recommendation is sufficiently important to state in this document for the purpose of giving it the attention that it deserves. Moreover, it is hoped that by placing an emphasis on a particular recommendation it may well serve as a catalyst for initiating further efforts to capitalize upon the accomplishments of those program measures that have proven to be effective.

2. While this report attempts to address those means by which child care welfare fraud can be positively impacted, it also recognizes that the overriding consideration for the DPSS and the County must be on ensuring that any recommendations that are made and implemented must be done so within the context of accomplishing the goals and objectives that have been established for the California Work Opportunity and Responsibility to Kids (CalWORKs) Program and that eligible recipients are not denied benefits.

3. The Commission's efforts and recommendations are the result of an independent review of the current procedures and programs. The recommendations in this report represent areas wherein improvements in program economy and efficiency may be realized. Their implementation will result in enhanced delivery of Stage 1 Child Care Benefits within the CalWORKs Program.

Introduction

Although there are numerous opinions and attitudes regarding the issue of welfare, they by and large fall into two underlying categories. Welfare rights organizations, advocates and various others would likely hold the fundamental position that the receipt of welfare is a "right". An alternative position would emphasize the "responsibilities" that are assumed by the recipients in accepting benefits. The California Work Opportunity and Responsibility to Kids (CalWORKs) Program attempts to address the combined deep-seated beliefs of both positions by providing "welfare" benefits while requiring that the recipient fulfill his/her "responsibilities" in becoming a self-sufficient member of society. Consequently, a recipient of benefits is expected to take instruction in job-related skills and to seek employment.

The CalWORKs Program is designed to allow the individual to remain on welfare assistance for a limited number of years. The child care welfare benefit, as a component of CalWORKS, is designed to assist the recipient (parent) by providing for child care welfare assistance to help accomplish the primary objectives of the program – the employment of the recipient.

Within the structure of the CalWORKs Program, Los Angeles County operates the Stage 1 Child Care Program which is funded by the California Department of Social Services and locally administered by the Los Angeles County Department of Public Social Services (DPSS) through contracts with 13 Alternative Payment Program (APP) agencies. The total amount of Stage 1 child care direct provider payment expenditure for FY 2005-06 was $113,143,937. In fulfilling its fiduciary responsibility to make certain that funds are appropriately expended, the County and its agencies must continually evaluate and take action to address the potential for fraud[3].

Over the years, it has been alleged that a variety of forms of fraud exist within the Child Care Welfare Program. This allegation is supported by the number of successful child care welfare fraud prosecutions that have been undertaken within the County. Although the levels of fraud and abuse in the system are difficult to establish with certainty, estimates have been published presenting a wide range of estimates - anywhere from 1% to 50%. While this wide range of estimates makes it difficult, if not impossible, to definitively establish the impact of fraud and abuse, prosecutorial experience, combined with the fraud assessment made by DPSS[4], does suggest that this is a recognized problem of unknown dimensions within the County of Los Angeles. Faced with this indication of fraud the County has a duty to minimize it by incorporating all available and reasonable anti-fraud concepts and operational techniques into the County's child care welfare system.

<u>This report unconditionally acknowledges that the majority of those involved in CalWORKs, the clients, service providers and other program participants, have acted and continue to act in a legal, moral and ethical manner</u>. Nevertheless, those who choose to "cheat the system" must be dealt with to secure the benefits for those families and children who are truly in need. It is also essential for the County to fulfill its responsibilities in the management of the program and the administration of those funds intended to aid eligible recipients.

Regardless of how well intended or well executed the child care welfare fraud prevention actions have been to date, fraud prevention must remain a priority if the County is to continue to both reduce the current level of fraud and to provide an effective deterrence for future fraudulent actions. If it is not addressed

[3] It is acknowledged by everyone involved in the child care program that some fraud exists, although there does not appear to be any agreement as to the level. Two examples of this acknowledgement are provided in the filing and prosecution data provided by the Los Angeles County District Attorney and in the Memo to Each Supervisor from Bryce Yokomizo, Director, DPSS, Subject: <u>Board of Supervisors: Motion (Syn 71B – January 31, 2006) Regarding Child Care Fraud</u>, March 14, 2006.

[4] Bryce Yokomizo, Director, DPSS, Memo to Each Supervisor, Subject: <u>Board of Supervisors: Motion (Syn 71B – January 31, 2006) Regarding Child Care Fraud</u>, March 14, 2006.

effectively there will be an erosion of the public's confidence and support for these programs and in those individuals, both appointed and elected, that have the responsibility for their effective administration. Thus, the measures that have been taken recently by the DPSS[5] in response to the 2005-2006 Grand Jury recommendations[6] on Child Care Welfare Fraud and every action taken by every affected department should be carefully measured with one objective of public servants in mind - to maximize the assistance to those in need by ensuring and enhancing the accountability for the expenditure of public funds.

Overview of Child Care Welfare Fraud

Societal Considerations

Social Consequences of Fraud

The existence of fraud in the child care welfare program will have a serious impact upon the morale, reputation and professionalism of all of those involved in the program. Fraud will weaken any organization and damage everyone it was designed to assist; and, most importantly, it will knowingly reduce those resources dedicated to those that are genuinely in need. What's more it will waste resources, not only from the direct fiscal impact of the fraud, but also from the resulting time and effort spent dealing with its substantial consequences. Specifically fraud will:

- Reduce services resulting in a detriment to the parents and children that the program is designed to help;

- Deprive those who are eligible for assistance of the resources necessary to help them and the program to achieve their objectives;

- Erode confidence in the ability of the County to manage, not only the programs and organizations involved in the program in which fraud exists, but also in all of the other programs administered by the County;

- Reduce both the efficiency and effectiveness of the program's resources and thereby begin to lose the support of constituents; and,

- Damage the morale of those charged with the delivery of program services.

[5] Bryce Yokomizo, Director, DPSS, Memo to David E. Janssen, Chief Administrative Officer, Subject: DPSS Response to the Fiscal Year 2005-2006 Grand Jury Report and Recommendations for Child Care Fraud, August 10, 2006.
[6] Los Angeles County 2005-2006 Grand Jury, Final Report: Millions of Tax Dollars Lost to Child Care Fraud, June 2006, Pgs 237-250.

Public Policy Consequences of Fraud

Unintended Consequences

There are serious unintended consequences for not having an accepted and accurate determination of fraud. Without an accepted measure it is possible for any individual or organization to claim fraud to be significantly higher or lower that may actually exist without a fear of “contradiction by the facts”.

A claimant may present data that is open to interpretation to support a particular position. Whatever action that is taken, whether or not it is based upon flawed data, will have serious consequences on public policy and ultimately on those families and children that are justly in need. In recognizing the consequences of this type of uninformed action, social studies have generally acknowledged that by reporting a high level of fraud within a community, a perception can be created by the media and others that since “everyone is doing it”, without any substantive consequences if caught, it can be accepted as the societal norm. This acceptance becomes a justification for the commission of further fraud, thereby becoming a self-fulfilling prophesy. Moreover, a claim of rampant fraud can erode public support for the program and result in reduced or terminated funding totally apart from of the actual true need for the program.

Conversely, to claim a fraud rate that is exceptionally low and significantly inconsistent with the experience of the general field of fraud investigation does not demand of any organization the sense of urgency that, in reality, may actually be required. In either of these instances, or in others that have not been cited, policy makers must recognize that inaccurate claims by a program may result in serious policy consequences and potentially, program failure.

The Consequences of Statistical Design

It may be somewhat counter-intuitive that the development of a program(s) designed to control or reduce the level of fraud will, more likely than not, result in an increase in detected fraud as a result of the improved ability to do so. On the other hand, the presentation of a low level of fraud does not, in itself, prove that any jurisdiction is operating in a low-fraud environment. This low level of fraud may be explained by the fact that existing programs are not adequately designed or managed to detect or prevent that fraud which does exist.

If fraud levels are not being routinely identified and measured using some objective criteria, policy makers are placed in the position of being unable to effectively rectify this situation. Moreover, there would be both a lack of the critical internal pressure to "solve the problem" and an inadequate level of communication to the public on the measures taken to positively resolve the situation. Thus, the lack of an effective fraud detection measure might actually be used to "inappropriately solve a problem" at the expense of those people that the program was design to help.

The Importance of a Program Fraud Measure

Without an agreement on how to objectively calculate fraud and statistically present these findings a real opportunity is created for the substantial expansion of disagreements on the levels and subsequently on the measures being proposed to contend with fraud. It can also interfere with, and in some instances prevent, the effective implementation of corrective measures.[7] What is important within the context of this report is the impact upon governmental policy and program structure from a failure to institute an accurate fraud statistic. <u>As a foundational performance measure, a reliable and accurate fraud rate is a decisive element in the development of any strategy that proposes to monitor an organization's progress on fraud reduction</u>.

The Individual and Fraud

<u>The Individual's Attitude Toward Fraud</u>

It is likely that individuals committing fraud are emotionally, socially and personally predisposed toward doing so and, as a result, are not likely be easily deterred. There is also a possibility that in their perception of the world they see themselves as somehow "entitled" to the available benefits. In either instance, these individuals are sophisticated enough to understand the value in real terms of such a course of action, particularly when it comes to the amount of benefits to be received versus the unlikelihood of any genuine punishment. This recognition would, to a large extent, validate their predisposition toward the commission of fraud.

It can be argued that if a "system" is structured in such a manner that facilitates, and, in some specific instances, encourages individuals to be less than truthful it must accept a considerable level of responsibility for the commission of the act. For example a "system" that lacks any sustentative punishment options for those that commit fraud by its very nature will facilitate its commission.

It is intuitive that fraud would be significantly reduced if an individual had more to gain from being profitably employed, i.e. financially, socially, morally, etc., than what could be gained from the commission of fraud. A conclusion could be drawn that the incidence of child care welfare fraud is intimately related to the achievement of the goals of the CalWORKS Program. Thus, policies must be continually reviewed to ensure that they actively support both program anti-fraud

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[7] Although the measurement of a fraud level is a critical component in the management of any fraud prevention program, as mentioned previously it is not within the resources available in this report to address the specifics of the level of fraud that exists within the Child Care Program.

activities and the maximization of the opportunities offered by the CalWORKS Program and the labor market. These efforts will hopefully develop a recognition and understanding by the individuals of the value in undertaking and maintaining employment.

