



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-11

For the meeting of: December 15, 2015

Date: December 2, 2015
To: Board of Supervisors
From: Maggie Fleming, District Attorney *M. Fleming*
Subject: Grant Award for Fiscal Year (FY) 2015-16 Automobile Insurance Fraud Program

RECOMMENDATION(S):

That the Board of Supervisors:

1. Adopt the attached Resolution accepting the Grant Award from the State of California for the Automobile Insurance Fraud Program FY 2015-16 ;
2. Approve the attached supplemental budget in Fund 1100, Budget Unit 205, District Attorney (4/5 vote); and
3. Direct the Clerk of the Board to process and return the Resolution to the District Attorney's Office, attention Rachelle Davis, for further processing and submission to the State.

SOURCE OF FUNDING:

State of California, Department of Insurance and the General Fund

DISCUSSION:

The Office of the District Attorney (DA) has received notification of grant funding through the State of California – Department of Insurance, for the period July 1st 2015 through June 30th 2016, to continue the Automobile Insurance Fraud Program in the amount of \$88,785.

Prepared by: Rachelle Davis

CAO Approval *Angie Wiser*

REVIEW:

Auditor *MBM*

County Counsel _____

Personnel _____

Risk Manager _____

Other _____

TYPE OF ITEM:

☒ Consent
☐ Departmental
☐ Public Hearing
☐ Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor *Lovdace*

Seconded by Supervisor *Bass*

And unanimously carried by those members present,

The Board hereby adopts the recommended action contained in this report.

PREVIOUS ACTION/REFERRAL:

Board Order No. C-13, C-9 _____

Meeting of: November 4, 2014, July 6, 2010

Dated: *Dec. 15, 2015*

Kathy Hayes, Clerk of the Board

By: *Angie Wiser*

This is the seventh year the District Attorney has participated in this program. The funds will be used locally to continue to fund a .50 extra help District Attorney Investigator and a .20 full time equivalent (FTE) Deputy District Attorney to investigate and prosecute all forms of claimant and premium fraud. Both Del Norte and Trinity County District Attorney's Offices have entered into an annual agreement for the duration of each fiscal year grant award with the Humboldt County District Attorney to develop a regional Insurance Fraud Unit. The resources here in Humboldt County will be available to investigate and prosecute automobile insurance fraud cases in those counties.

In addition, the Insurance Fraud Unit will provide information regarding what constitutes automobile insurance fraud and how to report it to the insurance companies that provide automobile insurance to the region and to the public.

FINANCIAL IMPACT:

Acceptance of the one year grant award will allow the District Attorney to be reimbursed up to a maximum of \$88,785 for services performed in accordance with the scope of work described in the grant for the period of July 1, 2015 through June 30, 2016. The anticipated grant award was originally budgeted in the amount of \$46,950.00 for the FY 2015-16. In acceptance of the grant award and carry over funding from the FY2014-15 there is a supplemental amount of \$41,835. This will be used to supplement extra help and overtime salaries due to a lull in automobile investigations along with enhance staff development and training due to employee turnover. These funds will also be utilized for the expense of expert witness fees during prosecution and communication costs. The program will fund .70 FTE employees. Approval of this agenda item supports the Board's strategic framework by creating opportunities for improved public safety and providing community appropriate levels of service with the use of outside funding sources to benefit Humboldt County needs.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board may decide not to accept the grant award from the State of California, however, this is not recommended. Non acceptance of the grant award will cause a loss of revenue for the Humboldt County District Attorney. This would leave the community, as well as, the region without an Automobile Insurance Fraud Investigator. Additionally, the lack of this position will reduce the staff and effectiveness of the Humboldt County District Attorney's office, since this position also provides an additional resource for other investigative needs within the District Attorney's office.

