



**District Attorney  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

KUYLER CROCKER  
District One  
PETE VANDER POEL  
District Two  
AMY SHUKLIAN  
District Three  
EDDIE VALERO  
District Four  
DENNIS TOWNSEND  
District Five

**AGENDA DATE:** October 15, 2019-REVISED

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Dan Underwood    PHONE: 636-5494

**SUBJECT:** Ratify and approve an agreement with the Insurance Commissioner of the State of California

**REQUEST(S):**

That the Board of Supervisors:

1. Ratify and approve the Grant Award Agreement for acceptance of grant funding from the Insurance Commissioner of the State of California for the Workers' Compensation Insurance Fraud Prosecution Program in the amount of \$547,637, retroactive to July 1, 2019 through June 30, 2020. This grant is retroactive due to having received the grant award in September 2019, making it impracticable for the Board to take action prior to July 1, 2019 due to the time needed to process, prepare, and submit the agenda item;
2. Find that the Board had authority to enter into the proposed agreement as of July 1, 2019 and that it was in the County's best interest to enter into the agreement on that date;
3. Ratify and approve the District Attorney's signature on the Agreement;
4. Direct the Board Clerk to prepare a certified copy of the resolution for the District Attorney's Office; and
5. Agree that any liability arising out of the performance of the Grant Award Agreement, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency, and acknowledge that the State of California and the California Department of Insurance disclaim responsibility for any such liability.

**SUBJECT:** Ratify and approve an agreement with the Insurance Commissioner of the State of California

**DATE:** October 15, 2019

**SUMMARY:**

The purpose of the Workers' Compensation Insurance Fraud Prosecution Program is to increase the investigation and prosecution of fraudulent workers' compensation cases. The Program targets those individuals who are actively involved in defrauding Tulare County businesses, governmental entities, and insurance companies of millions of dollars through false claims and premium fraud. The Office of the District Attorney has been awarded this grant since 1994. The grant funds 3.0 FTE DA Investigators, .50 FTE Investigator Aide, and one .80 FTE Deputy District Attorney.

The grant period for this renewal is July 1, 2019 through June 30, 2020. However, the Grant Award Agreement was not received from the California Department of Insurance until September 10, 2019. Therefore, the District Attorney's Office requests that this agreement is approved retroactive to July 1, 2019. The Department of Insurance will reimburse the District Attorney's Office for all allowable grant expenses incurred retroactive to July 1, 2019.

A prior agreement, identical except for the time period and dollar value, was approved as to form by County Counsel and was approved by the Board of Supervisors on October 23, 2018. The deviations from the County contract protocol included in the prior agenda item were: This Agreement requires the County to agree to release the State from any liability arising out of the performance under the agreement. The proposed renewal agreement does not include any additional deviations from the County contract protocol.

The only changes from the prior agreement are to the time period of the agreement from July 1, 2018 through June 30, 2019 to July 1, 2019 through June 30, 2020, and/or the dollar amount of the agreement from \$540,309 to \$547,637.

**FISCAL IMPACT/FINANCING:**

The Workers' Compensation Insurance Fraud Prosecution Program grant (Budget Unit 3182) is in the amount of \$547,637 for the period of July 1, 2019 through June 30, 2020. The program expenses and grant revenue have been included in the District Attorney's Office Fiscal Year 2019/20 budget. There is no additional net County cost to the General Fund.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The County's five-year Strategic Business Plan and Management System include Safety and Security initiatives to provide for the safety and security of the public. The authorization to accept continued grant funding from the California Department of Insurance helps to fulfill this initiative by continuing to provide dedicated staff to investigate and prosecute workers' compensation insurance fraud cases throughout Tulare County, protecting businesses and individuals from being victims of this kind of fraud.

**SUBJECT:** Ratify and approve an agreement with the Insurance Commissioner of the State of California

**DATE:** October 15, 2019

**ADMINISTRATIVE SIGN-OFF:**



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Yun-Gyung Park-Moore  
Fiscal Manager

cc: County Administrative Office

Attachment(s) Attachment 1: Grant Award Agreement  
Attachment 2: Grant Application



**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF RATIFY AND )  
APPROVE AN AGREEMENT WITH ) Resolution No. \_\_\_\_\_  
THE INSURANCE COMMISSIONER OF ) Agreement No. \_\_\_\_\_  
THE STATE OF CALIFORNIA )

UPON MOTION OF SUPERVISOR \_\_\_\_\_, SECONDED BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE  
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD \_\_\_\_\_  
\_\_\_\_\_, BY THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JASON T. BRITT  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\* \* \* \* \*

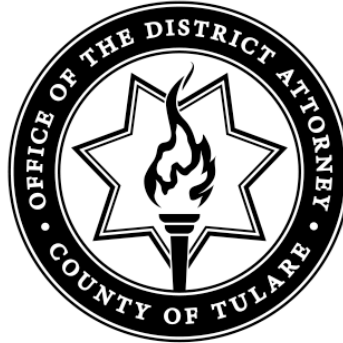
1. Ratified and approved the Grant Award Agreement for acceptance of grant funding from the Insurance Commissioner of the State of California for the Workers' Compensation Insurance Fraud Prosecution Program in the amount of \$547,637, retroactive to July 1, 2019 through June 30, 2020. This grant is retroactive due to having received the grant award in September 2019, making it impracticable for the Board to take action prior to July 1, 2019 due to the time needed to process, prepare, and submit the agenda item;
2. Found that the Board had authority to enter into the proposed agreement as of July 1, 2019 and that it was in the County's best interest to enter into the agreement on that date;
3. Ratified and approved the District Attorney's signature on the Agreement;
4. Directed the Board Clerk to prepare a certified copy of the resolution for the District Attorney's Office; and

5. Agreed that any liability arising out of the performance of the Grant Award Agreement, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency, and acknowledge that the State of California and the California Department of Insurance disclaim responsibility for any such liability.

**APPLICATION  
FOR THE  
WORKERS' COMPENSATION  
INSURANCE FRAUD PROGRAM  
FISCAL YEAR 2019-2020**

**Submitted By:**

**Office of the District Attorney  
County of Tulare  
Tim Ward, District Attorney**



**Submitted To:**

**California Department Of Insurance  
Fraud Division**



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**FORM 01**

<b>GRANT APPLICATION CHECKLIST and SEQUENCE FISCAL YEAR 2019-2020</b>		
<b>THE APPLICATION MUST INCLUDE THE FOLLOWING:</b>		
	<b><u>YES</u></b>	<b><u>NO</u></b>
<b>1. GRANT APPLICATION TRANSMITTAL (FORM 02)</b> completed and signed by the district attorney?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>2. PROGRAM CONTACT FORM (FORM 03)</b> completed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>3. Original or certified copy of the BOARD RESOLUTION (FORM 04)</b> included? If NOT, the cover letter must indicate the submission date.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>4. TABLE OF CONTENTS</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>5. The County Plan includes:</b>		
a) <b>COUNTY PLAN QUALIFICATIONS (FORM 05)</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <b>STAFF QUALIFICATIONS (FORM 06(A))</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <b>ORGANIZATIONAL CHART (FORM 06(B))</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <b>PROGRAM REPORT (DAR OR FORM 07)</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <b>COUNTY PLAN PROBLEM STATEMENT (FORM 08)</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) <b>COUNTY PLAN PROGRAM STRATEGY (FORM 09)</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>6. Projected BUDGET (FORMS 10-12)</b> included?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) <b>LINE-ITEM TOTALS VERIFIED?</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <b>PROGRAM BUDGET TOTAL (FORM 12)</b> matches the amount requested on FORM 02?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>7. EQUIPMENT LOG (FORM 13)</b> completed and signed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>8. JOINT PLAN (Attachment A)</b> completed and signed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>9. CONFIDENTIAL CASE DESCRIPTIONS (Attachment B)</b> Is all content readable? A partial narrative is not acceptable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>10. ELECTRONIC VERSION (CD/DVD)</b> included?	<input checked="" type="checkbox"/>	<input type="checkbox"/>