Limited Possibility of Punishment

The most likely reason for people committing fraud is that the economic benefits to be gained are high relative to the low risk of getting caught or, if caught, the likelihood of being punished in any significant manner (a classic Risk/Reward Ratio). For example, in an instance of an overpayment due to suspected fraud, the County cannot force recipients to repay overpayments by discontinuing their child care benefits. Furthermore, the County cannot offset a recipient's grant or child care without the recipient's agreement.[8] The San Diego Board of Supervisors, on a motion of Supervisor Dianne Jacob, has recently recognized this situation by unanimously adopting the position of "…asking state lawmakers to draft legislation allowing the county to suspend payments to child-care providers and parents involved in fraud until full payment is made."[9]

The Los Angeles County Department of Public Social Services (DPSS) has stated that as a result of State Regulations unless a case is prosecuted for fraud, the identification of fraud or overpayments carries no deterrent value since:

- There is no legal authority to collect an overpayment from a client, unless the client voluntarily agreed to the repayment; and,

- There is no authority to impose a consequence for program violations.[10]

Influencing the Individual

A critical element in dealing with child care welfare fraud is the need to thoroughly and clearly inform program participants of what actions constitute fraud, together with the consequences of fraudulent actions. Without this information the individual can not easily be held accountable for "breaking the rules". Increasing an emphasis on fraud and on an expression of concern and awareness to this problem by the County is likely to achieve two primary

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[8] See California Department of Social Services, Manual of Policy and Procedures (MPP 47-440.1 through MPP 47-440.17) for the regulations governing child care overpayments.
[9] Leslie Wolf Branscomb, Child-care Payments Said to be Fraudulent, The San Diego Union-Tribune, May 17, 2006.
[10] California Department of Education, Child Development Division, Curriculum and Instruction Branch, CalWORKs, Stage 2 and 3 and Alternative Payment Programs Best Practices for Program Integrity Report Required by Chapter 229, Statutes of 2004 (SB #1104, Committee on Budget and Fiscal Review), March 2005.

objectives: (1) the potential for "breaking the rules" will be reduced and (2) there will be a reduction in the incidence of intentional fraud[11].

Although government has recognized the difficulty that is created when an individual is denied benefits either permanently or for a notable period of time, this recognition should be accompanied with the companion recognition that <u>without consequences there is no deterrent</u>. The current non-punitive policy has been formulated around the argument that by denying benefits to one household member as a result of fraudulent actions, all household members are penalized, particularly children. However, a counter argument can be made for personal responsibility by acknowledging that the program participant that commits a fraudulent act does so with specific intent. When caught in this exploitation of the system, all the time being aware of the potential consequences, the individual committing the fraudulent act is the responsible party for intentionally punishing all household members, not government.[12]

<u>It is an unmistakable public policy consequence that without a disincentive for fraud in place any welfare program will be permanently faced with fraud, whatever level that may be, which takes funds from those children and families in need and transfers them to those who chose to "cheat the system".</u>

The fundamental approach in responding to this question is to place on notice those individuals with fraudulent intent that any excuse involving ignorance or error becomes increasingly unsupportable. By possessing the information on what constitutes fraud the individual is put in the position of making the unambiguous decision to commit a fraudulent act. <u>The consequences of this decision demand that the individual be held accountable for his/her actions</u>.

Recommendations

1.That the Board of Supervisors provide the necessary resources and direct the Auditor-Controller to contract with a consultant who has demonstrated expertise in the field of child care welfare fraud to work with all affected organizations to review the current fraud methodology with the objective of:

(a) developing an objective measure of fraud that is understandable and reflects the best practices in the field; and

[11] The difficulty in identifying intentional and unintentional fraud is frustrated by the fact that fraud is a specific intent crime that can currently only be measured through criminal convictions.
[12] When Colorado implemented the Administrative Disqualification process, a class action suit was launched challenging the constitutionality of the initiative. This suit was ultimately unsuccessful in the courts.

(b) presenting a clear and accurate measure that can be shared with the public.

2. That the Board of Supervisors direct the Department of Public Social Services (DPSS), with the cooperation of the District Attorney (DA) and all impacted agencies, to coordinate the use of a newly developed fraud measure to modify intra-county policies so as to effectively respond to any identified problems or trends in child care welfare fraud.

3. That the Board of Supervisors direct the Chief Administrative Office (CAO) to prepare for submission to the State of California suggested legislative and regulatory changes that would permit actions by the County to use available collection techniques to recover erroneously paid child care benefits and to impose any other legal and appropriate penalties for those committing fraud, regardless of the level of that fraud.

Overview of the State of California's Work Opportunity and Responsibility to Kids (CalWORKS) Child Care Program

Program Structure

The CalWORKs Child Care Program is divided into three stages and is funded by two separate departments within the California State infrastructure. The Stage 1 Child Care Program is funded by the California Department of Social Services and locally administered by the Los Angeles County Department of Public Social Services (DPSS) through contracts with 13 Alternative Payment Program (APP) agencies. Stages 2 and 3 Child Care Programs are funded by the California Department of Education (CDE) and locally administered through CDE contracts with the same 13 APPs that provide Stage 1 services.

The following are descriptions of the three stages available for families to subsidize child care:

- **Stage 1** - This stage begins with a parent's entry into a County-approved Welfare-to-Work activity or employment. Each family may be served in Stage 1 for up to six months or until the family's work activity and child care become stable. Families can also remain in Stage 1 if there is not sufficient funding in Stages 2 and 3.

● **Stage 2** – This stage begins when the parent's employment and child care arrangements are stable. Families may remain in this stage for up to 24 months after their CalWORKs cash assistance is terminated.

● **Stage 3** – This stage provides child care benefits for: (1) former CalWORKs participants who are working; have left cash aid and who have exhausted their 24-month eligibility for Stage 1 and/or Stage 2 child care; and (2) families who receive a CalWORKs diversion payment.

Child Care Welfare Fraud Investigation

Since child care welfare fraud poses an ever increasing threat in the fraud arena, it is important to understand the three child care stages in relation to the issue of child care welfare fraud. This type of fraud has grown in recent years with the development of new and creative perpetration techniques. It has been acknowledged by both the DPSS and the DA that these techniques have been compounded by technological advancements in such things as desktop publishing capabilities and software packages that enable the creation of increasingly difficult to detect document forgeries. DPSS has reported that its Welfare Fraud Investigators have found child care welfare fraud investigations to be exceptionally complex, labor-intensive and time-consuming. As a result of these investigations they have been able to uncover intricate rings of co-conspirators operating well-coordinated fraudulent schemes.

Stage 1 Fraud Investigation

To address the Stage 1 Program, DPSS has reported that a formal process is in place to both investigate suspected child care welfare fraud and to refer appropriate Stage 1 cases to the District Attorney's office for prosecution. DPSS dedicates a unit of 12 full-time Welfare Fraud Investigators to the conduct of child care welfare fraud investigations and, in 2005, implemented a Child Care Early Fraud Intervention Program. The Early Fraud staff has visited each of the 13 APPs to provide on-site training to APP staff on fraud indicators, when and how to make a fraud referral and what types of cases to refer. Early Fraud Investigators take telephone referrals and conduct site checks on questionable providers and/or employers to validate their legitimacy before child care services are approved.

The DPSS Welfare Fraud Investigators work closely with the District Attorney's Investigation and Prosecution Sections especially on referrals which involve complex child care welfare fraud allegations, such as cases involving multiple aid and group conspiracy. District Attorney investigator-assistance is requested for purposes of conducting surveillance, executing search warrants, and seizing evidence such as computer hardware and software and various documents. The Welfare Fraud Investigators and District Attorney Investigators work jointly in the investigation and prosecution of these cases.

The DPSS, APPs and the District Attorney have collaborated on the provision of the semi-annual interactive Child Care Fraud Prevention and Detection Training for APP staff. Additionally, the Department has implemented a Child Care Fraud Prevention Task Force composed of APP, DPSS and District Attorney that meet regularly to discuss fraud prevention and detection strategies. The Department has also released a list of "Best Practices" aimed at helping Eligibility, Greater Avenues for Independence (GAIN)[13] and APP staffs to identify potential child care welfare fraud.

Stage 2 and 3 Fraud Investigation

For Stages 2 and 3, there is no formal process for investigation or prosecution of suspected child care welfare fraud. The California Department of Education (CDE) has indicated that current statute neither gives them the authority to investigate or criminally prosecute suspected child care welfare fraud cases, nor contract out these functions. Currently, the CDE instructs the APPs statewide with which they contract to refer suspected fraud cases to local law enforcement.

Child Care Welfare Fraud in Los Angeles County

Balancing Fraud Prevention and Program Effectiveness

It is evident that any fraud prevention and detection activity needs to be considered within the broader context of service delivery. The control to be gained in the creation of these activities must be balanced by the need to sustain an effective service delivery system to meet the assistance requirements of individuals. <u>If strategies to limit fraud (e.g., increased paperwork, verification requirements, etc.) become sufficiently onerous as to discourage significant numbers of eligible parents or providers from participating in the program or if the cost of administering such activities outweighs the benefits for families the effectiveness of the program may be severely undermined.</u>

The Requirement to Address Fraud

<u>Child care welfare fraud</u> is the knowing misrepresentation of facts that are material to an issue, made with the intent to obtain something to which one is not entitled.[14]

[13] The GAIN program provides employment-related services to CalWORKs participants to help them find employment, stay employed, and move on to higher paying jobs, which will lead to self-sufficiency and independence. See: http://www.ladpss.org/dpss/gain/default.cfm.

[14] California Department of Social Services, All-County Letter No. 00-53, Subject: <u>CalWORKs Stage One Child Care Fraud and Overpayments</u>, August 29, 2000. For additional information see All-County Letter No. 04-01, Subject: <u>Former CalWORKs Recipients Whose Children are Timing Out of Stage One Child Care</u>, January 19, 2001. (To further clarify this definition the

Many times the public will, rightly or wrongly, extrapolate any instance of fraud committed in the private sector, i.e. ENRON, WorldCom and/or in high visibility public sector instances such as the United Nations Food-for-Oil scandal, as being indicative of the predisposition of all organizations. To combat this perception it is critical that the County forthrightly address the issue of child care welfare fraud as a means of maintaining the continued confidence of the public in their governmental institutions. In furtherance of this confidence-building process this report attempts to contribute to the common understanding of the potential fraud schemes and scenarios that have been perpetrated within Los Angeles County. To achieve this it provides illustrations of different types of frauds and how such frauds could be perpetrated – participant, provider, participant/provider, and program fraud.

The existence of fraud in all jurisdictions nationwide and the current child care welfare fraud levels within the County, however they are measured and presented, unmistakably demonstrates an obligation of the County to detect fraud through the development of a continuing review of client, provider and program operations. Such a review should be constantly refined to expand upon specific techniques of external verification of both provider and client fraud.

Since extended reviews can be costly, the DPSS recommendation to customize auditing techniques to pursue additional investigation of cases identified as being problematic or at greatest risk for fraud could appear to be reasonable in the long term. Adopting this approach will require the continual review of the fraud indicators used by the department in validating their triage methodology. But in the short term, while fraud referrals continue to be investigated and referred for prosecution and site visits are made to providers on higher risk cases, further investigation is requisite to establishing the value of devoting added resources to anti-fraud activities. This action will make certain that all opportunities for improvement have been identified and, where appropriate, implemented.

Problems in Estimating the Level of Fraud

The extent to which the child care program is vulnerable to fraud or improper payments has recently been a major topic of discussion not only within the County, but nationwide. For example, concerns have been expressed by the United Council on Welfare Fraud (UCOWF)[15] based upon a survey they conducted. UCOWF has concluded that "In those states that did maintain detailed statistics, fraud was discovered in upwards of 69 percent of the

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California All Counties Letter (ACL) 00-53 provides examples of those instances that qualify as child care.)