ATTACHMENTS:

1. Grant Award Letter
2. Resolution
3. Joint Investigation Plan
4. Supplemental Budget

cc: Auditor-Controller

DEPARTMENT OF INSURANCEGeorge Mueller, *Deputy Commissioner***ENFORCEMENT BRANCH**

9342 TECH CENTER DRIVE, SUITE 100

SACRAMENTO, CA 95826

(916) 854-5760

(916) 255-3202 (FAX)

www.insurance.ca.gov



November 6, 2015

via email

Rachelle Davis
Legal Office Business Manager
Humboldt County District Attorney's Office
825 5th Street, 4th Floor
Eureka, CA 95501

RE: FY 2014/15 Automobile Insurance Fraud Program – Carryover

Dear Ms. Davis:

We received your County's request to carryover unexpended Fiscal Year (FY) 2014/15 Automobile Insurance Fraud Program grant funds into FY 2015/16. After careful review, **FY 2014/15 Carryover in the amount of \$18,785 is approved.**

If the independent auditor's report determines a different carryover amount, the County is required to submit a modified budget. In addition, the FY 2015/16 Budget that was submitted with your carryover request is approved.

FY 2015/16 grant funding is:

FY 2014/15 Carryover Approval:	\$ 18,785
FY 2015/16 Grant Award:	\$ 70,000
FY 2015/16 Total Funding:	\$ 88,785

Please note: In FY 2014/15, the County's unexpended grant funds were more than 25% of the grant award. Be advised that if the FY 2015/16 total funding above is not expended, it may affect future grant awards and/or the County may be asked to return the unexpended funds.

Thank you for your commitment to the program. Through our coordinated efforts, we make a difference in the fight against automobile insurance fraud in California.

For administrative questions, please contact Marita Kwiatkowski, Local Assistance Program Analyst, at (916) 854-5818 or Marita.Kwiatkowski@insurance.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Martin Gonzalez", is written over a series of horizontal lines.

MARTIN GONZALEZ

Division Chief, Fraud Division

cc: Wayne Cox, Chief Investigator
Shawn Ferris, CDI Bureau Chief

**INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

GRANT AWARD AGREEMENT

Fiscal Year 2015-16

Automobile Insurance Fraud Program

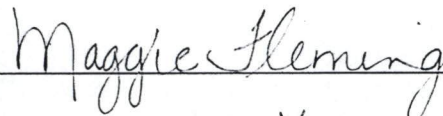

The Insurance Commissioner of the State of California hereby makes an award of funds to **Humboldt County**, Office of the District Attorney, in the amount and for the purpose and duration set forth in this grant award.

This grant award consists of this agreement and the application for the grant and made a part hereof. By acceptance of the grant award, the grant award recipient agrees to administer the grant program in accordance with all applicable statutes, regulations and Request-for-Application (RFA).

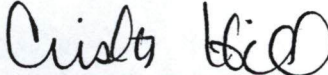
Duration of Grant: The grant award is for the program period, **July 1, 2015 through June 30, 2016.**

Purpose of Grant: This grant award is made pursuant to the provisions of California Insurance Code §1872.8 and shall be used solely for the purposes of enhanced investigation and prosecution of automobile insurance fraud and economic car theft cases.

Amount of Grant: The grant award agreed to herein is in the amount of **\$70,000**. This amount has been determined by the Insurance Commissioner. However, the actual total award amount for the county is contingent on the collection and the authorization for expenditure pursuant to the Government Code §13000 et seq. The grant award shall be distributed pursuant to §1872.8 of the Insurance Code and the California Code of Regulations Sub-Chapter 9, Article 4, §2698.65.

<p>Official Authorized to Sign for Applicant/Grant Recipient</p> <p style="text-align: center;"></p> <p>Name: Maggie Flemming Title: District Attorney</p> <p>Address: 825 5th Street Eureka, CA 95501</p> <p>Date: <u>Sept 24, 2015</u></p>	<p>DAVE JONES Insurance Commissioner</p> <p style="text-align: center;"></p> <p>Name: George Mueller Title: Deputy Commissioner</p> <p>Date: <u>10/19/2015</u></p>
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I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purposes of this expenditure.