**FORM 02**

**GRANT APPLICATION TRANSMITTAL**

**WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM**

**Grant Period: July 1, 2019 to June 30, 2020**

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

Contact: Darlene Tyndal, Grants & Program Coordinator

Address: 221 S. Mooney Blvd, Room 224

Visalia, CA 93291

Telephone: (559) 205-1011

(1) New Funds Being Requested: \$ 547,637

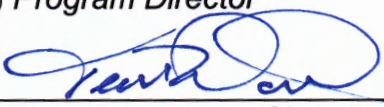
(2) Estimated Carryover Funds: \$ 0

Robert Dempsey

(3) *Program Director*

Rainbow Park-Moore

(4) *Financial Officer*

  
(5) District Attorney's Signature

Name: Tim Ward

Title: District Attorney

County: Tulare

Address: 221 S. Mooney Blvd., Room 224

Visalia, CA 93291

Telephone: (559) 636-5494

Date: 4/19/2019

**WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM  
PROGRAM CONTACT FORM  
FISCAL YEAR 2019-2020**

1. Provide contact information for the person with day-to-day operational responsibility for the program, who can be contacted for questions regarding the program.
  - a. Name: Robert Dempsie
  - b. Title: Supervising Attorney
  - c. Address: 221 S. Mooney Blvd., Room 224
  - d. Visalia, CA 93291
  - e. E-mail address: rdempsie@co.tulare.ca.us
  - f. Telephone Number: (559) 636-5494 Fax Number: (559) 730-2656
  
2. Provide contact information for the District Attorney's Financial Officer.
  - a. Name: Rainbow Park-Moore
  - b. Title: Fiscal Manager
  - c. Address: 221 S. Mooney Blvd., Room 224
  - d. Visalia, CA 93291
  - e. E-mail address: rpmoore@co.tulare.ca.us
  - a. Telephone Number: (559) 205-1003 Fax Number: (559) 624-1077
  
3. Provide contact information for questions regarding data collection/reporting.
  - a. Name: Darlene Tyndal
  - b. Title: Grants & Program Coordinator
  - c. Address: 221 S. Mooney Blvd., Room 224
  - d. Visalia, CA 93291
  - e. E-mail address: dtyndal@co.tulare.ca.us
  - f. Telephone Number: (559) 205-1011 Fax Number: (559) 624-1077

**FORM 05**

**COUNTY PLAN: QUALIFICATIONS  
FISCAL YEAR 2019-2020**

1. What areas of your workers' compensation insurance fraud operation were successful and why?

Tulare County has continued to operate a successful program, and there are several areas we'd like to highlight as part of that success.

We continue to carry a steady caseload. So far throughout the 2018/2019 fiscal year, our WC Program staff have handled a total of 85 cases with 89 defendants. Of those, 53 are carryover cases and 32 are new cases.

Throughout this fiscal year, program investigators reviewed and closed 25 cases, and 17 cases were referred to the program prosecutor for review. Of those, 13 cases were filed, two were rejected, one is under attorney review, and one is out to warrant. There are another seven additional cases under active investigation, and 17 cases are pending assignment. There have been 30 cases in court (34 defendants), and eleven convictions have been secured.

The following represents successful areas of our WC Program.

**CASES IN COURT**

Deputy District Attorney James Voge is finishing up his first year as the program's prosecutor. He has secured seven convictions through April 15, 2019, and has another 20 cases (21 defendants) in various stages of adjudication.

One of his successful cases was the recent conviction of Mario Gutierrez, a labor contractor who underreported his payroll, made cash payments to his workers, and denied them workers' compensation insurance coverage. One of Gutierrez' employees severed a thumb in a gruesome work related accident at a packing house and was told all medical expenses would be covered by Gutierrez. He kept his promise for a while, but as medical bills mounted, cut off communication with the injured employee, prompting the employee to contact an attorney. Gutierrez pleaded guilty to one felony count of Insurance Code 11760(a) on April 5, 2019. A sentencing hearing is scheduled for May 1, 2019.

Supervising DDA Doug Rodgers was successful in securing three more convictions in the JA Contracting premium fraud case. Javier Diaz was convicted in August 2018, pleading no contest (with a Harvey waiver) to one felony count of Insurance Code 11760(a) and one felony count of Unemployment Insurance Code 2117.5. Diaz was sentenced to 17 days in jail and was placed on three years of felony probation. A restitution hearing is scheduled for June 4, 2019, where Diaz faces up to \$21,612,822 in potential restitution. Meanwhile, in February 2019, Isidro Estrada pleaded to one misdemeanor count of Insurance Code 11760(a)/17(b) and

Porfirio Rios pleaded to one misdemeanor count of Insurance Code section 11880(a)/17(b). No restitution was involved for these two defendants.

The sentencing and restitution hearing for both Juan and Alfredo Ayala, convicted in January 2018 of last fiscal year, has been continued once again, with the latest date set for June 4, 2019. Juan Ayala, currently facing three years suspended state prison and over \$20 million in potential restitution, has already agreed to pay EDD, one of the victims in this case, \$3,368,857 in restitution. Alfredo Ayala is facing three years court probation and nearly \$3.5 million in restitution. Should the hearing take place as scheduled, the final restitution ordered amount will be reported at the upcoming Fraud Assessment Commission meeting in early June.

The last JA Contracting defendant now remains in court, with a jury trial setting scheduled for June 4, 2019. DDA Doug Rodgers is prosecuting this case.

JA Contracting defendant Javier Diaz was also convicted in a separate but related case in which his business, Diaz Contracting, had a payroll in the millions during 2011, but only reported a few hundred thousand in payroll to Meadowbrook Insurance Company. This resulted in premium fraud of \$325,880. Diaz pleaded to one felony count of Insurance Code 11760(a) in August 2018. He was sentenced to probation and ordered to pay a \$500 fine. Restitution in this case remains open, and a restitution hearing is scheduled for June 4, 2019. DDA Doug Rodgers also prosecuted this case.

In the last two fiscal years (FY 17/18 and 7/1/18 through 4/15/19), program prosecutors have secured 26 convictions – five felony and 21 misdemeanor – while ordering \$35,000 in restitution and \$6,375 in fines. Those amounts will increase significantly after the sentencing and restitution hearings of the JA Contracting defendants. A breakdown of these convictions can be seen in the following table.

<b>Table 1</b>		
<b>CONVICTIONS</b>		
<b>Case Type</b>	<b>No. of Convictions</b>	
	<b><i>FY 17/18</i></b>	<b><i>7/1/18-4/15/19</i></b>
Applicant Fraud	2	1
Premium Fraud	2	5
Uninsured Employer	11	5
<b>TOTAL</b>	<b>15</b>	<b>11</b>

### **SOLID INVESTIGATIONS**

Several cases were investigated, submitted and filed in this fiscal year. Excluding uninsured employer cases, a few of these cases are highlighted below. Please see Attachment B Part 1 for a more detailed synopsis of the investigation.

**NOTE:** Although instructions in the RFA state that the total cases in Attachment B Parts 2A, 2B and 2C should equal the number of cases in the DAR Section III C, this is not the case for our program. Our program staff had a total of fourteen 3700.5 cases, but two of those were

submitted directly to the program prosecutor from CSLB. Those are noted in the “No. Investigated using NON Grant Funding (i.e., another DA division),” but are included in the total of 14 listed in Part 2A. Those two cases are NOT included in the DAR Section III C, explaining the difference.

**Case No. 19-004732 (Insider Fraud):** Near the end of fiscal year 2017/2018, investigators stumbled upon a case of insider fraud. A roofer had called our office to complain about certain roofing businesses not being covered. During a compliance check with one of those businesses, the owner produced a certificate of insurance. However, a search of the California Contractors State License Board did not indicate the business had insurance. The business owner was adamant that he paid the insurance company. This prompted an investigation into the insurance company. This case took an incredible amount of time and investigative efforts, including interviewing 86 witnesses and potential suspects, and writing and serving five search warrants at 11 locations. This case was filed April 12, 2019.

**Case No. 18-01-000133 (Premium Fraud):** A local roofing company was the subject of random compliance checks throughout the year. During one, some of the company's employees told investigators they were paid in cash, prompting a premium fraud investigation. Documents were seized during a search warrant on April 2, 2019, and submission is pending their review.