[15] The United Council on Welfare Fraud (UCOWF) is an organization of investigators, administrators, prosecutors, eligibility workers, and claims writers from local, state and federal agencies from the United States and Canada who have combined their efforts to fight fraud, waste, and abuse in social service programs. The focus of UCOWF is the detection, recovery and prosecution of those who fraudulently obtain government benefits.

investigations conducted with total annual discovered fraud amounts ranging from $10,000 to over $1 million."[16] They further supported this contention by pointing out that "The consensus at the State Fraud Directors' meeting last March (2003) was that 50% of child care cases involved fraud."[17] They expanded upon this proposition in their recent response to questions by the U.S. House Ways and Means Committee when they opined that "Most people are truthful, in the opinion of UCOWF's Board members, but some have found that as much as 50% of their clients have shown themselves to be dishonest."[18]

In California the following opinion has been presented, "The (California) Assembly Budget Committee reviewed information from SDE (State Department of Education), the district attorneys of Los Angeles and Fresno counties, and alternative payment programs, concluding that 'the actual rate of fraud is somewhere between one and seven percent of total expenditures and represents less [than] five percent of the cases'."[19]

These two examples are indicative of the wide diversity in fraud level estimates that have been made and that have been used as a basis for making public policy on fraud. The range in estimates presented in these examples is compounded further in Los Angeles County by the lack of agreement between DPSS, past Grand Juries, and the District Attorney on fraud levels within the County. The result of these differences in data interpretation is that it is difficult, if not impossible given the current data and methodologies, for policy-makers to arrive at an accurate measure of child care welfare fraud that could be used in the development of an effective policy to deal with this problem.[20] Consequently, it is understandable how rationally based disparate positions can be taken on the estimate of detected fraud.[21]

Whatever the actual level of fraud, <u>it is not the purpose of this report to extrapolate any of the fraud level claims with the purpose of ascertaining or proposing a level of fraud within the benefits provided in the Stage 1 Child Care Program.</u> The purpose for broaching this topic, at an admittedly superficial level, is to attempt to provide the reader with some understanding for how people could adopt a particular position based upon their acceptance of a particular set of

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[16] Michael G. Rice, UCOWF President, <u>Testimony on Child Care Fraud before the US House Of Representatives Committee On Ways And Means Committee</u>, July 17, 2003.
[17] ibid
[18] Michael G. Rice, UCOWF President, <u>Response to Follow-Up Questions of the US House Of Representatives Committee On Ways And Means</u>, July 2003.
[19] California Senate Human Services Committee, SB 1421, Subject: <u>Child Care: CalWORKS Recipients: Fraud, Staff Analysis</u>, March 27, 2006, pg 3.
[20] This difficulty is further exacerbated by the fact that fraud is a specific intent crime that can only be measured through criminal convictions.
[21] This does not consider the additional problems associated with undetected fraud.

data. It might also be used as a partial explanation of how rationale individuals could claim significantly differing levels of fraud.[22]

Fraud Potential within Los Angeles County

Although there may be some questions as to its level, there is no argument that fraud exists within the Child Care Program. In a March 14, 2006 memo Bryce Yokomizo, Director, DPSS, reported to the Board of Supervisors that "During the last two years, we've seen a significant increase in the number of referrals for investigation of Child Care fraud."[23]

To those who may claim that the degree of fraud committed by any one individual could be considered to have limited exposure, in its aggregate fraud levels in the child care program may prove to be substantive. The program statistics below indicate the child care funding level and the size of the population that needs to be provided for, while managing a reduction in both the probability and the possibility of fraud:

- The total amount of Stage 1 Child Care direct provider payment expenditure for FY 2005-06 was $113,143,937;

- Based upon May 2006 data, 16,610 children in 9,427 families are receiving Stage 1 child care;

- Based upon 2006 data, 11,396 children (69%) were using license exempt providers and 5,410 children (31%) were using licensed providers[24]; and,

- As of March 2006 DPSS has approximately 804 child care welfare fraud referrals under investigation assigned to 12 full time Welfare Fraud Investigators and 2 full time Supervising Welfare Fraud Investigators."[25]

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[22] Recent events within the County to identify a specific level of fraud has not only led to significant disagreements among County departments, but it has also most certainly caused confusion in the public mind as to the actions that are and can be taken to address this issue.

[23] Bryce Yokomizo, Director, DPSS, Memo to Each Supervisor, Subject: Board of Supervisors: Motion (Syn 71B – January 31, 2006) Regarding Child Care Fraud, March 14, 2006.

[24] These numbers represent duplicated counts, since some children may receive care from multiple providers and both licensed and license-exempt providers due to the different needs for care. For example, a child's school schedule or parent's work/school schedules may necessitate different types of child care during different parts of the day.

[25] Bryce Yokomizo, Director, DPSS, Memo to Each Supervisor, Subject: Board of Supervisors: Motion (Syn 71B – January 31, 2006) Regarding Child Care Fraud, March 14, 2006.

Prosecutions and Recent Filings

Forty-nine (49) individuals (cases) who cheated the CalWORKS Child Care Program of $3,421,578, between September 2004 and February 2006, have been successfully prosecuted by the County of Los Angeles District Attorney.

District Attorney Child Care Welfare Fraud Cases		
Court Date	Disposition	Amount
September 9, 2004	13 convictions	$925,000
December 9, 2004	12 convictions	$500,000
January 26, 2006	10 convictions	$1,200,000
February 23, 2006	14 convictions	$796,578

From January 2005 to December 2005 the DA filed approximately 90 child care welfare fraud cases. Moreover, from January 2006 to June 2006 (latest data available) the DA has filed approximately 40 child care welfare fraud cases.

Types of Fraud

Participant (Parent) Fraud

A significant percentage of the participants in this program can be expected to be employed in positions that are not "traditional" in the sense that they do not have "normal" working hours and a stable income. Such conditions could be perceived as facilitating fraudulent activity. In recognition of this fact, any attempt to address participant fraud must provide a focus that is over and above what would normally be expected to document income and eligibility when work times vary or when an employer is remiss in providing requested information. Any program specific measures that are taken, as previously noted in this report, must recognize that there is equilibrium to be achieved between the need for program integrity and fraud prevention and in the need to establish policies that enable eligible families to receive benefits.

Having recognized the "non-traditional" employment circumstances in which many of these individuals find themselves, experience has shown that a significant number of child care welfare fraud prosecutions within Los Angeles County, as reported by the District Attorney, involve false claims of employment by the participant (parent) in order to qualify their children for child care. In some instances payments are made to a relative or a friend without the child care being provided. This type of fraud has usually been accomplished using one of the following methods:

- False pay stubs submitted from nonexistent companies;

- False pay stubs generated by a computer program for existing companies;

● Cell phone numbers (generally of relatives) are given to the Alternative Payment Program (APP) agencies for verification of employment;

● Claiming more hours of employment than actually worked; and,

● Claims of training or school attendance where attendance has been discontinued after enrollment.

Based upon the reported experience of the Los Angeles County District Attorney with these types of prosecutions, the most prevalent scenario for fraud occurs when a participant claims that the qualifying employment is that of a caregiver or housecleaner for a relative, friend or neighbor. In these situations the participant's income is usually made in cash or by personal check making the employment difficult to verify. Further, since the participants are permitted by program to choose the child care provider, who in some cases this may be a close relative, the case is routinely filed against the participant and, where appropriate, the provider.[26] The issue in this type of fraud is that the participant qualified for subsidized care, submitted false or fake employment verification documents and then either received legitimate childcare from a provider under false pretenses or didn't receive the claimed child care at all.

Multiple strategies are potentially available to penalize families and child care providers when it is established that improper payments have resulted from fraudulent or erroneous activities. Although the State precludes action by the County on the following items it is undeniable that they could potentially be available as options to collect on overpayments if they were authorized by the State:

● Call participant and request reimbursement;

● Development of repayment plans;

● Reduction in future payments;

● Tax intercepts; and,

● The use of collection agencies to recover erroneously paid child care benefits.[27]

[26] It is necessary to recognize that it is difficult to prove that the provider knew of the fraud, in spite of the fact that the child care funds paid to the provider have often been split with the participant (parent). In some instances, the provider has provided care.

[27] As an example of the use of collection agencies, since 1985 Illinois has used collection agencies to recover erroneously paid public assistance benefits, paying a 25 percent commission on their collections. In 1995, three agencies collected about $2.3 million. The collection agencies are encouraged to refer debtors to credit bureaus, which have also proven to be an effective means of enforcement.

One way other jurisdictions have been addressing this type of fraud is an award-winning innovation in welfare fraud prosecution and recovery used by the State of Iowa's Welfare Fraud Diversion Program. Defendants enter the program, agree to a repayment schedule, and are allowed to plead guilty to a misdemeanor and divert the sentence subject to the provisions of the agreement that is heard before a judge. In addition the terms of the agreement demand that the client attend a class to help prevent them from being involved in future welfare fraud. The program has resulted in over 200 guilty pleas and the scheduled recovery of a significant amount in overpayments. When reported, not one participant had committed fraud a second time.

Another example from Iowa is the state's Anti-Welfare Abuse Recognition Effort (A.W.A.R.E) which is an attempt to bring the fraud story to citizens and reduce the incident of fraud. News releases, brochures, stickers, and public appearances help tell the story of welfare fraud in Iowa. Expanding the publication of the Welfare Hotline has resulted in a significant number of fraud tips from the public per month. Training programs for caseworkers and law enforcement officers around the state have gained the necessary cooperation to address welfare fraud issues as a crime.

Provider Fraud

To demonstrate provider fraud within Los Angeles County the reader is directed to several major conspiracies that have been uncovered involving operators of licensed family child care facilities and participant parents, each involving upwards of 10 individuals (e.g. Burns cases[28] and Thomas-Jackson cases[29]). Each of these cases involved child care facilities, all of which operated out of private homes. The difficulty in prosecuting these cases was in verifying that participants were employed at their day care facilities as child care assistants. The children of these participants qualified for child care which was paid to co-conspirators. The Burns case also included false claims of employment by participants as care givers.

Providers have been know to commit fraud by claiming children who aren't being cared for, or by misrepresenting the number of hours that services were provided or by charging more to care for government funded children than private pay children.

[28] There were 3 Burns Cases filed by the Los Angeles County District Attorney: BA285661, BA286180, and BA293644. There were so many defendants that 3 different cases were filed with Burns as the lead defendant so that the prosecution could be better organized as to the co-defendants. State prison sentences have been imposed on most of the 13 Defendants.

[29] Jackson/Thomas Conspiracy: BA304667 - Seven co-defendants were convicted, including Ulyssis Jackson who received a 4 year prison sentence.

<u>Participant/Provider</u>

In a large number of instances fraud is committed through collusion of both the participant and the provider. Typically, the participant may qualify for subsidized childcare and conspire with a provider in order to obtain the financial benefit. In many of these cases, childcare may be provided by an unpaid relative or a free after school program. The paid provider typically never provides childcare and both the provider and parent benefit financially.

The following are examples of this fraud:

- The recipient and the child care provider submit time sheets for payment when child care services were not provided;

- Two recipients, whose Welfare-to-Work plan goal is to be child care providers, claim they are providing child care for each other's child(ren) but are actually only caring for their own. In some cases it might not be necessary to provide any care because it is provided by an unpaid relative or by free after school programs provided by many school districts;[30]

- Collusion between a parent and a provider to obtain child care subsidies to which one or both are not entitled; and,

- A license-exempt provider being paid for child care services that are actually being rendered by another individual on a regular basis.