Crista Hill, Budget Officer, CDI

10/7/15
Date

RESOLUTION 15-128

BOARD OF SUPERVISORS' RESOLUTION
for Fiscal Year 2015-2016

WHEREAS the Humboldt County Board of Supervisors desires to undertake a certain program designated Automotive Insurance Fraud Program to be funded in part from funds made available through California Insurance Code Section 1872.8, California Code of Regulations, Title 10, Section 2698.60 et. Seg. and administered by the California Department of Insurance.

NOW, THEREFORE, BE IT RESOLVED that the District Attorney of the Humboldt County District Attorney's Office is authorized, on its behalf, to submit the attached proposal to the California Department of Insurance and is authorized to execute on behalf of the Board of Supervisors the attached Grant Award Agreement including any extensions or amendments thereof.

BE IT FURTHER RESOLVED that the grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Humboldt County Board of Supervisors in a meeting thereof held on December 15, 2015 by the following:

Vote Mover: Supervisor Lovelace Second: Supervisor Bass

Ayes: 5 Sundberg, Lovelace, Fennell, Bohn, Bass

Noes: —

Absent: —

Signature: Estelle Fennell Date: December 15, 2015

Typed Name and Title:

11. Estelle Fennell, Board Chair

ATTEST: Signature: Kathy Hayes, Deputy Date: December 15, 2015

Typed Name and Title:

14. Kathy Hayes, Clerk of the Board

**INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

GRANT AWARD AGREEMENT

Fiscal Year 2015-16

Automobile Insurance Fraud Program

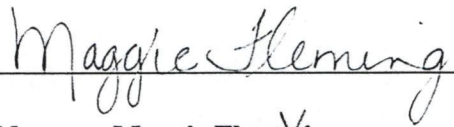

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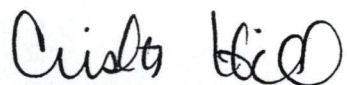
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Vote

Ayes: _____

Noes: _____

Absent: _____

Signature: _____ Date: December 15, 2015

Typed Name and Title:

11. Estelle Fennell, Board Chair

ATTEST: Signature: _____ Date: December 15, 2015

Typed Name and Title:

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**INSURANCE COMMISSIONER
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GRANT AWARD AGREEMENT

Fiscal Year 2015-16

Automobile Insurance Fraud Program

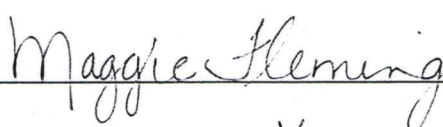

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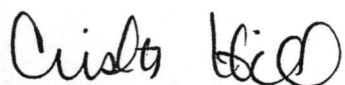
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Official Authorized to Sign for Applicant/Grant Recipient	DAVE JONES Insurance Commissioner
	
Name: Maggie Flemming	Name: George Mueller
Title: District Attorney	Title: Deputy Commissioner
Address: 825 5th Street Eureka, CA 95501	
Date: <u>Sept 24, 2015</u>	Date: <u>10/19/2015</u>

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GRANT AWARD AGREEMENT

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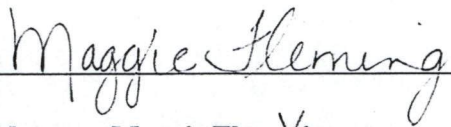

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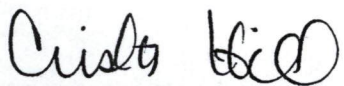
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Fiscal Year 2015-16

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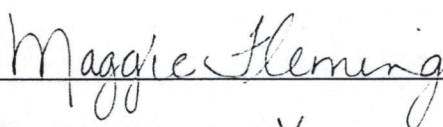

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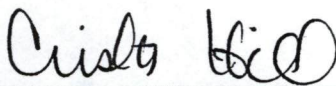
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Crista Hill, Budget Officer, CDI

10/7/15

Date



Office of the District Attorney
825 Fifth Street, Fourth Floor
Eureka, CA 95501
TEL 707.445.7411
FAX 707.445.7416
districtattorney@co.humboldt.ca.us