**Case No. 19-005893 (Premium Fraud):** This case stems from an SFC received which revealed EDD records for a local roofing company weren't aligning with SCIF records. A search warrant for the company's bank records was served in 2018. Further search warrants on the owner's home and payroll company were requested and obtained this fiscal year. A thorough records audit found that the chargeable fraud amount to be \$303,320. This case was submitted to the DDA for review on April 15, 2019.

**Case No. 19-004754 (Claimant Fraud):** An employee of a local cattle company who claimed to sustain a work-related back injury was caught on sub rosa video lifting tables and pruning trees. He was also found to have several prior work-related injury claims, including two cash settlements, even though he denied having any prior injuries. In an interview with a program investigator, the employee admitted he was self employed while receiving benefits. This case was filed on April 4, 2019. However, the defendant is serving time on an unrelated charge. An arrest warrant will be issued when he is released.

**Case No. 18-008669 (Claimant Fraud):** An agricultural employee allegedly exaggerated his work injury claim, indicating he had numbness in his hand and could not work. The SIU's sub rosa video showed him working out at the gym. DA investigators reviewed evidence and interviewed the suspect and SIU investigators, finding enough information to file the case on March 21, 2019.

### **OUTREACH/TRAINING**

Outreach and training efforts this year include training presentations given to employees of Young's Trucking and Ruiz Foods, as well as attendees of our annual Rural Crime School. Presentations were given to members of the Lindsay Agricultural Association, and booths were



staffed at the Tulare County Fair, the World Ag Expo, the Farmworker Women's Conference, and National Night Out. Over 1,200 people were reached this year through our efforts. These efforts are explained in more detail in "County Plan: Program Strategy" later in this application.

2. Specify any unfunded contributions (i.e., financial, equipment, personnel, and technology) and support your county provided to the workers' compensation insurance fraud program.

This grant program is supplemented with funding from our County General Fund, which absorbs various expenses associated with the program's operation that don't fit within the budget. Unfunded contributions in the current fiscal year have included:

- Assistance in case 19-004732 (insider fraud): This was a very time consuming case and numerous, non-grant funded District Attorney staff assisted the program investigators. This included 12 investigators that helped coordinate and serve the search warrants, two investigators that pored over the forensic evidence on the defendants' computers, assistance from the forensic auditor, who reviewed evidence to estimate the chargeable fraud amount, six deputy district attorneys who helped review the case for filing, and several legal office assistants, who scanned in several dozen boxes of evidence into our DAMION system.
  - Approximately \$14,000 in fuel and vehicle maintenance for the vehicles assigned to investigators;
  - The supervising investigator, supervising attorney, and Grants & Program Coordinator each commit numerous hours to the overall well-being of the WC Program, but none are covered under this budget. They also travel to each of the Fraud Assessment Commission (FAC) meetings to ensure the commissioners' missives are heard and implemented. Charges associated with those meetings (per diem, travel & hotel) are not billed to the grant. The Grants & Program Coordinator also reviews requests for training, and grant expenditure requests, ensuring they are in compliance and alignment with the program budget. She also completes and submits the three required District Attorney Reports.
  - Legal office assistants assist in scanning and processing documents for program cases. Premium fraud cases often require the assistance of our forensic auditor, who reviews large amounts of bank and payroll records and compiles information for investigators.
3. Detail and explain the turnover or continuity of personnel assigned to your workers' compensation insurance fraud program. Include any rotational policies your county may have.

There have been a few changes in program staffing due to a staff rotation this fiscal year.

In July 2018, DA Investigator Floyd Hager was reassigned and was replaced by Ana Moreno. In October 2018, Investigator Aide Charles Clark was reassigned and was replaced by Jessica

Maldonado. In February 2019, DA Investigator Louie Cantu was reassigned and was replaced by Adam Gonzales. Experience and qualifications for these three new program staff are included later in this application.

It is the District Attorney's policy to rotate staff periodically to allow for the opportunity to broaden investigative and prosecutorial skills. However, the rotation of staff assigned to special programs is usually minimized, so as not to disrupt the effective operation of those programs. Assignments to special programs such as the Workers' Compensation Insurance Fraud Investigation/Prosecution program are typically long term. However, staff can be rotated out to fill staffing vacancies in other units. If a need to rotate staff presents itself (i.e., staff leaving our employment), replacement staff are carefully considered, and only those demonstrating significant investigative skills and prosecutorial experience are selected.

4. List the governmental agencies you have worked with to develop potential workers' compensation insurance fraud cases.

We continue to partner with CSLB, the California Department of Corrections, EDD, and the Franchise Tax Board to develop our and strengthen our cases. In addition, we work with area District Attorney offices, the Employment Development Department, and the Franchise Tax Board as part of the Central Valley Workers' Compensation Insurance Fraud Task Force. In November 2018, our office entered into a Data Sharing Agreement with the Department of Industrial Relations. As authorized by the Workers' Compensation Insurance Fraud Reporting Act, the agreement provides that the DIR share information in its custody relevant to an investigation or prosecution of an alleged case of insurance fraud in Tulare County.

5. Were any frozen assets distributed in the current reporting period? (Assets may have been frozen in previous years.) If yes, please describe. If no, state none.

None.

**FORM 06(a)**

**COUNTY PLAN: STAFFING  
FISCAL YEAR 2019-2020**

**COUNTY OF TULARE**

Prosecutors	% Time	Time With Program Start Date/End Date
James Voge, Deputy District Attorney	83%	June 2018 – Present

**COUNTY OF TULARE**

Investigators	% Time	Time With Program Start Date/End Date
Louie Cantu, DA Investigator	100%	November 2017 – February 2019
Charles Clark, Investigator Aide	100%	November 2017 – October 2018
Khousa Lopez, DA Investigator	100%	February 2018 – Present
Ana Moreno, DA Investigator	100%	July 2018 – Present
Jessica Maldonado, Investigator Aide	100%	October 2018 – Present
Adam Gonzales, DA Investigator	100%	February 2019 – Present

**Prosecutor**

DDA James Voge came to our office in November 2015, and took on the dual prosecutor role of Auto Insurance Fraud and Workers' Compensation Fraud prosecutor in June 2018. Prior to his current assignment, DDA Voge handled numerous jury trials, including felony child abuse, hit and run, and DUI cases. He also served as the special prosecutor for our Marijuana Suppression Unit, handling all of the county's serious marijuana-related felonies. DDA Voge earned a BA degree in Philosophy from Boston College, and received his JD from Santa Clara University School of Law.

**Investigators**

Investigator Khousa Lopez began her law enforcement career with our office shortly after completing her Basic Peace Officer Training in 2001. In her 18 years here, she has worked numerous assignments, including in the Welfare Fraud, Child Support, Auto Insurance Fraud, and Violence Against Women units. She joined the WC Unit in February 2018.