Additionally, although the <u>State currently precludes the first four options listed below</u>, these family and provider sanctions are potentially available for use in reducing and preventing improper payments:

- Family disqualification;

- Provider disqualification;

- Provider exclusion;

- Child care license revocation;

- Criminal Prosecution (Being done in Los Angeles County); and,

- Use of Small Claims court to collect small amounts.

[30] If the goal of the participant is to become a child care provider, the fact that he/she is taking care of children does advance the goal of economic self-sufficiency if the participant's efforts are not focused on earning the proper credentials to qualify for employment in the field.

Program Fraud

DPSS currently contracts with local Alternative Payment agencies for portions of the Stage 1 program. These local administrative connections mean that all CalWORKs Stage 1 payments are made by local Alternative Payment agencies. In a genuine sense, they become the "in-field" representatives of the DPSS.

Before the CalWORKs Child Care Program was implemented, Alternative Payment Agencies, for the most part, were community-based organizations serving families through a variety of alternative payment type programs, contracting primarily with licensed family child care providers and licensed centers. CalWORKS regulations introduced the utilization of large numbers of exempt providers for the first time.

This change in financial circumstances has created a critical need for strong internal controls that will contribute significantly to the ultimate prevention of fraud within the child care system. The control areas that are presented below apply to the APPs, and, in reality, to anyone involved in the administration of the program.[31]

1. **Hiring and Conflict of Interest** - The establishment of a sound hiring practice is recognized as being the first line of defense in the fraud deterrence process. The cornerstone of this defense relies upon the ability and the willingness of each agency to verify an employment candidate's work history, background and references carefully. Under certain circumstances it might be prudent for the agency to become progressively more proactive in the conduct of its background investigation using such techniques as credit reviews, legal filings or criminal background checks. It has been demonstrated that people who lie on applications, have financial difficulties or have criminal records are more likely to manipulate situations for financial gain.

   In those instances where a conflict of interest arises with existing employees (i.e. relatives or roommates becoming recipients or providers of service) employees should be required to reveal such conflicts to the agency. In these instances of potential conflict, the matter could be processed by an independent unit within the organization, by the executive staff and/or the Board of the agency, or by another agency if one were available and willing to do so.

2. **Separation of Duties and Responsibilities** - Agencies should adopt policies and procedures that separate duties and functions to prevent the possibility of creating a fraudulent case by agency staff. For example, scheduling a family for intake would be done by a separate unit (no case

[31] As stated previously in this report, although in many cases the following elements already exist, they are presented here to reemphasize their importance in addressing program fraud.

could be created without going through the scheduling unit); intake functions with the family would be assigned to another unit; provider agreements with the provider selected by the family would be assigned to a third unit; and actual payments to the provider would be processed by an accounting unit. Each employee should only have access to that part of the computer system necessary to complete their assigned duties. Any entry made in the system on which an eligibility determination or payment was based can be traceable to the employee making the entry through the use of the employee's unique password.

3. **Independent Quality Assurance Functions** - Separate and independent quality assurance units should examine cases for errors or for indicators of fraud and investigate questionable cases. These units should report directly to APP executive staff or the Board of Directors for the purpose of maintaining independence. Agencies that are not large enough to create a separate unit could develop other quality assurance procedures and assign the authority to investigate suspicious cases to executive staff or members of the agency's Board.

Recommendations

4. That the Board of Supervisors direct the DPSS, in coordination with the District Attorney, to expand the current statistical information base to include the reasons for opening a case of suspected child care welfare fraud, cases referred, action taken and results of that action, i.e. the nature of the fraud committed, for the purpose of clarifying resulting trends and supporting an ongoing review of fraud indicators. (With this information the DPSS and the DA will be able to review weaknesses within the existing program policies and procedures.)

5. That the Board of Supervisors direct that the DPSS ensure that Alternative Payment Providers (APPs) review their hiring practices for employees working under the APP's contract with DPSS to make certain that all possible steps have been taken to identify those applicants for employment that may be predisposed to potentially fraudulent activities.

Child Care Welfare Fraud Control Operating Plan

Background

The welfare community generally recognizes that prevention is the critical component in an overall strategy designed to reduce fraud. Prevention activities and controls, such as those implemented in Los Angeles and San Diego, have been developed to the extent possible to make sure that, even if an individual intends to commit fraud, he/she would be unable to follow through on their intentions. The efforts are designed with the objective of interrupting the payment process to correct or prevent the fraud or error before an overpayment actually occurs. These techniques can be combined with a larger program that includes the use of computer systems; program procedures or individual experience of the investigator; training for providers, parents, and department staff; stricter processes for authorization of services; and outreach activities to prevent improper payments.[32]

A Strategic Approach

Recent public presentations on child care welfare fraud have demonstrated that it is necessary to design and implement a fraud prevention strategy to address the problem in a comprehensive manner. The commitment to a strategic approach to fraud prevention by all affected departments will enable a better understanding of the internal control systems that are in place, the degree to which the distribution of funds within the program may be at risk, and those measures that can be taken to effectively address the problem. This is all the more important since the results of addressing the issues that are raised may well require a shift in resources or additional resources to positively influence the desired outcomes.

The development of the strategy proposed in this report should be of such a scope as to:

- Identify the goals and objectives of the child care welfare fraud prevention program and link them to measurable outcomes so that the effectiveness of the program can be evaluated;

- Establish timelines and action plans for completing each objective and the allocation of available resources based on recognized priorities;

- Define the roles and responsibilities of the various participants involved in the child care welfare anti-fraud activities within the County; and,

- Develop performance measures that can be successfully communicated to County departments and to the public.

The Development of a Strategy

Although the position taken by the United Council on Welfare Fraud (UCOWF) addresses state requirements, it can be used as a guideline since the population

[32] These prevention strategies have been identified using the internal control standards established in the U.S. Government Accountability Office, State Control Self-Assessment Instrument, June 2004.

of Los Angeles County make it larger than most states. In their resolution they state:

> Due to the substantial increase in child care funding made available to states and the growing number of instances of fraud in the Child Care Program, the United Council on Welfare Fraud (UCOWF) strongly encourages the Department of Health and Human Services Child Care Bureau and select Congressional Committees, demonstrate their commitment to the child care program integrity by requiring all states to prepare a child care fraud control plan. States should be allowed flexibility to design strategies to meet state specific needs. However, at minimum, all plans should contain the following:
>
> 1. Procedures for recovery of child care overpayments;
>
> 2. Tax intercepts for child care overpayments; and,
>
> 3. Disqualification penalties for child care recipients and providers who have committed an intentional program violation. These penalties would be modeled after and similar to those formerly in place in the AFDC program (45CFR 235.112) and currently in place for the Food Stamp program (7CFR 273.16(b).[33]

The concept of a Fraud Control Plan is also addressed by the California State Department of Social Services (CDSS) which states in its Manual of Policies and Procedures (MPP):

> "Upon request, counties shall submit for approval by the Director of CDSS, a Fraud Control Operating Plan which shall include at a minimum a description of the reporting relationship between the SIU and the county welfare director. Such plans will be evaluated on the basis of: (1) the number of cases pending investigation in the SIU, (2) the rate of investigations per total CalWORKs caseload, (3) the percentage of referrals to the SIU which result in requests for criminal complaints by the prosecuting authority, and (4) the results of investigations of random case samples which the Director of CDSS, may require for the purpose of evaluating fraud prevention and detection practices and other factors the Director may deem relevant. The Director of CDSS may also require organizational and/or other changes prior to approval of the Fraud Control Operating Plan."[34]

[33] A United Council on Welfare Fraud resolution, passed in August of 2002.
[34] California Department of Social Services Manual, Section 20-007.2.22

Due to the potential impact of fraud upon those that receive the child care benefit and the possible need to substantiate any resource allocation adjustments, DPSS should expand upon the state requirements in their preparation of a Child Care Welfare Fraud Control Operating Plan that actually confronts these issues. The intention of the plan being proposed is: (1) to raise the awareness of potential for fraud in all of those who participate in the program, and (2) to assist each engaged agency and individual in preventing, detecting and reporting suspected fraud. It will also have a significant value in making everyone involved in this program aware of their responsibility to foster and develop the highest standards of integrity, together with the significance of their continuing contributions in promoting an ethical organizational culture. By clearly defining actions that can be taken to reduce fraud, by prioritizing these efforts, and by focusing on prevention and identification strategies that are most cost-effective, the County can improve program integrity without unnecessarily diverting scarce resources. It is anticipated that the recommendations made in this report will comply and expand upon the intended objectives of a Child Care Welfare Fraud Control Operating Plan.

Section 1 - Risk Assessment

Developing a Risk Assessment

One of the important program control methods used to address fraud is risk assessment – that is the analysis of program operations to establish both existing risks and the potential or actual effect of those risks upon the program. There is no question that it is a responsibility of DPSS to assess all of the risks, particularly fraud, that occur within the Child Care Program and to implement appropriate controls and procedures that are identified or modified in response to this assessment.

The risk assessment process will permit the DPSS, and other involved agencies, to efficiently and effectively identify vulnerabilities that exist within the child care program. This process establishes a systematic methodology of reviewing and documenting the adequacy of the department's internal control system; identifies any internal control weaknesses; and provides documentation of any findings, follow-up, or corrective actions that might be required. This process establishes a baseline from which future analysis can be structured and from which performance measures can be refined.

DPSS faces a unique set of risks as a result of the demographics of the Los Angeles County population, the existing policies and procedures and the advantages and disadvantages of the current risk assessment strategies. Furthermore, an effective risk management assessment will consider those risks that are inherent within all participating organizations, whether they are active or passive participants. This fraud risk assessment measures the specific vulnerability of the Los Angeles County program to fraud and, as a result becomes an essential element in the development of a fraud prevention and control program.

A risk assessment is a uniquely critical process since anti-fraud measures demand constant review to effectively respond to work place changes and environmental circumstances. It should be emphasized that the fraud risk assessment process is not meant to replace existing manuals or procedures, but is intended to be supplementary and complementary.

Structure of a Risk Assessment

A child care welfare fraud risk assessment should, at a minimum, be designed to:

- Define the overall fraud risk profile within the Child Care Program;
- Determine the effectiveness of existing fraud control measures; and,
- Enable judgments to be made on any required fraud counter-measures.

Those internal control activities that would likely be considered within a risk assessment would include policies, procedures, and techniques that are used by DPSS to achieve program accountability and to meet established program goals and outcomes. It should be recognized that the effectiveness of this analysis would be increased by intimately involving all of those involved in the process, particularly DPSS and agency employees. These individuals can contribute the "front line" operating experience to make certain that any efforts to achieve accountability and to meet established program goals and outcomes actually meet the needs of the agencies and the clients they serve. Examples of items that may be considered in the development of control activities include: the investigation of further automation of data systems; development of policy manuals, procedure guides, and checklist forms. In addition, the authorization processes, such as document verification, communication with parents about rules and responsibilities, and the eligibility determination process might be reviewed. The resulting control mechanisms can be used to ensure that staff at all levels understand and follow management directives.

