

Attachment A Joint Plan

1

**SAN BERNARDINO COUNTY
Automobile Insurance Fraud Program**

**Joint Investigative Plan between the Inland Empire Fraud
Division Regional Office and the San Bernardino District
Attorney's Office Fiscal Year 2021-2022**

GOALS

The long-term goal of both agencies is to reduce Automobile Insurance Fraud in San Bernardino County through efficient investigation and prosecution of cases and individuals who commit fraud and, through community outreach, to educate and deter others from committing fraud.

The short-term goals are to (1) identify and maintain, during the entire grant period, named detective(s) and prosecutors dedicated to the investigation and prosecution of Automobile Insurance Fraud cases in San Bernardino County and (2) implement a vertical prosecution litigation plan on every case to identify and manage cases for investigation and prosecution to pursue those cases likely to result in successful prosecution, avoid duplication of effort, coordinate resources, and bring investigations to a timely conclusion using reasonable resources.

INTAKE

This plan recognizes that each agency has their individual procedures for accepting, reviewing and evaluating a SFC, documented referral or investigative lead.

For the Fraud Division, a Detective Sergeant will review the SFC, documented referral or investigative lead to determine if an investigation is warranted. The Detective Sergeant will then assign the SFC, documented referral or investigative lead to a detective and notify the District Attorney's Office (DA) that the case is being assigned. The detective will then order the claim file. Once the claim file has been received and reviewed (and it is determined an investigation is warranted), the detective will contact the

prosecutor to schedule a meeting to further evaluate the SFC, documented referral or investigative lead.

VERTICAL PROSECUTION

Vertical prosecution has been recognized to be the best process to follow when dealing with insurance fraud cases.

The Fraud Division Detective will contact the Deputy District Attorney (DDA) in the Automobile Insurance Fraud Unit and advise him of the new case and the need to handle the case. The detective will provide a synopsis of the case, indicating the type of the case, number of suspects and the complexity. The Automobile Insurance Fraud attorney will evaluate the information and notify the investigator of his assessment. This should occur within ten working days. The prosecutor and investigator will then meet and implement the investigation/litigation plan.

The DDA assigned to the case from the beginning will remain with the case through prosecution. This system will allow the detective to meet with and develop a litigation/investigative plan with the DDA, who will file and prosecute the case. If the prosecutor and detective decide to conduct an investigation, a litigation/investigative plan will be developed. The detective and prosecutor will discuss the parameters of the case investigation, the resources required for the investigation and the time frame anticipated for completing the investigation. The prosecutor will detail the investigative items required for a case filing.

After the initial meeting between the DDA and the Fraud Division Detective, additional discussions will continue as necessary to identify progress on the case investigation. The litigation team of prosecutor and Fraud Division detective will discuss any required modifications to the litigation/investigative plan, confirm case priorities and time-tables, resources and whether the case should proceed or if the investigation is unproductive and should be curtailed. The prosecutor will explain investigative requests and will provide legal advice during these discussions. For submitted or filed cases, the

prosecutor will update the Fraud Division detective on the status of the case. Issues concerning preparing discovery will be discussed during these meetings. These meetings will continue until the conclusion of the case.

Following the initial litigation/investigative plan meeting, if no additional action is warranted, no investigation will be initiated, and the DDA will prepare a letter to the reporting party and the case detective indicating that no additional investigation will be pursued.

The San Bernardino District Attorney's Office intake procedure differs from the procedures used by the Fraud Division, in that, a DDA will review all the SFC, documented referral or investigative leads. If warranted, the claim file is ordered. E-mail will be sent from the District Attorney's office to the Inland Empire Fraud Division Regional Office announcing this fact. Once the file is received, the DDA will review the material to determine if an investigation is warranted. If it is determined an investigation is warranted, the DDA will prepare an investigative request and the file will be sent to the District Attorney's Supervising Investigator for pre-investigation and review.

At this point, an email announcing the assignment of the case to DA Investigations will be sent to the Inland Empire Fraud Division Regional Office.

If a simultaneous dual referral occurs, the Fraud Division's Detective Sergeant and the DA's Supervising Investigator will confer and decide which agency shall investigate the case, or whether a joint investigation is desired.

If the Inland Empire Fraud Division cannot initiate an investigation due to a lack of resources, the Inland Empire Detective Sergeant will provide a copy of the referral to the San Bernardino District Attorney's Office.

Ultimate prosecution or non-prosecution decisions shall remain entirely within the discretion of the District Attorney's Office. The prosecutor shall retain sole charging, filing and settlement authority for all cases, but will

confer with the filing detective for recommendations.

All cases under investigation will be integrated into the litigation plan approach.

REGIONAL MEETINGS

On a bi-monthly basis, the DDA and District Attorney Investigators from San Bernardino County will meet with the detective sergeant and detectives of the CDI Inland Regional Fraud Division assigned to automobile insurance fraud cases to discuss progress of individual cases, trends, resources, and outreach. The Inland Empire Regional Office will host these meetings.