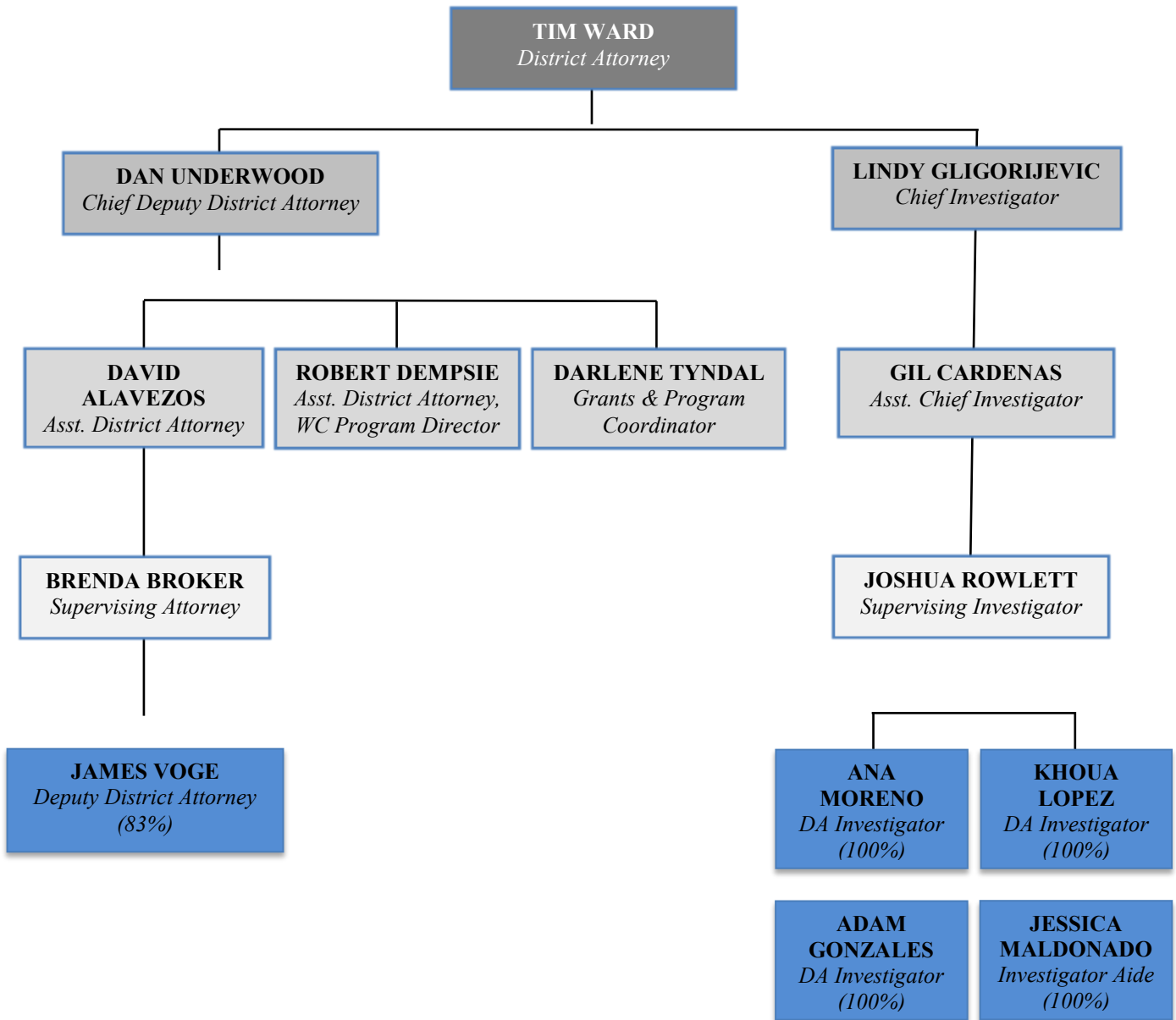
Investigator Ana Moreno came to our office after spending five years as a community service officer, communications dispatcher and peace officer at a local police department. She worked as an investigator for the Welfare Fraud Unit for two years before joining the WC Unit in July 2018.


Investigator Adam Gonzales joined our office in January 2012 as an investigator aide working for the rural crimes unit. He held this position while attending the Fresno City College Extensive Police Academy, and upon graduation, was promoted to an investigator for the Welfare Fraud Unit. He joined the WC Unit in February 2019.

Jessica Maldonado is in her seventh year with the District Attorney's Office as an Investigator Aide. She previously assisted investigators in the Child Abduction and Real Estate Fraud units before transferring to the WC Unit in October 2018. Investigator Aide Maldonado holds an AS degree in Criminal Justice: Corrections from San Joaquin Valley College, where she also received a Certificate in PC 832 Laws of Arrest and Firearms, and was part of the Honor Guard.

**FORM 06(b)**

**COUNTY PLAN: ORGANIZATIONAL CHART  
FISCAL YEAR 2019-2020**



 = Staff currently funded through this grant



**FORM 07**

**COUNTY PLAN: DISTRICT ATTORNEY PROGRAM REPORT  
FISCAL YEAR 2019-2020**

**DAR (FORM 07) is submitted online**

**STATISTICAL INFORMATION WILL BE CAPTURED**

**FROM JULY 1, 2018 TO APRIL 15, 2019**

To access the DAR webpage on the CDI website, click on the following link or copy the URL into your browser.

<http://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/10-anti-fraud-prog/dareporting.cfm>

**FORM 08**

**COUNTY PLAN: PROBLEM STATEMENT  
FISCAL YEAR 2019-2020**

**PROBLEM STATEMENT**

Describe the types and magnitude of workers' compensation insurance fraud (e.g., claimant, single/multiple medical/legal provider, premium/employer fraud, insider fraud, insurer fraud) relative to the extent of the problem specific to your county.

Use local data or other evidence to support your description.

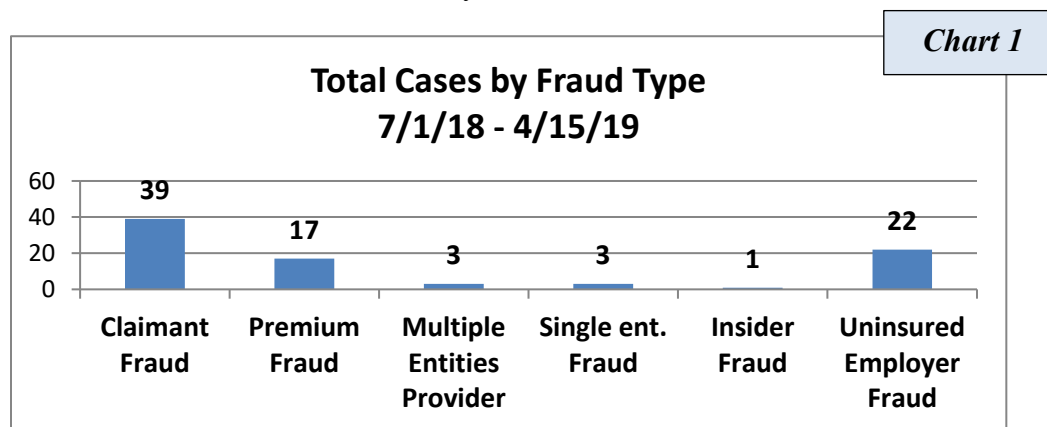
**CAUSES OF FRAUD IN THE CENTRAL VALLEY**

California has a notoriously large underground economy, which grows each year. The Labor Enforcement Task Force reported in its Five Year Report (2012-2016) to the Legislature that on average, 91% of the businesses they targeted for noncompliance inspection each month were out of compliance with at least one of the LETF's partner agencies (EDD, CSLB, DIR, and others). This underscores the underground economy issue, and Tulare County sits at the heart of it.

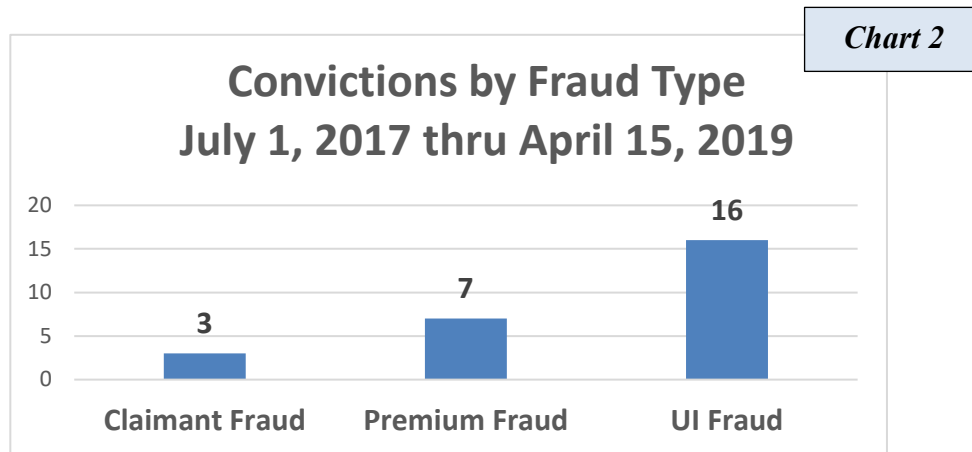
Our fairly low cost of living attracts low-skilled and un-skilled workers, typically hired for construction, tree trimming, landscaping, and farm labor jobs. These employees often accept work under the table, with their employers all too willing to pay cash to avoid taxes and insurance premiums. It is in these industries that we find the majority of our uninsured employer cases. Premium fraud is also often tied into the underground economy, as farm labor contractors often hire cheap day labor to keep their overhead costs low and their bids competitive.