As part of a risk assessment process it would be prudent for DPSS and the County to include a cost-benefit analysis. Such an analysis would assist in defining the economics that are implicated in controlling fraud and in considering such difficult questions as: (1) whether proposed practices to improve and preserve program integrity may also limit client access or choice or (2) whether the benefits to be gained by program revisions outweigh the cost being incurred. This methodology is intended to be of assistance in the formulation of policies to deal with fraud prevention and detection and to provide information that may be used in calculating the return that can be expected on an investment in controlling fraud in child care payments.[35]

It is important to re-emphasize that any evaluation of whether the costs of pursuing fraud outweigh potential benefits must also consider other than financial benefits or losses that might be achieved as result of the implementation of a particular set of procedures, i.e. the deterrence potential of any action.

Section 2 - Information and Communication

A Communication Approach

Effective and clear communication with parents and providers is a principal tool in any program to prevent fraud. Outreach and training activities should be conducted to inform families and child care providers of the requirements for participating in the child care assistance program and the rules regarding billing and payment. With a strategy such as this in place, those involved in the child care program will be clear as to the requirements of the program as well as being placed on notice that fraud will not be tolerated.

For example, the communication of fraud prevention efforts, including public service announcements, has been shown to be a familiar methodology for the public and a helpful way to bring attention to programs that reduce fraud. This technique is used by the U.S. Department of Agriculture (USDA), the agency that administers the food stamp program, which has a policy of issuing press releases on large arrests relating to food stamps, along with their other initiatives to combat fraud. South Dakota used this technique in the introduction of its welfare fraud hotline by conducting a successful publicity campaign that included press conferences, distributed posters and sent notices to those receiving public assistance checks. This program is credited by the state with catching fraud that might not otherwise have been caught by routine computer matching.[36]

DPSS has implemented and maintains a Central Fraud Reporting Line (CFRL) and contracts with WeTip, Inc. to provide a 24 hour hotline for the public to anonymously report suspected welfare fraud.[37] To expand upon the hotline concept, it would provide further emphasis to the issue of fraud detection if the District Attorney, as a law enforcement agency, were to initiate an additional child care fraud hotline. Having an alternative hotline may improve the comfort level of those reporting fraud if they have any reservations at all about dealing with DPSS.

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[35] One difficulty in conducting a cost benefit analysis is that only the individual "deterred" has any knowledge of whether a certain activity caused them to choose a particular course of action. As a result this area will prove difficult to quantify.

[36] Other states with welfare fraud hotlines include Louisiana, Minnesota, Massachusetts, Kentucky and New Jersey.

[37] Bryce Yokomizo, Director, DPSS, Memo to Each Supervisor, Subject: Board of Supervisors: Motion (Syn 71B – January 31, 2006) Regarding Child Care Fraud, March 14, 2006

Communication Strategy

Some individuals feel that prosecutions are all that is needed to quell fraud, but prosecutions alone are not sufficient to successfully deter fraud. Prosecutions, combined with meaningful communications concerning those prosecutions, would call attention to individual consequences of committing fraud and would go a long way in deterring fraudulent activities. Communication can play an effective role in the process by raising the fear of detection. If a prosecution is necessary, an additional advantage of an effective communication program is that the County will be able to demonstrate that the claimant did, in fact, have knowledge of the responsibilities placed on him/her. Having this ability will greatly assist in winning public support for these efforts.

Effectively communicating the County's fraud issues could include such approaches as publicizing anti-fraud news and/or the development of a clearly stated policy to disseminate this information to the public. Convictions of fraud would have an even greater impact if this information were widely disseminated. The benefits of this approach include, but are not limited to:

- Letting people who commit fraud know that the County is both serious about stopping it and that the crime has significant consequences.

- Informing everyone involved in the program of the nature and scope of the problem and encouraging their support in the fight against fraud and abuse.

- Educating outside organizations about fraud, the means that are available to fight it, and the benefits to be realized.

The objective of a communication program is to increase the public awareness of enforcement activities, arrests, convictions, and savings to all when fraud perpetrators are detected and punished. An additional objective of communication is to commend the efforts and results of anti-fraud activities and, where appropriate, demonstrate savings.

It may prove valuable to work with the courts to have those who have been convicted of child care welfare fraud to participate in anti-fraud activities as part of their community service. It is essential to communicate that fraudulently making a claim by distortion or misrepresentation for the purpose of obtaining additional benefits is a punishable crime that will be prosecuted.

The Childcare Fraud Investigators Network opined that part of the problem in child care welfare fraud lays in the fact that insufficient information is provided to parents and providers regarding their obligation to report changes affecting eligibility or reimbursement. Consequently, the Network recommended the creation of systems to provide clear, comprehensive information to parents and providers regarding their reporting responsibilities and the consequences of failing to report or inaccurate reporting.[38]

Section 3 - Identification and Measurement

An essential element to understand and effectively manage the operations of the Child Care Program is the monitoring function. An emphasis on monitoring not only provides a focus for all of those involved, but also establishes a further baseline of activities for an ongoing operational review. It provides a vehicle with which the department is able to continually improve its examination and evaluation of the performance of contracted and non-contracted providers. Several approaches in this element to measure and identify fraud include:

- reviewing the caseload;
- monitoring provider records;
- monitoring/auditing grantees and contractors; and
- establishing monitoring requirements for contractors, grantees, field offices, and local agencies.

Section 4 – Feedback and Accountability

An emphasis on competence and assignment of authority and responsibility are decisive in promoting both a culture of accountability and supportive attitude toward achievement of program outcomes. Within the private sector several high profile corporate fraud cases necessitated Federal legislation on corporate ethics. The Sarbanes-Oxley Act of 2002 was signed into law, and a "new era of corporate accountability and responsibility" was created. This legislation now means that the checks and balances of the system of internal controls are unmistakably in the purview of corporate management. This shift has raised the bar for the higher level of visibility and accountability for executive management within the private sector.

Given the obvious intent of this legislation many organizations, both private and public, recognize the need to establish procedures to cover accountability in program performance. In many cases a formal written code of conduct is essential in order to transform ethical behavior into something more tangible for employees. Executing such a successful code of conduct depends on three key

[38] California Department of Education, Child Development Division, Curriculum and Instruction Branch, CalWORKs, Stage 2 and 3 and Alternative Payment Programs Best Practices for Program Integrity Report Required by Chapter 229, Statutes of 2004 (SB #1104, Committee on Budget and Fiscal Review), March 2005.

elements: proper definition, effective communication and appropriate warning signals as monitoring tools.

Critical Elements

The two critical elements that determine either success or establish a predisposition for failure of a program are feedback and accountability. Feedback only works when information is collected and then acted upon and accountability is only possible if feedback is effective. Thus, the child care program, as hopefully with all programs, must have within its structure the means of holding management accountable for specific tasks and the achievement of specific goals. By necessity this would preclude identifying broad goals that follow from a collective responsibility or from goals that depend on numerous elements both inside and outside the program.

Without establishing accountability and having someone individually responsible for successfully achieving a task in the current program structure, the incentive for finding out what works is structurally weak. True accountability would mean having an individual take responsibility for a specific task that can be monitored and whose outcome depends on the efficient and effective operations of the program(s). With this approach in place any independent evaluation of how well the program achieves its objectives will then create a strong structural incentive(s) for performance.

Accountability Design

Accountability on the part of the government means that both citizens and their elected officials are informed about measurable results; that is, how much an agency has spent, what the spending was for, and how effectively and efficiently those funds were used. This requires that the information provided is understandable, relevant, reliable, and comparable. In addition, the cost of providing accountability information should not exceed the expected benefit. Incorporating an effective accountably element into child care welfare fraud programs would provide a valuable management tool, giving answers and yielding important insights into critical program questions. Specifically, the basic elements in the development of an approach to program accountability should include the following:

- Establishing a set of measurable goals, and responsibilities;
- Developing a plan to determine what needs to be done to achieve the established goals;
- Accomplishing the work and monitoring its progress;
- Reporting on the results; and,

- Evaluating the results and providing feedback

To ensure that any such approach to establishing accountability is fully understood and agreed to it should be prepared by those who have been assigned operational responsibility. Any plans should state results to be achieved, actions to be taken and by whom, estimated costs and performance targets. The completion of these elements would make it possible to measure systematically and periodically the performance of the anti-fraud program. Using the collected data would enhance the effectiveness of the program and result in reduced fraud in the child care system.

Program Objectives

A program evaluation must not be subjective, i.e. using reports from the same people who implemented the project, but rather based upon clearly identified criteria for achievement established at the outset of the program. Ultimately, the program will stand or fall based upon how well the agreed upon outcomes achieve or fail to achieve the defined objectives. It is critical, although understandably uncomfortable, that when an evaluation specifies areas for improvement the program should also be required to identify the individual responsible for changes in practices. This approach refocus the measures of success from identifying the millions of dollars spent on assistance each year, to identifying and measuring the criteria used to provide actual aid to those in real need.

Implementing Accountability

Although presenting this approach is logical and almost universally accepted, actually implementing it is politically difficult. A truly independent scientific evaluation of specific aid efforts can be threatening to both individuals and organizations. To offset this, a specific and continuous evaluation of particular programs should be accompanied by incentives to do something as a result of the evaluations. In the case of child care welfare fraud a revision of fund allocation is not possible due to state regulations, thus, incentives have to be established at the County and organizational level.

Presentation of Anti-Fraud Program Outcomes

To make certain that the results of the Child Care Welfare Fraud Control Operating Plan are given the consideration that they deserve they should be presented annually to the Board of Supervisors. This not only appropriately places the attention of the department on the issues to be resolved, but it is also compliant with the Board's ultimate responsibility to perform adequate oversight of its anti-fraud program.

Recommendations

6. That the Board of Supervisors direct that the DPSS complete a Child Care Welfare Fraud Control Plan to include, as a minimum, those elements identified in this report. (The purpose of this Plan is to develop an anti-fraud strategy that addresses the fraud prevention needs of the program, develops program objectives that are specific, measurable, realistic, time sensitive and performance based, and ensures the effective utilization of risk management resources.)

7. That the Board of Supervisors direct that the DPSS emphasize, as an element of the Child Care Welfare Fraud Control Plan, the completion of a program fraud risk assessment with the objective of quickly establishing the means by which the department can identify program vulnerabilities.

8. That the Board of Supervisors direct the DPSS, in coordination with the District Attorney's Office, to develop a strong and proactive communication strategy that aggressively publicizes successful child care welfare fraud prosecutions and programs used to curtail such fraud.

9. That the Board of Supervisors request that the District Attorney establish a unique Child Care Welfare Fraud Hotline and upon its establishment have this number appear on the child care application and all documents furnished to the participants, provider and the APP - this information should be in bold print at the bottom of each form.

10. That the Board of Supervisors direct that the DPSS, in coordination with the CAO, to develop and implement a countywide policy that establishes when and how information on child care welfare fraud related matters is to be released to the media.

11. That the Board of Supervisors direct that the DPSS, with the assistance of the District Attorney, develop a clear statement of client rights that can be incorporated into DPSS manuals and training guides to provide a clear framework for the operation of the early fraud detection and prevention program.