UNDERCOVER OPERATIONS

Undercover operations will be conducted safely, professionally and in accordance with the laws of the State of California, and the individual policies of the agencies conducting the undercover activity shall apply. The use of informants shall comply with the laws of the State of California and the individual policies of the Joint Plan participants. The Fraud Division has been provided a copy of the San Bernardino County policy for use of informants as a confidential attachment. The use of informants will be discussed at the litigation/investigative plan meetings. The Fraud Division Detective Sergeant and DA Supervising Investigator will coordinate the use of investigator resources. The continuing viability of ongoing operations will be discussed at the litigation/investigative plan meetings.

DOCUMENT STORAGE AND DISCOVERY

When an investigation appears likely to produce an exceptionally large amount of documentary evidence, the two agencies agree to consult early in the investigation regarding the storage of, copying of, and access to such evidence to simplify procedures and minimize costs.

CASE FILING REQUIREMENTS

Filing requirements for cases will be discussed during the litigation/investigative plan conferences between prosecutor and detective. As a prerequisite to filing a criminal case, the San Bernardino District Attorney requires that the prosecutor must be convinced there is sufficient legally admissible evidence to establish guilt beyond a reasonable doubt to a jury, on each defendant, and for every element of all charges and allegations.

As a general guideline, the following material must be provided to the District Attorney's Office for a case to be reviewed:

- A complete copy of investigative reports including reports of interviews, copies of all search warrants and affidavits in support of search warrants; an index and summary of all documents, photographs, videos; and other evidence that supports the charges.
- A complete copy of the claim file, including complete (non-redacted) claim file notes.
- All exculpatory evidence in the possession of the investigating agency, or of which it has knowledge, including evidence related to the credibility of witnesses, including information related to bias, motive and inducements to testify.
- Copies of, or access to, all documents recovered in the course of the investigation, and a contact person to assist in discovery requests regarding the materials. (Copies of all documentary evidence may be required once the case is filed.)
- A list of all anticipated witnesses, including their addresses, telephone numbers, and dates of birth (dates of birth are not required for law enforcement personnel) contained on a separate sheet of paper. Any confidential personal identifying information of witnesses or victims contained in the narrative portions of the investigative reports shall be redacted

by the investigative agency in the court copy of the report.

- Complete rap sheets (CII, FBI) on all suspects and witnesses (except law enforcement personnel).
- Department of Motor Vehicles printouts and photos on all suspects.
- Information pertaining to any inducements or agreements regarding the giving of information or testimony that may have been made to witnesses. The use of informants or cooperating witnesses shall be strictly governed by the District Attorney's policy regarding use of informants and/or cooperating witnesses.
- The name and telephone number of the Fraud Division Detective responsible for signing the declaration to support the arrest warrant, and for conducting additional investigation, if necessary.
- A certified copy of any depositions (if applicable).

The Deputy District Attorney assigned to the case will make a filing determination as quickly as practicable, and unless there are unforeseen circumstances, within no more than 20 working days of the case submission for filing. If additional investigation is needed, the reviewing prosecutor will notify the case investigator immediately. The case investigator will complete the additional investigation as soon as reasonably possible and provide the prosecutor with status updates at a minimum of every ten working days until the investigation is completed. If a case is rejected for prosecution, the prosecutor will prepare a letter in writing stating the reason(s) for the rejection and provide the letter to the case investigator within ten working days of the rejection. The case investigator will, in turn, notify the complaining party.

Both the District Attorney and the CDI-Fraud Division shall notify each other within twenty (20) working days after closing a case, whether or not the closing of that case included the completion of a report of investigation, or after having decided not to work a case for any reason.

TRAINING

The two agencies will work together to identify and provide requested training on specific legal issues to each other, insurance company personnel, SIU's, and local law enforcement agencies.

PROBLEM RESOLUTION

As prosecutors and detectives work together in implementing the Litigation/Investigative Plan, and through the use of vertical prosecution, most issues will be resolved before they become problems. If the problems arise at the case initiation state, they will be resolved between the CDI Fraud Division detective and the Automobile Insurance Fraud DDA. The CDI Fraud Division Sergeant and the Supervising Deputy District Attorney will resolve issues that cannot be resolved by the detective or the prosecutors. The CDI Fraud Division Captain and the Special Units Chief Deputy District Attorney will resolve issues that cannot be resolved between the CDI Detective Sergeant and Supervising Deputy District Attorney.

INFORMATION EXCHANGE

Lists of open investigations including status and assigned personnel will be provided to the San Bernardino District Attorney's Office by the Fraud Division, and a similar report will be provided by the San Bernardino District Attorney's Office to the Inland Empire Fraud Division Regional Office regularly.

ASSESSMENT OF PERFORMANCE

The Supervising Deputy District Attorney and the CDI Captain will meet regularly to assess the successes and failures in meeting the goals of the program.



Eric Hood, Captain
Inland Empire Fraud Division
California Department of Insurance

Date: March 16th, 2021



Robert Brown
Chief Deputy District Attorney
San Bernardino County District Attorney

Date: June 17, 2021