**HISTORICAL FRAUD TRENDS**

Chart 1 below reflects our current caseload by fraud type, which shows claimant fraud, uninsured employer fraud, and premium fraud continue to be the main types of workers' compensation insurance fraud committed in Tulare County.



A review of convictions by case type over the last two fiscal years reveals that over 50% of convictions are for uninsured employer fraud. This is due to the time it takes to investigate and file the more complex claimant and premium fraud cases, and how long those complex cases take to fully adjudicate.



Although uninsured employer fraud is often referred to as “low hanging fruit,” it is of serious concern to those of us in the Central Valley as we grapple with the underground economy’s economic effect on our local tax resources and the hit the state budget takes, which affects us all. In addition, employees that get hurt on the job, and whose employers evade their responsibility to provide workers’ compensation insurance coverage to their employees, are often left to find a way to pay for their treatment on their own. Fearing losing their job or even that their employer will turn them in for being undocumented, they remain silent, either covering the costs out of their own pocket or getting little to no care for their injuries. This is unconscionable.

**FORM 09**

**COUNTY PLAN: PROGRAM STRATEGY  
FISCAL YEAR 2018-2019**

1. Explain how your county plans to resolve the problem described in your problem statement. Include improvements in your program.

The Tulare County District Attorney's Office has been operating this program for many years. Each year, we take a look at what made our program successful, and what we could be doing differently as fraud trends arise and goals and priorities change.

We will continue to implement the key elements of our program, which include outreach, educating employers, staff training, aggressive investigation, and collaborative partnerships. We plan to combat workers' compensation insurance fraud in Tulare County through the following key components:

**Outreach**

Members of the community need to understand the importance of workers' compensation insurance: that it exists to protect them as employees if they are legitimately injured on the job; that as an employer, they must cover their employees; and that there will be ramifications should anyone be caught committing fraud. To disseminate this message, program staff plan to staff informational booths at large community events (including the Tulare County Fair, World Ag Expo, and the Farmworker Women's Conference), and will continue to schedule presentations to employers and other community groups to reach as many people in Tulare County as possible.

**Employer Education**

It is important to educate employers about their legal obligation to carry appropriate workers' compensation insurance, and equally important to ensure they know what to do if they suspect an employee is committing claimant fraud. As we don't have any SIUs in Tulare County, program staff will continue to reach out to local businesses to offer our informational presentations to their leadership teams as well as their staff.

**Staff Training**

The District Attorney's Office prides itself on having a well-trained staff, and we will continue to make training a priority for WC Program staff. As reflected on pages 21 and 22, program staff attends relevant formal training, including the CDAA Fraud Symposium and the NCFIA fraud conference, as well as informal training held by collaborative partners. It is our understanding that SCIF will be offering training to district attorney offices in the near future, and we look forward to sending staff. Funds to cover training costs are included in our proposed budget.

**Aggressive Investigation**

Some cases require simple routine investigative efforts, while other more complex cases

involve intense and time consuming investigative measures. Our investigators are committed to working together, going above and beyond to obtain information that will result in a solid case and, ultimately, a conviction.

### **Collaborative Partnerships**

The fight against workers' compensation insurance fraud can't happen without effective collaboration. Cases are referred from a variety of agencies, including the Department of Insurance, Fraud Division, local law enforcement, federal and state agencies, and our own investigators involved in other programs. We will continue our communication with each of these agencies to ensure fraud is being addressed swiftly.

We will also continue our effective working relationships with the Central Valley Workers' Compensation Insurance Fraud Task Force, the Employer's Fraud Task Force, and local, state and federal agencies. The CVWCIF Task Force was created in June 2017. Members include the California Department of Insurance's Fresno regional office, and the Counties of Fresno, Tulare, Kings, Kern, Madera and Merced. Also participating as needed will be the Employment Development Department and the Franchise Tax Board. Each agency will offer their time and expertise to jointly investigate all areas of workers' compensation fraud in the Central Valley.

Investigators will also continue to utilize the services of the Department of Industrial Relations to obtain valuable information for potential cases.

Finally, we have a comprehensive Joint Plan with the Department of Insurance, Fraud Division, Fresno Regional Office. This plan addresses our intent to reduce duplication of efforts, enhance investigative support, and increase the number of arrests and prosecutions. An original signed Joint Plan is included as Attachment A to this application.

2. What are your plans to meet the announced goals of the Insurance Commissioner and the Fraud Assessment Commission? Copies have been provided for your reference.

Our office is committed to meeting the goals and objectives of both new Insurance Commissioner Ricardo Lara and the Fraud Assessment Commission.

### **Program Performance**

Both Commissioner Lara and the FAC stress the need for program performance. We utilize grant funds to adequately staff the program in proportion to the volume of cases – paying close attention to the larger, more labor intensive cases – as well as meeting the need to do periodic compliance checks to battle the Underground Economy in Tulare County. We carefully review program expenditures and submit statistical data reports on time to ensure our program meets the standards of both the Commissioner and the FAC.

### **Outreach**

A coordinated and aggressive outreach program is also a common goal. Our office has always considered outreach to be a key component of all of our grant programs. Our outreach efforts are geared toward both employees and employers.



We make sure employees understand it is their right to be covered by workers' compensation insurance if they are injured on the job, while also making them aware of the repercussions of falsifying an injury claim. Our outreach efforts at public events continue to focus on informing workers about their rights, and we present on this topic annually to employees at large businesses throughout Tulare County. To expand our reach with this information, we developed a Public Service Announcement campaign a few years ago consisting of print and television ads informing workers of their right to be covered by workers' compensation insurance, and what to do if they are a victim of fraudulent business practices. The commercial is posted on our web site in English and Spanish for public viewing.

To ensure employers are doing their part, we continue to meet with large Tulare County businesses, informing them of their obligation to have proper insurance coverage, as well as how to detect potential claimant fraud and what to do if they suspect it. Our investigators also do numerous random compliance checks, both online and in the field, educating employers and helping in the fight against the underground economy in our area.

Last, program staff share successful strategies and best practices with other stakeholders by being involved in the Central Valley's Workers' Compensation Fraud Task Force, and presenting annually to the Employers' Fraud Task Force and its Advisory Board.

### **Balanced Caseload**

Commissioner Lara and the FAC have again set the goal of having a balanced caseload, with the focus on fraudulent activities having the greatest fiscal impact to the system. For Tulare County, these include claimant fraud, employer premium fraud, and the willfully uninsured operating in the underground economy. This can be seen in a review of our current cases in court: four claimant fraud cases, seven premium fraud cases (10 defendants), one insider fraud cases (2 defendants), and 10 uninsured employer fraud cases.

We continue to have a robust compliance checks system, sending a message to the business community that they must have workers' compensation insurance coverage for all of their employees, and that we are watching. We will continue to seek out additional premium fraud cases that are imbedded within other cases. And we will do our due diligence in investigating and prosecuting claimant fraud cases, ensuring that money paid out under these fraudulent claims is rightfully returned to the insurance companies.

### **Medical Provider Fraud**

Tackling medical provider fraud is one of Commissioner Lara's goals, and the FAC mentions this as being one type of fraud that has a high impact on the system. We have three of these cases on our caseload: one has been filed, one is under investigation, and one is pending assignment.

### **Joint Plans & MOUs**

Another FAC goal is that grantees have meaningful working relationships with other agencies and stakeholders. We annually review and update the Joint Plan we enter into with the Fresno Regional Office. The plan is included under Attachment A. In addition, we continue to be members of the Central Valley Workers' Compensation Insurance Fraud Task Force. Finally,

we are working with the Department of Industrial Relations through our Data Sharing Agreement.