12. That the Board of Supervisors direct that the DPSS, with the assistance of the District Attorney, utilize the statement of client rights developed above to create a printed brochure that can be used as an ongoing reference document to inform applicants of their rights, their responsibilities, the nature of fraud within the

program, and the consequences they should commit a fraudulent act.

13. That the Board of Supervisors direct DPSS, with the consultation of the District Attorney's Office, to expand upon its periodic training to child care program and APP staff to ensure that they are knowledgeable on the prevention and detection of fraud in the child care system, the impacts of fraud on program policies and to ensure that procedures are applied correctly, specifically in the area of child care welfare fraud prevention and detection.

14. That the Board of Supervisors direct DPSS, with the consultation of the District Attorney's Office, to expand upon its periodic training of managers and supervisors on child care welfare fraud so that they are able to help their employees identify and solve fraud related problems and are able to bring to bear all of the resources that are available in combating fraud.

15. That the Board of Supervisors direct that CAO review and evaluate the value of cross-training among the staffs of the District Attorney, DPSS, APPs and any other appropriate agencies with the objective of improving the understanding of cross-departmental operations and providing new insight on various strategies that may be available to combat fraud and report the outcome of this evaluation to the Board of Supervisors within 60 days.

16. That the Board of Supervisors direct the CAO to pursue the approval of the State of California to have each APP require that every provider approved to accept payments in the child care assistance program attend a mandatory one-time orientation and introductory training session to make certain that each provider understands, not only the overall program, but also the agency-specific policies and procedures, including program rules and provider responsibilities, prior to receiving their first reimbursement check.

17. That the Board of Supervisors direct the DPSS to ensure that upon receiving the brochure on client rights each applicant should be required to read it in the presence of the eligibility worker and to sign a statement attesting that they understand the material that was presented. If they are unable to read, the brochure should be read to them and explained by the eligibility worker prior to having a statement signed attesting that the applicant understands the material.

18. That the Board of Supervisors request that the District Attorney prepare for distribution by the Alternative Payment Providers (APPs) a letter to those applying for child care benefits that informs them of their rights and requests their assistance in protecting their benefits by preventing fraud.

19. That the Board of Supervisors direct that the DPSS review all opportunities that could lead to an increase in the reporting of suspected fraud. This should include emphasizing the reasons why it is necessary for the public to become involved using such means as expanding Internet reporting capabilities and improving the display and publication of the Child Care Welfare Fraud Hotline.

20 That the Board of Supervisors commits an appropriate level of attention to the issues of child care welfare fraud by making compliance with the overall strategy and objectives identified in the Child Care Welfare Fraud Control Plan an element in the department head's performance review.

21. That the Board of Supervisors direct the DPSS to undertake, with the coordination of the District Attorney and APPs, a formal and on-going study of child care welfare fraud and annually report to the Board on the results of that study.

22. That the Board of Supervisors direct the DPSS, with the cooperation of the District Attorney and APPs, to offer a means of communicating the results of the previously recommended study on fraud prevention operations in order to improve public dialogue on the progress being made in fighting child care welfare fraud.

The Organization of Investigative Resources

Previous Research

In raising the question of whether a Special Investigative Unit (SIU) should be placed in the same organization as the eligibility and benefit determination functions, the sociological literature has established a basis for discussion of possible organizational alternatives. As an example of issue the following observations were made by Ronald Paul Hill and Sandi Macan in their article "Welfare Reform in the United States: Resulting Consumption Behaviors, Health and Nutrition Outcomes, and Public Policy Solutions", which appeared in *Human Rights Quarterly 18.1 142-159 (1996)*:

> "Like the welfare recipients, case workers also face disincentives to pursue fraud. For example, case workers recognize that welfare income is insufficient to support a family and, therefore, are reluctant to eliminate or reduce aid 'because of the real needs they know these clients have. Also, case workers typically handle hundreds of welfare recipients and have little time to examine or to investigate each case. Even when fraud is obvious, the paperwork and official processes are lengthy and supervisors discourage the pursuit of all but the most iron-clad cases. Finally, case workers see little to be gained from the investigation of fraud because most recipients who are found guilty of fraud remain on welfare, with only a reduction in benefits to 'reimburse' the state."

An additional 1995 study based on the survey of American initiatives, C. A. MacDonald & Associates found the most effective Early Fraud Detection Programs displayed, among other common characteristics the following:

> "(The existence of) A reporting structure for Early Detection Program (EDP) Investigators staff independent of local Income Security program supervisors. These programs are usually managed from a separate departmental agency, i.e., Office of Inspector General. In the case of Orange County, California, the Early Detection Program is administered by the District Attorney's Office, under a Plan of Co-operation signed with the Social Services Agency."

Further, this study stressed the critical importance of staff training, for both Intake/Eligibility and Investigative staff for the following reason:

> "To combat a lack of support for the program (fraud prevention) by workers who perform the intake role, and who likely have been trained to be empathetic and considerate of client's stated needs, without the balancing concern for ensuring eligibility."[39]

This study raises a question on a number of issues. If some portion of the above assertions were proven to be valid there is a possibility that social workers may be, perhaps unknowingly and involuntarily, placed in the position of not being fully objective in the continuing evaluation of eligibility for welfare assistance.

It has been reported by DPSS that intake systems, i.e. LEADER, are objective by design since they determine eligibility based upon the correctness of the information provided to the worker by the applicant. Questions might be investigated concerning the "subjectivity" of the data being submitted or relative to any data on the initial or continuing determination of eligibility, but

[39] C. A. MacDonald & Associates, Early Detection and Prevention Programs: Strategies for British Columbia, March 1995.

unfortunately, the time constraints placed upon this report have precluded any study to validate the reported methodology or to review whether other phases of this system might possess the possibility for the application of subjective eligibility criteria. Thus, this report is unable to present a acceptable statement or make a recommendation that would support or refute the possibility of subjective determinations being made by case workers. What it can do is to establish a basis for asking that the question be investigated in greater detail.

The Position of the California State Department of Social Services

The California State Department of Social Services (CDSS) is required by several sections of the California Welfare and Institutions Code to maintain uniformity in public social service programs. Accordingly the CDSS regulations and its Manual of Policies and Procedures requires that "Special Investigative Units (SIUs) shall be established and organized…for the purpose of investigating suspected welfare fraud and suspected violations of law in connection with matters for which the County Welfare Department (CWD) has responsibility, and to function as a liaison between the CWD and law enforcement agencies."[40]

This manual also requires the "The SIU shall be a separate organization, independent of organizations performing eligibility and benefit determination functions."[41] The separation required by the CDSS of SIUs from the eligibility and benefit determination functions affirms a fundamental principle of accountability in program operations.

Under the Manual's Authority and Responsibility Section the SIU shall "investigate any activity, particularly during intake, which may constitute welfare fraud and have access to all CWD files, records, and personnel relevant to the investigations they conduct."[42] The minimum personnel standards require that each supervisor and investigator be a peace officer.[43]

According to CDSS policy, the County has the discretion to place SIU in either the county welfare department (DPSS) or a law enforcement agency (District Attorney or Sheriff's Office). In reporting the organizational location of the California County's SIU the CDSS Fraud Investigation Report for October – December 2005 indicates: county welfare departments (26) district attorney's offices (21); a cooperative between welfare departments and district attorney's offices (9 – Los Angeles County is in this category); and sheriff's offices (2).

The State, by allowing each county to organizationally locate its SIU as it deems appropriate, recognized that organizational alternatives exist and should be applied as each jurisdiction deems appropriate. Given that these alternatives are

[40] California Department of Social Services Manual, Section 20-007.1
[41] California Department of Social Services Manual, Section 20-007.2.21
[42] California Department of Social Services Manual, Section 20-007.3.31
[43] California Department of Social Services Manual, Section 20-007.1.11.115

available and that over the years that the program structure and demographic of those being served have encountered sever challenges, it would seem prudent to re-evaluate all available alternatives to ensure that the establishment of the existing hybrid functional structure continues to meet its original implementation objectives.

San Diego Model: A Case Study

The Reason for Presenting this Case Study

The following presentation on the operations of the CalWORKS Program within San Diego County is not meant to imply that Los Angeles County should adopt this model. Such a recommendation would require an investigation that is beyond the scope of this report. The purpose for its presentation is to educate the reader on the fact that other organizational alternatives exist and to initiate discussion on all those possibilities that might be pursued in response to the issues raised by child care welfare fraud. It is the position of the Economy and Efficiency Commission that this model, as well as any other models that may exist throughout the State of California and/or the nation, should be evaluated as to their organizational effectiveness and their possible applicability, in whole or in part, to the Los Angeles County program.

Background

In the early 1990s, it was a recommendation of the San Diego Grand Jury that the County Welfare Department transfer its SIU to the DA's Office. In addition to adopting this recommendation, the San Diego Board of Supervisors also adopted a policy of "zero tolerance for welfare fraud". In the course of the following year, the transfer was completed with new job classifications of Public Assistance Fraud Investigator (PAFI) being developed by the County Human Resources Department.

A new division was established at the DA'S office. All newly assigned PAFI's, following completion of the Specialized Investigators Basic Course (SIBC) Academy, were classified as peace officers pursuant to PC 830.35 and are under the DA's Bureau of Investigation, which at that time included a Chief, Assistant Chief and DAI Supervisors.

Over the years, the Grand Jury recommended that the DA take over the Welfare Fraud Hotline which was approved by the San Diego Board of Supervisors. In 1997, after meeting with the Welfare Department for years on this issue, the Project 100% Program (mandatory home calls on new applications) request was submitted to the Board of Supervisors, who approved it using the established rationale of “zero tolerance for welfare fraud”.

A Short Explanation of the San Diego System

The current San Diego Health and Human Services Agency childcare system is operated by the following:

> The CalWORKS Caseworker: This person is responsible (after the case is granted) to monitor the subsequent issue of public assistance payments (cash aid and food stamps). The recipient of benefits is required to provide a Quarterly Report to the caseworker and report any changes in income, household composition and the like. All recipients of cash assistance are required to cooperate with the Welfare-to-Work program, working or attending Welfare-to-Work approved activities (school, work, training, mental health counseling) 32 hours per week to be eligible to continue to receive benefits.
>
> The Child Care caseworker: This person monitors the childcare case for the parent and childcare provider and certifies payment for child care hours based on the Employment Case Manager's recommendation. The daycare provider payment is monitored to pay only approved hours plus transportation as requested by the Employment Case Manager.
>
> The Employment Case Manager (ECM): This person is responsible for approving the recipient's Welfare-to-Work activity, accounting for the weekly hours and approving childcare, if needed. The ECM is also responsible for payment of ancillary fees as needed for work or school and approves transportation requests. Recipient failure to cooperate with Welfare-to-Work requirements usually results in a loss of child care benefits and denial of all ancillary fees.

The San Diego District Attorney has reported that when suspected fraud would arise in either CalWORKS, Food Stamps and/or Child Care, they would occasionally find that one of the three caseworkers involved did have knowledge of a change that later precipitated an overpayment. As a result, these cases are considered "administrative error" and not willful intent. With the implementation of CalWIN (the California State-mandated computer system in San Diego County[44]) all case information eventually will be maintained in one case file. All caseworkers will have view-only access to the entire file and input access to those parts of the file that pertain to their job.