Maggie Fleming
District Attorney

JOINT INVESTIGATIVE PLAN
Between
CALIFORNIA DEPARTMENT OF INSURANCE, FRAUD DIVISION
And
HUMBOLDT COUNTY DISTRICT ATTORNEY
DEL NORTE COUNTY DISTRICT ATTORNEY
TRINITY COUNTY DISTRICT ATTORNEY

Fiscal Year 2015-2016

INTRODUCTION:

The parties to this joint plan are the California Department of Insurance Fraud Division, the Humboldt County District Attorney's Office Fraud Unit, Del Norte County District Attorney's Office and the Trinity County District Attorney's Office.

The parties to this joint investigative plan recognize that the Fraud Division was established to investigate allegations of insurance fraud throughout the State of California and are the primary investigative agency in this field. However, while the headquarters for the Fraud Division in Northern California is based in Benicia, its investigative responsibilities encompass thirty-five counties in the Auto Insurance Fraud program and reside 6-7 hours from Humboldt County.

Due to this geographical distance, it is unrealistic to expect investigative assistance from the Fraud Division Office in Benicia on a regular basis. This Joint plan will ensure that thorough investigation and prosecution of Auto Insurance fraud is addressed.

STATEMENT OF GOALS:

Humboldt County, Del Norte County and Trinity County District Attorney's Offices have established the following Joint Investigative Plan goals for FY 2014-2015:

- To establish an effective and efficient Investigative Fraud Unit within the Humboldt County District Attorney's Office to begin collecting and handling Auto Insurance fraud cases occurring within the jurisdictional boundaries of Humboldt, Del Norte and Trinity Counties.
- To establish and maintain close working relationships between the Humboldt, Del Norte and Trinity County District Attorney's Offices and to provide assistance in handling the investigation and prosecution of potential and suspected Auto Insurance Fraud cases.
- To establish and promote a close working relationship with the Fraud Division based on detecting, prosecuting, and deterring fraudulent Auto Insurance Fraud claims.

- The District Attorney's Office reserves the right to utilize prosecutorial discretion when necessary to reject a case. Both parties will make every effort to avoid rejection and attain successful prosecutions.
- The Fraud Division and the assigned Humboldt County District Attorney Investigator agree to meet a minimum of once a year to review working relationships between both parties.

UNDERCOVER OPERATIONS:

Both parties recognize the importance of undercover investigations in developing evidence to prove a suspected fraud. The DA's Fraud Unit will be notified and provide assistance upon request. In a case when there will be a joint undercover investigation a memorandum of understanding (MOU) will be prepared prior to the start of the investigation to outline the goals and objectives of the investigation.

INVESTIGATIONS AND REPORTS:

- Investigations of suspected insurance fraud cases will focus on the establishment of probable cause for arrest and the attainment of sufficient evidence for successful prosecution.
- The Unit investigator will provide the prosecutor with an investigative report, which includes alleged offenses, evidence, witnesses, addresses, and any other supportive documentation.
- The report shall contain legally sufficient, admissible evidence of the crime to be charged;
- The prosecutor shall consider the probability of conviction by an objective fact-finder hearing the admissible evidence.

Ethics and Responsibility for the California Prosecutor. Third Edition, California District Attorney's Association. When submitting a case for prosecution, the Investigator should present a complete investigative package, including an arrest warrant declaration, a case summary, which outlines the offenses, the details of the investigation, the evidence available to prove the charges, a list identifying the necessary witnesses, and a tabbed index of the supporting documentation and exhibits. All Fraud Division reports must comply with Penal Code Section 964.

TRAINING:

The Deputy District Attorney and Unit Investigator assigned to the Auto Insurance Fraud Grant will participate in regularly scheduled training sponsored by the California District Attorneys Association, California District Attorney's Investigators Association, P.O.S.T., and other such training as may be warranted by budget constraints.