3. What goals do you have that require more than a single year to accomplish?

N/A

4. Training and Outreach

- List the **insurance fraud training received** by each county staff member in the workers' compensation fraud unit **during Fiscal Years 2017-2018 and 2018-2019**.

The following lists the relevant trainings attended by program staff over the last two fiscal years, broken down by past and current staff:

**Current Program Staff**

Investigator Lopez

- ✓ 30th Annual Anti-Fraud Conference, AFA, CDI, CDAA & NICB, April 2019
- ✓ CDAA Fraud Symposium, October 2018
- ✓ Premium and Medical Provider Fraud Training, Alameda County District Attorney's Office, February 2018

Investigator Gonzales

- ✓ 30th Annual Anti-Fraud Conference, AFA, CDI, CDAA & NICB, April 2019
- ✓ Insurance Fraud Training Seminar, Golden Gate High Impact Workers' Compensation Fraud Consortium, February 2019

Investigator Moreno

- ✓ Undercover Field Operations, LCI Services, July 2018
- ✓ CDAA Fraud Symposium, October 2018
- ✓ Introduction to Workers' Compensation Fraud for Claimant and Premium Fraud, CDI Fresno Regional, August 2018

Investigator Aide Maldonado

- ✓ 30th Annual Anti-Fraud Conference, AFA, CDI, CDAA & NICB, April 2019

DDA Voge

- ✓ 30th Annual Anti-Fraud Conference, AFA, CDI, CDAA & NICB, April 2019
- ✓ CDAA 2018 Fraud Symposium, Garden Grove, October 2018
- ✓ Introduction to Workers' Compensation Fraud for Claimant and Premium Fraud, CDI Fresno Regional, August 2018

## Past Program Staff

### DDA Johnston

- ✓ CDAA Fraud Symposium, October 2017
- ✓ Premium and Medical Provider Fraud Training, Alameda County District Attorney's Office, February 2018
- ✓ California High Tech and Digital Evidence Symposium, CDAA, April 2018

### Investigator Gutierrez

- ✓ CDAA Fraud Symposium, October 2017
- ✓ Premium and Medical Provider Fraud Training, Alameda County District Attorney's Office, February 2018

### Investigator Cantu

- ✓ Premium and Medical Provider Fraud Training, Alameda County District Attorney's Office, February 2018

### Investigator Aide Dotson

- ✓ CDAA Fraud Symposium, October 2017

### Investigator Aide Clark

- ✓ Premium and Medical Provider Fraud Training, Alameda County District Attorney's Office, February 2018
- ✓ Basic Skills for the District Attorney Non-Sworn Investigator, American River College, March 2018

### Investigator Oakes

- ✓ CDAA Fraud Symposium, October 2017

- Describe what kind of training/outreach **you provided in Fiscal Year 2018-2019** to local Special Investigative Units, as well as public and private sectors to enhance the investigation and prosecution of workers' compensation insurance fraud. Also describe any coordination with the Fraud Division, insurers, or other entities.

As Tulare County doesn't have any SIUs in its jurisdiction, our focus remains on providing training to private sector businesses and public agencies, and outreach to the community at large. The following outlines the training and outreach provided by WC Program staff in FY 18/19.

- **July 2018 – Young's Trucking:** Provided informational presentations to both management staff and employees, reaching 99 total staff.
- **August 2018 – National Night Out:** Manned a booth at a large community event that drew 27 people to the booth to discuss workers' compensation insurance fraud.

- **September 2018 – Tulare County Fair:** Manned a booth that was visited by 223 people. Discussed workers' compensation fraud and handed out program brochures over the course of five nights.
- **October 2018 – Ruiz Foods:** Provided information presentations to 400 management staff and employees.
- **November 2018 – Farmworker Women's Conference:** Manned a booth that was visited by 51 people, providing information about workers' compensation rights and fraud.
- **February 2019 – World Ag Expo:** Manned a booth that was visited by 360 attendees. Discussed workers' compensation fraud and handed out program brochures over the course of three days.



- Describe what kind of training/outreach you plan to provide in Fiscal Year 2019-2020.

The WC Program staff will continue outreach efforts within the agricultural and business industry, including larger employers like Young's Commercial Transfer, Sunkist Growers, Ruiz Foods, and Setton Pistachio. The program staff will also continue to attend health fairs, the World Ag Expo, the Tulare County Fairs, the Farmworker Resource Fair, and other civic and community group events.

5. Describe the county's efforts and the district attorney's plan to obtain restitution and fines imposed by the court to the Workers' Compensation Fraud Account pursuant to California Insurance Code Section 1872.83(b)(4).

Obtaining restitution for victims and increasing the rate of collection in workers' compensation insurance fraud cases is a priority of our District Attorney and this program. The program prosecutor requests that the court order restitution and fines in every case possible, and to request restitution as a matter of probation or parole terms. The prosecutor also demands that restitution be part of any reduction of criminal charges, or early disposition of the case.

Once a conviction and order for restitution and/or fines have been obtained, the responsibility for their collection resides with the Tulare County Probation Department. The Investigator Aide works closely with the Probation Department to determine amounts paid, and ensure defendants are making payments as agreed. The Investigator Aide receives monthly updates, and alerts the program investigators when restitution isn't being paid as a condition of probation.

Over the past two fiscal years, we have collected \$61,703 in restitution, and \$10,715 in fines. With four defendants having sentencing and restitution hearings in May and June, and facing millions in restitution (the Ayala brothers alone are looking at just over \$6.8 million), this number is expected to increase.

6. Identify the performance objectives that the county would consider **attainable** and would have a significant impact in reducing workers' compensation insurance fraud. Project a count you expect to actively investigate. Do not include cases that are open and assigned but have little or no expectation of being worked.

Projection for FY 2019-2020:

- a. 32 new investigations will be initiated during FY 2019-2020
- b. 25 new prosecutions will be initiated during FY 2019-2020

Prior year's projection for FY 2018-2019:

- a. 30 new investigations will be initiated during FY 2018-2019
- b. 25 new prosecutions will be initiated during FY 2018-2019

7. If you are asking for an increase over the amount of grant funds awarded last fiscal year, please provide a brief description of how you plan to utilize the additional funds.

\$ <u>547,637</u> FY 2019-2020 Grant REQUEST	\$ <u>547,637</u> FY 2018-2019 Grant AWARD	\$0 <u>0</u> FY 2019-2020 Increase Requested
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Utilization Plan:

N/A

8. Local district attorneys have been authorized to utilize Workers' Compensation Insurance Fraud funds for the investigation and prosecution of an employer's willful failure to secure payment of workers' compensation as of January 2003. Describe the county's efforts to address the uninsured employer's problem.

To ensure employers, employees, and consumers are all protected to the fullest extent of the law, we continue to take an aggressive approach with the uninsured employer problem in Tulare County.

Field compliance checks at various business are conducted randomly throughout the year. The purpose of these compliance checks is to inform and educate local employers of the requirements of carrying the proper state-mandated contractor's license and workers' compensation insurance. All businesses that are found out of compliance are issued a 3700.5 letter. Investigators do a 30-day follow-up visit to check for compliance, often finding that the business has become compliant.

During this fiscal year, program investigators conducted 125 field compliance checks. Over half the businesses contacted were either in compliance with state law or were exempt from carrying insurance. Most of the remaining business owners were interviewed and educated in regards to their requirement to carry workers' compensation insurance.

For the remaining businesses, criminal investigations were opened. As a result, six businesses were charged with uninsured employer fraud, and seven business were investigated for premium fraud. Of those seven, one case resulted in four search warrants being served. That case is expected to be filed within the next two months. Four are pending assignment and two were reviewed and closed.

Several factors are considered when making the determination to file charges on a non-compliant business. This includes their level of knowledge of insurance requirements, business licensing issues, and most importantly, past contacts with our program investigators where they had already been advised of the requirements.

In the upcoming fiscal year, our investigators will be increasing the frequency of field compliance checks, continuing to educate businesses operating in Tulare County, as well continuing to criminally prosecute those who choose not to become compliant with the law.