San Diego Project 100% (P-100)

This program involves a District Attorney Public Assistance Investigator visiting the home as part of the eligibility verification process for each CalWORKS

[44] DPSS reports that in Los Angeles County, LEADER, which is the counterpart of CalWIN in San Diego County, is fully implemented.

applicant, even if the intake worker has determined there are no issues with the application. All applicants are informed that an investigator will be completing a home call as part of the application process. The investigator makes a home visit to the applicant's address and a voluntary walk-through of the applicant's residence is requested. The investigator then reports his findings to the Eligibility Worker (EW) so that the EW is able to evaluate the information and ultimately determine eligibility. If it is determined by the EW that the information obtained by the investigator adversely affects the CalWORKS application, the EW sends a Notice of Action.

If the applicant refuses to cooperate with the investigator's noticed interview (except for the walk-through), the investigator notifies the EW of the applicant's refusal to cooperate and the EW then closes the case. If during the interview an applicant wishes to withdraw the request for aid, the investigator includes that information in the report to the EW. At this point it is the EW's responsibility to re-contact the applicant to confirm that he/she wishes to sign a withdrawal form. San Diego County has explained that at no time does the investigator confuse the role of "verifying information" with that of ensuring that the recipient is "receiving the appropriate level of benefits". Additionally, it is the feeling of the San Diego District Attorney that since the applicant has been made uniquely aware of this role distinction it is likely to provide an increased focus and emphasis on the fraud prevention function that is being addressed.

The approach taken by San Diego has the benefit of utilizing the current eligibility determination structure, while at the same time being able to aggressively verify information provided by the subsequent in-home visit. They report that it also allows the EW to deny or discontinue benefits based on the information provided in the investigator's report. The San Diego District Attorney's Office reports that this methodology has identified ineligible applicants, thereby increasing the program funds available to eligible recipients.

Results of a Legal Challenge to the San Diego Project 100%

The visitation approach that was taken by San Diego in its project 100% was litigated[45] with the plaintiffs arguing that because the visits do not require probable cause, they constitute unreasonable searches under the state and federal constitutions. They also argued that the program violated a state regulation barring "[m]ass and indiscriminate" visits to welfare recipients homes.

On appeal to the Ninth U.S. Circuit Court of Appeals it was determined that welfare applicants may be required to have investigators visit their homes without obtaining warrants in order to determine their eligibility for welfare. In the majority opinion Senior Judge A. Wallace Tashima wrote "a visit by a non-uniformed investigator (District Attorney) during regular business hours and with the consent of the resident is indistinguishable from one by a social worker". He

[45] Sanchez v. County of San Diego, 04-55122

further stated "Even if the visit is a search it is reasonable given the strong public interest in limiting welfare payments to those legally entitled to them and rooting out fraud."[46]

Los Angeles County Special Investigation Unit (SIU)

Strategic Plan

Recent welfare reform has directed itself to revising the manner in which welfare assistance is provided in an attempt to purge those who have adopted the receipt of welfare benefits as a life style and their means of subsistence. In response to this reform the Director of DPSS states in the most recent strategic plan that "DPSS is dedicated to serving and improving the lives of children, families, seniors, disabled persons, and single adults with the highest standard of excellence." He continues by noting that "the Strategic Plan includes sound goals and strategies designed to provide our participants with the utmost support to alleviate hardship and help them successfully transition to self-sufficiency and become welfare-independent." These goals and objectives are appropriate and commendable for a social service agency.

Reporting Fraud

DPSS recently reported that it had approximately 804 child care welfare fraud referrals, which is approximately 4.8% of the number of children (16,610) and 8% of the families (9,427) reported in May 2006 as being served by the program. From this caseload a lesser percentage will be filed with the District Attorney for prosecution. Since, as discussed previously, there is no established and agreed upon means of measuring child care welfare fraud one is unable to determine whether these percentages are good or bad. In addition, if it isn't agreed to as to how the County should measure its level of fraud, it is not clear how one would compare the reported measure of fraud from other jurisdictions. This is certainly the case if one doesn't know the basis upon which a jurisdiction arrived at its measure of fraud.

Investigative Resources

DPSS has approximately 200 investigative staff working welfare fraud cases.[47] Twelve investigators are assigned to child care welfare fraud. Additional investigative resources are provided through agreements between the District Attorney and DPSS, but the agreements are not specific to child care welfare fraud investigations.

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[46] Kenneth Ofgang, Court Rejects Constitutional Claims, Upholds Investigators' Warrantless Visits to Homes of Welfare Applicants, Los Angeles Metropolitan News-Enterprise, September 20, 2006

[47] Bryce Yokomizo, Director, DPSS, Memo to Each Supervisor, Subject: Board of Supervisors: Motion (Syn 71B – January 31, 2006) Regarding Child Care Fraud, March 14, 2006

Although beyond the resources available to this study, the question should be raised as to whether a caseload of 67 per investigator (most recent data of approximately 804 cases/12 investigators) is appropriate. This is a particularly intriguing question since it is the position of DPSS, as previously stated in this report, that child care welfare fraud investigations are exceptionally complex, labor-intensive and time-consuming.[48]

Child Care Provider Visits

Informational Background on DPSS (CalWORKS) Home Call Visitation[49]

The issue of program visitation has been a critical consideration in addressing welfare fraud for a number of years. Partially in response to the success of San Diego County' Project 100 (discussed above) in 1999 the Los Angeles County DPSS adopted a "Home Call Visitation Program" to call on all potentially eligible CalWORKS applicants. "The purpose of the home visit is to complete the eligibility determination process by verifying information provided by all new applicants prior to granting CalWORKs benefits (not child care benefits), as well as to assess and discuss the family's need for supportive services, child care, training/education services, literacy training needs, and expedite the family's access to these services as appropriate." [50]

2005-2006 Civil Grand Jury Recommendation

The Los Angeles County 2005-2006 Civil Grand Jury[51] made, as their first child care fraud recommendation that:

> There should be random unannounced visits at least once every ninety days to the child care site to verify the childrens' presence. The verification should be done either by DPSS or be required by the APPs in revised DPSS-APP contracts.

DPSS Position on the Grand Jury Recommendation

While agreeing with the Grand Jury child care fraud recommendation, DPSS feels that since this recommendation, as stated, would require 40,000 site visits per year which are workload intensive and not cost effective, they are proposing

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[48] See page 15 of this report.

[49] The presentation of this program is not meant to imply applicability to the child care fraud issue, but is rather presented as background to make certain that the reader understands that DPSS has taken efforts to utilize this approach in the management of welfare programs.

[50] Lynn W. Bayer, Director, DPSS, Memo to each Supervisor, Subject: Home Call Visitation Program, August 20, 1999.

[51] Los Angeles County 2005-2006 Grand Jury, Final Report: Millions of Tax Dollars Lost to Child Care Fraud, June 2006, Pgs 237-250.

the exploration of the feasibility of piloting random provider site visits and evaluation of their effectiveness.[52]

District Attorney's Position on the Grand Jury Recommendation

An additional view of the child care welfare fraud program visitation issue has been offered by the District Attorney who has opined that in approximately two-thirds of the cases that have been prosecuted, fraud could have been detected and/or prevented by expanding field visits. In his opinion field visits should be undertaken to verify:

- The appropriateness of the child care site,
- The proper number of children are in need of assistance, and,
- Lawful employment with the number of hours claimed.

To accomplish this he proposes conducting proactive unannounced field visits to be conducted by an agency independent from the DPSS and the APPs as is done in San Diego. These visits should be:

- conducted at the initial application phase;
- once within the next 12 months; and,
- once a year thereafter.

Considering an Alternative Organizational Approach

Discussion

Assuming that a portion of the original intent of developing an expanded in-home visitation program was to reduce the instance of fraud, and given programs such as in San Diego, it appears that an increasingly aggressive approach to child care welfare fraud detection would likely deter applicants who are inclined to exaggerate their needs or to be less than completely honest about their situations. An interesting aside is that the Childcare Fraud Investigators Network and the Child Care Alliance of Los Angeles suggested "…that the state consider requiring that all verification of employment be accomplished through direct contact between agency representatives and the purported employer. As a

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[52] Bryce Yokomizo, Director DPSS, Memo to David Janssen, Chief Administrative Officer, Subject: Addendum to DPSS Response to the Fiscal Year 2005-2006 Grand Jury Report and Recommendations for Child Care Fraud, August 23, 2006.

condition of eligibility, parents could sign releases allowing local agencies to contact employers directly to verify hours of employment and income."[53]

It is fully understandable that many eligibility workers would be concerned over what they perceive as a dramatically more aggressive approach, including the possibility of a modification in the procedures for unannounced visits. Although the argument that such action would intimidate clients and discourage needy people from applying requires serious consideration and accommodation, this response would be ameliorated if the recipient fully understood his/her responsibility at the time of undertaking the preliminary eligibility process. Hopefully, as has been demonstrated in San Diego and other jurisdictions and as been affirmed by the courts, applicants would understand that these actions are undertaken as a means of ensuring that they continue to receive the benefits to which they are entitled.

Potential Organizational Impacts to be Considered in a Review

In a consideration of alternative organizational models the following set of potential organizational impacts may be considered:

- The levels of coordination required between investigative organizations;

- The need for developing formal understandings between departments on the criteria used for pursuing prosecution;

- The establishment of appropriate levels of legal disincentives that address fraud at all levels;

- The opportunities for the increased and enhanced production which may result from a centrally directed workforce;

- The need for public recognition of the fact that the County is serious about addressing the problem of child care welfare fraud. (The public sensitivity towards levels of fraud in child care, ever present fiscal pressures, and the need to ensure that eligible individuals continue to receive benefits, makes it essential that the County demonstrate both an internal and external integrity within this program to maintain its organizational credibility and support.)

[53] California Department of Education, Child Development Division, Curriculum and Instruction Branch, CalWORKs, Stage 2 and 3 and Alternative Payment Programs Best Practices for Program Integrity Report Required by Chapter 229, Statutes of 2004 (SB #1104, Committee on Budget and Fiscal Review), March 2005.

Potential Approach

Each of the positions presented above formulate some form of site visit in the administration of the child care benefit, to a greater or lesser degree. The area of divergence lies in the level of site visits that is viable to accomplish the objective, the organization to be assigned to conduct the visit, and the cost and resource utilization that would be required. Both history and the current environment have established the importance of resolving this question based not only the administrative responsibility of the County, but also as the best means of protecting and serving the child care benefit recipients.

Although beyond the capabilities of this report to resolve, the site visitation question has become a pivotal one in the discussion on how to successfully impact child care welfare fraud. As a result it is important to resolve the question by undertaking an objective evaluation of the cost benefits and program impacts of the differing levels of visitation envisioned. Such an evaluation should be responsibility of the Chief Administrative Office with their recommendation identifying the most effective approach.

DPSS Position on the Commission Proposed Organizational Review

(While not in agreement with the following position the Commission is including it as a courtesy to DPSS)

DPSS does not agree with the analysis presented in this report and they would not agree that the transfer of DPSS investigative resources to the District Attorney, as was done in San Diego, would result in an increase in the number of child care welfare fraud cases detected or prevented. Since the Department concludes that this report does not identify any advantage to considering an alternative organizational structure, they do not agree with the recommendation made in this report to conduct of a feasibility study. The Department considers that since the question has been raised in the absence of any evidence, in their opinion, of a possible benefit, it is premature and not constructive.