- To establish and promote a close working relationship with the Fraud Division based on detecting, prosecuting, and deterring fraudulent Auto Insurance Fraud claims.
- To establish public awareness of Auto Insurance Fraud laws and enforcement by the direct efforts of the District Attorney's Office through community outreach with local insurance company representatives, service providers, local business groups and allied fire and law enforcement agencies.
- To strive to investigate and prosecute when appropriate, identifiable cases of Auto Insurance Fraud with a commitment to the standards of professional and ethical conduct.

RECEIPT AND ASSIGNMENT OF CASES:

Present law requires that an insurer who knows or reasonably believes that an act of auto insurance fraud has been committed report this information to the California Department of Insurance, Fraud Division and the local District Attorney (Insurance Code 1877.3).

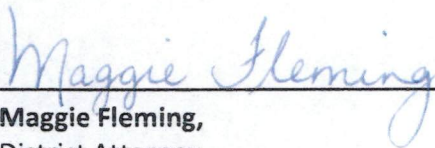
- When a suspected fraudulent claim (SFC) or a case referral package is received from an insurer, it will be entered into a database. Both parties will maintain a case tracking system to monitor all SFC's and case referral packages received and will strive to maintain communications as to the status of the case as it progresses through the investigative and prosecutorial process.
- Once a case is opened, the parties will coordinate their efforts and establish the role each office will play in the investigation. Investigation responsibilities will be established.
- The parties will communicate regularly to discuss SFC's and cases referrals received to avoid duplication of investigative efforts and to ensure that all referrals are being appropriately addressed. When a case is assigned for investigation, the assigned party will notify the other party within a reasonable time by phone or email.
- The Fraud Division may elect not to pursue an investigation of an SFC due to excessive caseloads. Under such circumstances, the District Attorney may review the referral for investigations.

INVESTIGATIONS:

- To maximize the efficiency of resources, it is agreed that either party will provide assistance to the other upon request in any investigation where such assistance is needed. This may include but not limit, serving search warrants, interviewing witnesses, making arrests, etc.
- Outreach programs will be implemented to increase referrals from insurers, law enforcement, government agencies, informants, and other members of the public. Outreach programs are encouraged to promote this aspect of the plan.
- During the course of investigation, the Investigator shall consult with the Deputy District Attorney assigned to the Unit for assistance in evaluating whether criminal prosecution is possible and if further investigative efforts would be necessary.

PROBLEM RESOLUTION:

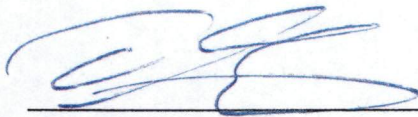
It is the intent of this joint plan that any problems or differences that may arise between the parties be resolved at the earliest possible convenience. In the event they are unable to resolve the dispute, the Deputy District Attorney will meet with the Fraud Division Investigator's immediate supervisor in an attempt to resolve the matter. If the attorney and the supervisor are unable to resolve the dispute, the Supervising Chief Investigator of the local office and the District Attorney (or Assistant District Attorney) will meet and resolve the matter.



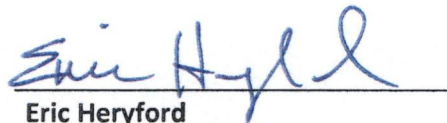
Maggie Fleming,
District Attorney
County of Humboldt



John Arguello
Captain
California Department of Insurance
Fraud Division



Dale Trigg,
District Attorney
County of Del Norte



Eric Heryford
District Attorney
County of Trinity

Attachment

**District Attorney
Automobile Insurance Fraud Program
Supplemental Budget FY 2015-16**

REVENUE:

1100 205 515042	Automobile Insurance Fraud Program	\$41,835
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EXPENDITURES:

1100 205 1400	Extra Help	\$17,925
1100 205 1460	Overtime	\$17,816
1100 205 2106	Communications	\$ 860
1100 205 2614	Staff Development and Training	\$ 3,000
1100 205 2715	Expert Witness	\$ 2,234

TOTAL EXPENDITURES:	\$41,835
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