Our office is also working on outreach materials designed specifically to educate business owners about the requirements of Labor Code 3700. These materials will be distributed during field contacts and at community outreach events. We also plan to distribute these materials to industry suppliers, including landscape material supply stores that are frequented by that industry. We hope that the one-two punch of providing targeted education, followed by strict enforcement of the law, will result in tremendous headway into leveling the playing field for all employers, as well as ensuring employees are protected while at work.

**Budget page 1**



**Budget page 2**

**Budget page 3**

FORM 13

**WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM  
 PROGRAM BUDGET: EQUIPMENT LOG  
 PRIOR FISCAL YEAR 2018-2019**

**COUNTY NAME:** Tulare

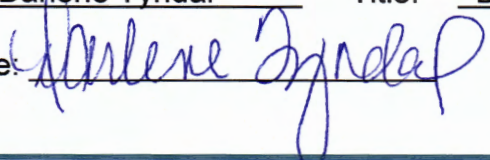
Equipment Ordered	Equipment Cost	Date Ordered	Date Received	Serial Number	Equipment Tag Number
Sony Cybershot DSC-RX10 Digital Camera	Equipment has been approved but not yet ordered				
Sony FDR-AX700 Camcorder	Equipment has been approved but not yet ordered				

Rows can be inserted as needed.

**No equipment purchased.**

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

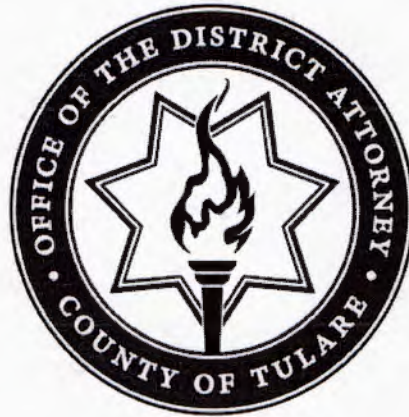
Name: Darlene Tyndal Title: DA Grants & Program Coordinator

Signature:  Date: 4/22/19

**ATTACHMENT A**  
**JOINT PLAN**

# **JOINT PLAN**

BETWEEN THE



**OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF TULARE  
TIM WARD, DISTRICT ATTORNEY**

AND THE

**CALIFORNIA DEPARTMENT OF INSURANCE  
FRAUD DIVISION  
CENTRAL VALLEY REGIONAL OFFICE**

**FISCAL YEAR 2019-2020**



## OVERVIEW

For over a decade, the Office of the Tulare County District Attorney (District Attorney) has been steadily moving forward in its investigation and prosecution of workers' compensation and automobile insurance fraud in Tulare County. Collaboration has been key to our success.

Our Automobile Insurance Fraud Program staff has been actively involved in the Central Chapter Western States Auto Theft Investigators (WSATI) Association, as well as the Tulare County Reduce Auto Theft Task Force (TRATT). In addition, we actively participated in the San Joaquin Valley Premium Fraud Consortium from 2005 to 2018, and have been an active participating member of the Central Valley Workers' Compensation Fraud Task Force (Task Force) since its inception on August 2, 2017. As spelled out in the Memorandum of Understanding (MOU) that governs this collaborative effort, the mission of the Task Force is to successfully investigate and prosecute all areas of workers' compensation fraud in the Central Valley counties focusing members' combined resources on complex medical fraud cases. In addition, the Task Force will work premium fraud and applicant fraud cases as directed by the Insurance Commissioner's goals and objectives.

This level of involvement has highlighted the problem of workers' compensation and automobile insurance fraud throughout the Central Valley, and has been a showcase for cooperation and collaboration. The ability to work closely with the myriad agencies involved in these collaborative groups has yielded significant investigative results and similar success in court.

## STATEMENT OF GOALS

As the workload increases for both the District Attorney and the Fraud Division, strong communication and the efficient use of current resources are essential if we are to work together to effectively combat insurance fraud in Tulare County. Therefore, the District Attorney and Fraud Division agree to work together to achieve our overarching goal: **effectively investigate and prosecute those who commit insurance fraud in Tulare County.**

To that end, we have identified five goals and accompanying objectives that not only allow us to meet the larger goal, but also align with objectives identified by Insurance Commissioner Ricardo Lara (Medical Provider Fraud, Performance and Continuity Within the Program, Outreach, and Balanced Caseload) and the Fraud Assessment Commission (Funding of and Performance Within the Program, Joint Plans and Memorandums of Understanding, Outreach and Public Awareness, and Balanced Effort Against all Types of Fraud).

Both parties agree to investigate cases having the greatest financial impact on the workers' compensation system in Tulare County, while continuing to provide outreach to the community to deter insurance fraud and reduce the overall occurrence of these types of crimes.

Each agency agrees that anti-fraud efforts must be conducted in a cost effective and efficient manner with professionalism, productivity and effectiveness being the overriding principles governing the relationship.

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## **JOINT PLAN GOALS**

### **GOAL 1: Promote the Efficient and Effective Usage of Finite Investigative Resources Resulting in Convictions**

#### **Objective 1-1: Avoid Any Duplication of Investigations**

A continual concern of interested parties, from insurance carriers to the Fraud Assessment Commission, is the efficient usage of investigative resources. A review of the cases investigated and prosecuted reveals no cases handled by the District Attorney have experienced an overlap or duplication of investigation with the Fraud Division. To continue this record the following activities are established:

##### *Activities:*

- All case referrals to the Fraud Division or the District Attorney shall be logged in a database;
- On a monthly basis or as needed, the Fraud Division Staff and the District Attorney Investigators shall confer and compare referral postings; and
- Each office will, on a monthly basis or as needed, provide a confidential list of cases referred and opened for investigations by each office.

#### **Objective 1-2: Institute Pre-Investigation Review of Suspected Fraud Referrals**

A percentage of suspected fraud referrals do not warrant prosecution for several reasons. Identifying such cases immediately will eliminate the fruitless usage of investigative resources. Furthermore, pre-investigation review can provide information that better utilizes investigative resources.

Fraud Division detectives shall confer with the Deputy District Attorney to review suspected fraud referrals, as necessary, prior to initiating an investigation.

#### **Objective 1-3: Facilitate Expedient Filing Review of Submitted Investigations**

Expedient but careful review of cases submitted for prosecution is in the best interests of both agencies. Such review allows for a redeployment of investigative resources when necessary, the freeing of resources for other cases, and the efficient allocation of prosecution resources. The complexity of cases impact the rapidity of prosecution review, but in all cases, the intent is to expeditiously render a filing decision.

##### *Activities:*

- All investigative case referrals to the District Attorney for a filing decision shall be resolved within 60 days of the referral date except in cases of significant complexity;
- In complex cases, the Deputy District Attorney and the submitting Detective shall confer and develop a reasonable timeline for review and decision;



- All case referrals for filing at a minimum shall include:
  - 1) All investigative narrative reports;
  - 2) List of witnesses interviewed;
  - 3) Copies of recorded witness interviews;
  - 4) Statement from the suspect(s) if available;
  - 5) Copies of any sub rosa video footage if available;
  - 6) Copy of relevant documents from the insurance claim file;
  - 7) Copy of relevant correspondence between suspect(s) and carrier;
  - 8) Relevant medical records;
  - 9) Any other relevant documentation such as, but not limited to, accounting reports, canceled checks, or cell phone records; and
  - 10) The full insurance file or medical file in the possession of the Fraud Division will be made available on request.
  
- Cases shall be filed when the evidence presented in the referral proves each element of the offense sufficiently. Sufficiency of proof means a legal and ethical presentation to a jury by a prosecutor is not merely a possibility but is professionally sustained.
  
- A prosecutor will be assigned to each investigation to assist in any legal issues and to ensure that all elements of the case are present to meet charging requirements. This teamwork will reduce unnecessary investigative work and insure that an investigation is terminated at the earliest possible time if it becomes apparent that no further amount of work would result in a prosecution.