The DPSS also feels that this report inappropriately uses the cited references to draw over-arching conclusions. They contend that DPSS employees are not put in a conflicting position and are objective in their reporting of fraud.

In support of its position DPSS cites two existing automated systems designed to eliminate any possibility of subjectivity: (1) the statewide Income and Eligibility Verification System (IEVS), a computer match of earnings information which results in fraud referrals, and (2) LEADER, the automated eligibility determination system, which removes from the employee the ability to exercise discretion in determining eligibility for assistance. DPSS reports, using resources such as these, that from July 2003 through July 2006 their employees completed 150,795 fraud referrals. They also report that during this same timeframe, almost $26 million in fraud has been detected and approximately $150 million in additional cost avoidance has been realized.

Recommendations

23. That the Board of Supervisors direct the CAO to review and report back on the appropriateness of the current DPSS child care welfare fraud investigative staffing relative to existing case load.

24. That the Board of Supervisors direct the DPSS to review the impact(s) of requiring the direct deposit of the child care program benefits, which is currently permitted, and report to the Board on its possible implementation.

25. That the Board of Supervisors direct that the DPSS, with the assistance of the District Attorney, conduct an independent review to ensure that all APPs are employing uniform procedures and forms.

26. That the Board of Supervisors direct DPSS review current participant documentation requirements and assess whether any modification to these requirements would reduce the instance of child care welfare fraud. This should include a requirement that the applicant appear personally before a representative of the DPSS to permit their being photographed and the requirement to provide the child's Social Security Number (SSN). (Any proposed modification to legislated documentation requirements would have to be addressed by making appropriate recommendations to the state.)

27. That the Board of Supervisors direct the CAO, in cooperation with the Auditor-Controller, to prepare an analysis of alternative organizational possibilities for child care welfare fraud investigative resources.

28. That the Board of Supervisors direct the CAO to develop an independent field visitation program, in conjunction with DPSS, District Attorney, and APPs, designed to visit residences, employment and the child care provider for the purpose of detecting and preventing fraud at the child care application stage and on a continuing basis thereafter.

29. That the Board of Supervisors request that the District Attorney be sensitive to providing continuity in the staffing of investigators assigned to child care welfare fraud.

30. That the Board of Supervisors direct that DPSS require that each APP designate a management level employee who would assist the DA and DPSS with investigations, witness coordination, etc.

31. That the Board of Supervisors request that the DPSS and the District Attorney to meet routinely to review opportunities for reducing fraud within the child care program.

Additional Strategies to Prevent and Detect Fraud

Creation of a Fraud and Error Control Officer

The fraud and error control programs proposed in this document all require significant intra and inter-departmental cooperation. This cooperation would be facilitated by the creation of an executive level Fraud and Error Control Officer to address fraud and error reduction throughout the department's programs. Examples of the types of activities of this individual would include: drafting of those sections of the new legislation supporting the fraud strategies, consulting on and overseeing development of compatible information systems, working with poverty lobby groups to foster commitment and understanding of fraud and error control programs, coordinating the development of data sharing agreements, and evaluating new approaches to fraud and error control. The objective of this position is to raise the_awareness within the DPSS, the County and the general public of the problems involving fraud committed in the child care program, although the position could appropriately be structured to address fraud in all benefit programs administered by DPSS.

The Creation of a Child Care Welfare Fraud Review Committee

To facilitate a fraud prevention program it would be of value to create a Child Care Welfare Fraud Review Committee to identify opportunities for reducing fraud within the program. This group, which should include at the minimum the CAO, Auditor-Controller, District Attorney and representatives form the APPs, could also take a role in identifying the elements needed to develop and maintain effective case management and in developing policies and procedures that can significantly aid in reducing child care welfare fraud prevention costs. The committee could establish the mechanism for sharing of information among agencies. It could also assist in the resolution of complex cases and other child care welfare fraud issues. Additional responsibilities for this committee might include:

- Conducting the research needed to advise the County on the resources necessary to pursue an aggressive child care welfare fraud prevention program;

- Advising DPSS and/or APP management on the most effective distribution of available funds to deter, detect and prosecute fraud;

- Reporting on the impact of child care welfare fraud and making recommendations to reduce it; and,

- Serving in an advisory capacity by periodically reviewing those measurable levels of achievement that would define a successful child care fraud prevention program and would measure overall system performance, particularly data on the management and operations of available investigative resources.

Performance Measures

Any strategy that addresses fraud in the Child Care Program must identify and implement those specific performance measurements that are critical in the establishment of an expanded child care welfare fraud detection and prevention program. This approach has consistently demonstrated to be effective in both the public and private sectors. Agreed upon measurements provide the necessary monitoring capability to ensure that program objectives are achieved. For example, accountability can also be enhanced by generating reports on child care welfare fraud to the Board of Supervisors. This raises the visibility of the problem and holds the DPSS accountable for performance objectives. If the agreed upon objectives are not met, the DPSS, or any department/program for that matter, should be required to draft and implement performance improvement plans, which are then monitored.

An active performance measures program will be supported by a well-designed communications strategy which emphasizes the positives of reported child care welfare fraud rates (demonstrating active detection, prevention, and prosecution of fraud) and how it demonstrates the improved fiscal stewardship of those officials, both appointed and elected, who are charged with the administration of the program.

To preclude concerns from impacted advocacy groups that a renewed emphasis on child care welfare fraud represents an unnecessary attack on the poor, they can be invited to participate in the planning and design of these measures. This participation would expand upon an understanding of the magnitude of the problem and reinforce the necessity of protecting child care programs for the benefit of those who are truly in needy. In this instance, a communications strategy could also be used to emphasize that child care welfare fraud is committed by a very small and undeserving proportion of the overall caseload.

The recognition that this small group can tarnish the image of all of the program's participants may preclude the need for a negative response to this effort. Additionally, these issues can be addressed by publicizing the amount of money which could be saved through fraud control initiatives. This strategy should be directed toward an emphasis of fiscal responsibility in protecting the benefits of the truly needy.

As for the public, the "tax-payer" will support both an improvement in the effective manner in which funds are distributed and in the fact that these funds are increasingly going to those children and families that are truly in need. As articles in the press routinely demonstrate, the public is often put into the position of reading about what could well be a distorted perception of the fraud problem.

Systems Management

The County has continued to recognize its need to increase its accountability regarding child care program outcomes and financial management. By improving the case management process through modern information technology the DPSS can conduct better customer profiling and provide a consistent method for tracking consumers throughout their experience - all of which can help prevent fraud and deliver outcomes data.

Systems that share information with other systems are able to independently verify information supplied by families. This technique facilitates both the initial awarding of benefits and the re-determination of eligibility. Linking these systems to each other reduces the time required to verify information while providing a tool to enhance monitoring capabilities within Los Angeles County. In recognition of the available technology the Los Angeles County Board of Supervisors on August 23, 2006 "…approved development of a $3 million computer system that will allow the welfare department to detect fraudulent overpayments and measure how its programs impact its 2 million recipients."[54]

Although the approach being taken by the County is very likely to prove effective, it is important to recognize that any electronic data interchange system must be accompanied by appropriate controls to protect privacy of the participant and to preclude use of such a system from individuals who could commit fraud against the County, i.e. the possibly of unauthorized use of the system to create false cases.

These matters were raised in a 1994 article by Roger Clarke, Principal, Xamax Consultancy Pty, Ltd. Canberra, Australia, in which he points out:

[54] Troy Anderson, Database to Help County Fight Welfare Fraud, Los Angeles Daily News, August 23, 2006.

"Inhabitant registration schemes, in countries with appropriate social control infrastructure, and designed appropriately, can be important elements in the exercise of control over the majority of the public, who are relatively straightforward in their life-styles, respectful of authority, honest, and politically weak. The inevitable deficiencies in any scheme leave ample scope for the seriously dishonest to manipulate it. Hence multi-purpose identification schemes assist in the enforcement of social control over the weak; but they do little to influence the powerful, clever and dishonest."[55]

Mr. Clarke accurately points out that, in spite of the fact that systems can be used to enhance the effective administration of a program; they do not preclude the need to continue to focus on the potential for fraud.

Recommendations

32. That the Board of Supervisors direct the DPSS to create an executive level position of Fraud and Error Control Officer.

33. That the Board of Supervisors direct the DPSS, with the cooperation and participation of all affected departments, to create a Child Care Welfare Fraud Review Committee to monitor audits and other available program documentation involving instances of fraud with the purpose of developing corrective action plans through which fraud can reduced or eliminated.

34. That the Board of Supervisors direct the DPSS to expand upon its efforts to review those systems involved in child care delivery with objective of identifying and modifying those policies and procedures that may facilitate the commission of child care welfare fraud.

35. That the Board of Supervisors direct that DPSS, in coordination with the Chief Information Office (CIO) and consistent with privacy legislation, ensure that the DPSS, In-Home Supportive Services (IHSS)[56], and APP systems (and request the Federal Government to include the Social Security Income (SSI) system) are able to communicate with each other so as to identify potential fraud at the outset of the application process. This comparison of data should

[55] Roger Clarke, Human Identification in Information Systems: Management Challenges and Public Policy Issues, Information Technology & People 7, 4 (December 1994) 6-37.

[56] The IHSS Program will help pay for services provided to the recipient so that he/she can remain safely in his/her own home. To be eligible, the recipient must be over 65 years of age, or disabled, or blind. Disabled children are also eligible for IHSS. IHSS is considered an alternative to out-of-home care, such as nursing homes or board and care facilities. See: http://www.cdss.ca.gov/cdssweb/In-HomeSup_173.htm

be undertaken at the time of application and be monitored at least every 6 months.

Conclusion

The efforts that the Commission has taken to prepare this report have resulted in the realization that fraud is an end-to-end process that impacts benefits from the point of claim right through to the end of payment. While there is no “one size fits all” approach to anti-fraud programs, it is the responsibility of management at all levels of the County to identify and measure the child care program’s risk of fraud for the purpose of continually improving an effective anti-fraud program that maintains meaningful controls. These efforts should be completed with the active participation and oversight of the impacted department’s executive management and the Board of Supervisors.

This report has attempted to educate the reader on some of the basic essentials involving in child care fraud. In doing this the report has considered elements of prevention, deterrence and detection, discussed how fraud could be referenced within the context of an organization, and has reviewed issues dealing with management oversight of program controls. The ultimate result has been a recognition that it is necessary for the County of Los Angeles to maintain and advance in:

- the enforcement of the criteria used to provide and receive child care assistance;

- the assurance that applications for assistance and providers are properly evaluated;

- the complete and thorough investigation of suspected cases of fraud;

- the imposition of appropriate penalties on intentional violators of the program; and,

- the institution of procedures and vehicles to recover child care program overpayments.

In these days of fiscal concerns, any funds that are distributed to ineligible applicants are, in reality, a denial of those funds to a truly needy family or child. The Commission feels that the recommendations that are made in this report will contribute to the ongoing anti-fraud efforts of the County and, as a result, will strengthen the balance between the rights and responsibilities of the individual.

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