**Objective 1-4: Consent to Record Lawful Communications per Penal Code §633**

Pursuant to California Penal Code §633, the District Attorney's Office shall authorize any peace officer employed by the California Department of Insurance, Fraud Division to surreptitiously record any communication that can be lawfully overheard or recorded in connection with any criminal investigation involving workers' compensation insurance fraud in the County of Tulare. This authorization shall remain in effect for the 2019-2020 fiscal year. The District Attorney's Office shall have the right to withdraw this authorization by written notice to the Department of Insurance, Fraud Division.

**GOAL 2: Facilitate Communication Between the Fraud Division and the District Attorney**

**Objective 2-1: Establish Criteria for Request of Fraud Division Resources**

Criteria for requesting the use of Fraud Division resources shall include the following:

- Cases requiring multiple search warrants;



- Very complex cases; and
- Cases requiring audit services when the District Attorney's forensic auditor is not available.

**Objective 2-2: Open Information Sharing**

Any information held by each office pertaining to a referral can either provide further leads or preclude the need for an investigative function. The sharing of such information will save time thereby increasing the efficiency of investigations.

***Activities:***

- On a weekly basis or as necessary, Fraud Division Staff and the District Attorney Investigators shall inform the other of investigative information available on new referrals.
- Information pertaining to open investigations shall be transmitted expeditiously.
- Certified Court Minute Orders on all workers' compensation convictions/sentencing will be provided to the Central Valley Regional Office as soon as possible.

**Objective 2-3: Create and maintain active linkage**

Due to the demands of case investigations, active linkage can be a problem. Our good intentions of networking may fall to the wayside when a crucial witness needs to be interviewed. Creating and maintaining a consistent time for face to face interaction will provide a forum to share information, exchange ideas, build continuity and thereby increase the efficiency of investigations.

***Activities:***

- As designated by the respective agencies, Fraud Division Staff and the District Attorney Investigators shall meet face to face alternately in Fresno and Visalia.
- On a quarterly basis or periodically as established, Fraud Division staff and the Investigators from the District Attorney will participate in the Central Valley Workers' Compensation Fraud Task Force meetings.

**Objective 2-4: Expeditious Conflict Resolution**

Despite open communication and the best intentions, conflicts and differences of opinion may develop periodically. The expeditious discussion of such conflict will not only save time, thereby increasing the efficiency of investigations, but further enhance the working relationship between agencies.

***Activities:***

- As needed, Fraud Division staff and the District Attorney investigators shall

- update each other on investigative information available;
- In the event a conflict between detectives or with prosecutors develops, using the open lines of communication established, the detectives or prosecutors will seek resolution. If a resolution can not be achieved at this level, the immediate supervisors shall jointly meet with the detectives/prosecutors to seek resolution. It is anticipated that most, if not all conflicts will be resolved by this step; and
- If a conflict persists, the Captain of the Fraud Division and the Chief Investigator for the District Attorney shall meet and confer.

**Objective 2-5: Joint Case Development**

The two agencies shall communicate at collaborative meetings during the Central Valley Workers' Compensation Fraud Task Force to identify any complex, multi-jurisdictional cases that would require in depth investigative efforts across agencies. Once a joint case is identified, the two agencies agree to:

- Set a date for the initial meeting between the Fraud Division detectives and the Deputy District Attorney within two weeks of identifying such cases; and
- Communicate on a weekly basis or as needed depending on the complexity of the case and any new information that becomes available.

**GOAL 3: Increase the Level of Confidence and Trust Between the Fraud Division and the District Attorney**

**Objective 3-1: Develop Uniform Investigative Skills and Knowledge**

Confidence and trust between agencies will be enhanced by sharing a common skill and knowledge base. Investigators must rely on one another. Understanding and knowing investigators from either agency operate with the same levels of skill, knowledge and experience will foster team building and interoperability.

*Activities:*

- Conduct quarterly informal joint training on topics and issues relevant to fraud investigations and prosecutions; and
- Since no SIUs exist in Tulare County, investigators from the Fraud Division District Attorney will create a joint training that can be offered to law enforcement agencies and self-insurers in Tulare County when a need is identified; and
- Jointly attend the annual CDAA sponsored insurance fraud training.

**Objective 3-2: Develop a Uniform Investigative Report Format**

A uniform investigative report format will assist either agency in readily comprehending



information contained in reports. Using similar formats will promote consistency in investigations thereby increasing confidence in such investigations.

***Activities:***

- Begin regular meetings between Fraud Division and the District Attorney to develop uniform reporting format.

**GOAL 4: Conduct High Impact Joint Investigative Operations**

**Objective 4-1: Provide Mutual Assistance on Major Investigative Operations**

Mutual assistance is currently a part of the working relationship between the Fraud Division and the District Attorney. This Joint Plan continues this policy.

***Activities:***

- Assist on search warrants requiring multiple location service;
- Provide back up support on arrest warrants where necessary; and
- Where appropriate, conduct undercover operations.

**Objective 4-2: Conduct Undercover Operations Where Appropriate**

Undercover operations at times are the only effective means of addressing particular types of fraud such as provider fraud or mill activity. In order to maximize the potential for success, both agencies agree to work cooperatively and where appropriate, jointly.

***Activities:***

- Undercover operations by either agency shall be conducted according to current legal standards and in deference to the safety of the agents and the public.
- Such undercover operations whether conducted separately or in conjunction, shall be confidentially disclosed to avoid any negative outcomes.
- Command and control of the undercover operation shall reside with the agency initiating the activity unless by mutual agreement command is transferred.
- In a case where there will be a "joint" undercover investigation, there will be a joint operational plan prepared prior to the start of the investigation, which outlines and specifies the goals and objectives of the investigation, as well as the duties and responsibilities, including personnel and financial responsibilities of each of the parties in the investigation.

**Objective 4-3: Conduct a High Profile Joint Operation Targeting Uninsured**

## **Employers**

A multiple agency operation targeting uninsured employers is intended to make a major impact in the region. A joint operation increases the reach and also the opportunity for media coverage.

### ***Activities:***

- Develop targeting plan;
- Assemble participating agencies; and
- Conduct operation in the second quarter of the fiscal year.

### **Objective 4-4: Stay Involved with the Central Valley Workers' Compensation Fraud Task Force**

Both premium fraud cases and medical fraud cases can be major undertakings for any agency. Often these cases involve multiple counties and agencies. This region-wide Task Force, composed of investigators from District Attorney offices throughout the San Joaquin Valley and detectives from the Fraud Division (along with the Employment Development Department and the Franchise Tax Board) will jointly investigate major premium fraud and medical fraud cases without regard to in which county the case originated. The Task Force will then provide investigative support on the case when prosecuted in the designated county. The Task Force will also conduct high visibility regional enforcement of uninsured businesses.

### ***Activities:***

- Attend regular Task Force meetings between the Fraud Division and the District Attorney offices in the region;
- Continue operating under the MOU for the Task Force; and
- Seek an appropriate level of funding to operate and maintain the Consortium.

## **GOAL 5: Increase Fraud Awareness in the Business Community, Labor Sector and the General Public Through Educational Activities**

### **Objective 5-1: Educate Businesses**

#### ***Activities:***

- As needed, conduct business forums on insurance issues relevant to the business community;
- Conduct training for businesses on site regarding insurance fraud; and
- Create public service messages directed at business.



**Objective 5-2: Create Deterrent Factors**

*Activities:*

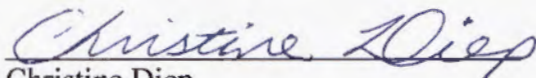
- Publicize every conviction through all media formats;
- Use real case information in all presentations regarding insurance fraud, including sub-rosa tapes, video interviews and testimonials where available;
- Submit conviction information to trade publications, union newsletters, and through local chambers of commerce; and
- Create public service messages.

It is the intent of each agency to efficiently and effectively investigate and prosecute Workers' Compensation Insurance Fraud and Automobile Insurance Fraud. We are committed to these programs and will work diligently to ensure their success.



Tim Ward  
District Attorney  
Office of the District Attorney  
County of Tulare

4/4/19  
Date



Christine Diep  
Captain  
California Department of Insurance  
Fraud Division, Central Valley Regional Office

4/4/19  
Date

**ATTACHMENT B**  
**CONFIDENTIAL DOCUMENT**