

**STATE OF CALIFORNIA
FRAUD ASSESSMENT COMMISSION**

**Summary Meeting Minutes
Sacramento, California
September 13, 2023**

Pursuant to SB-189 approved by Governor Gavin Newsom on June 30, 2022, this meeting was a hybrid meeting with the option for the public to attend in person or via Zoom Video Conferencing services with options to participate online and via telephone.

Commissioners in attendance: Chairperson Don Marshall, Vice-Chairperson Jay Bobrowsky, Dan Calamuci, Branden Lopez, and John Riggs.

Others present: CDI Enforcement Branch George Mueller, Deputy Commissioner (DC); Eric Charlick, Chief; Victoria Martinez, Deputy Chief; and Felicia Lieb, Deputy Chief. Attending remotely: Yvonne Hauscarriague, Senior Staff Counsel, CDI Government Law Bureau.

I. Fraud Assessment Commission

a. Opening Remarks

Chairperson Marshall opened the meeting at 10:30 a.m. and provided an explanation of the logistics for the online and telephonic meeting. It was stated that materials provided to the Commissioners are available to the public by sending a request to LAU@insurance.ca.gov.

Chairperson Marshall advised he submitted his resignation to the Governor. His last meeting will be the January 10, 2024 meeting. His resignation letter is available on the table.

Chairperson Marshall asked the Commissioners if they wished to make any opening comments; there were no opening comments.

b. Approval of the Summary Meeting Minutes

Chairperson Marshall then proceeded to ask the Commissioners to review the meeting minutes from the September 6, 2023, meeting.

Motion

Vice-Chairperson Bobrowsky made a motion to accept the minutes. Commissioner Riggs seconded the motion.

Action

The summary minutes were unanimously accepted via a roll call vote.

c. Public Comments

Chairperson Marshall asked if there were any public comments. Yvonne Hauscarriague explained the process for online participants to make comments. There were no public comments. He then turned the meeting over to Deputy Commissioner George Mueller of the Enforcement Branch.

II. Enforcement Branch Report

a. Administrative Update

The Insurance Commissioner's Review Panel met in June and recommended the pro-rata method for any additional funds. CDI is still calculating whether or not we had unspent Fraud Division funds, however there is approximately \$175,000 in fines and penalties that will be distributed to the participating counties in FY 2023-24. Deputy Commissioner Mueller provided an update on CDI vacancies. DC Mueller asked if there were any questions on the Annual Report.

Chairman Marshall thanked DC Mueller for the additional information in the Annual Report. He asked to clarify the number of vacancies. Deputy Chief Lieb advised we are looking to fill 56 positions.

b. Public Comments

Chairperson Marshall asked if there were any public comments and there were none.

III. Aggregate Assessment

a. Discussion

Chairperson Marshall stated CDAA's presentation put forth the amount of funding increase they feel is needed. He explained the funding split between the DA offices, CDI, and the 20% discretionary. Years ago, a decision was made to give the 20% discretionary to the DA offices so they receive approximately 60% of the funds and CDI receives about 40%. He noted two counties requested equipment. He said that Los Angeles County is requesting surveillance vehicles with code 3 equipment, but he questions why code 3 equipment is needed for a surveillance vehicle. He said Napa County requested satellite radios, but he questions the need when there is cellular coverage there.

Chairperson Marshall said that every year the DA offices request more funding than is available. He said he was on the WC Review Panel for 12 years and he never felt that there wasn't enough funding based on the applications reviewed. He reminded the Commissioner that if they were to vote to give a 16% increase in the assessment, that would be \$99.4 Million dollars split between CDI and the DA offices.

Over the years, there's been a significant drop in investigations. Also, the felony arrests increased 6% last year, but misdemeanors went up 15%, and those are typically 3700.5s, which are simple investigations. He noted SIU Manager Natalie Chandler is here and he knows her team is looking into carriers not submitting FD-1s as they should. He stated he will say he doesn't think a 0% increase is appropriate, but he also doesn't think a 16% increase is appropriate either.

Vice-Chairperson Bobrowsky thanked Chairperson Marshall for the educational history. He said he does feel a good faith increase is appropriate, but nothing close to 16%.

Commissioner Calamuci asked to clarify Chairperson Marshall's comments about arrests. Chairperson Marshall read off the year-end arrest numbers for several years. Commissioner Calamuci pointed out that the pandemic changed the economy and acknowledged labor shortages nationwide. He said that no increase is a decrease. He stated that while some counties may underperform, fraud does not respect county lines.

Commissioner Lopez asked about unspent funds. Chief Charlick explained that if there is an increase CDI could use it to hire additional detectives, but if there are unspent CDI funds it will roll over to the DAs. Commissioner Calamuci said a large factor for him is continuity and having the funds to incentivize staff. He questioned what comes first: Performance or funding? He agreed that we are dealing with real money that comes from employers. He said he also considers that since 2013 the cost to the employers has gone down. He said we have a responsibility to give enforcement the ability to do their job. The lower the capabilities of enforcement, the higher amount of fraud there will be. He said he thinks we should start at the rate of inflation when determining the increase, which would be 9-12%. He said he would be willing to go as high as the requested 16% knowing that anything leftover from CDI will go to the DAs.

Commissioner Riggs stated everyone is affected by the increase in assessment as employers pass that increase onto consumers.

Chairperson Marshall advised in FY 18-19 we funded 63 DAs and 88 DAIs and last year 67 DAs and 96 DAIs, however there were less arrests last year compared to FY 18-19. He said the overall results, including investigations, have been going down over the years.

Commissioner Lopez commented that it may appear half the work is being done, however the panel has suggested the counties focus on more impactful cases. Therefore, the number of arrests doesn't paint a clear picture as it matters what the arrests were for and the chargeable fraud.

b. Determination of Aggregate Assessment for Fiscal Year 2024-25

Chairperson Marshall said he'd like to entertain a motion for an increase to the assessment.

Vice-Chairperson Bobrowsky made a motion to increase the assessment for FY 24-25 by 5%. LAU Manager Diana Russell advised a 5% increase would be \$89,985,405, and after the split that would be \$53,105,967 to the DAs. Riggs seconded the motion and a roll call vote was taken to vote on increasing the assessment by 5%. Roll call vote: Bobrowsky- Yes, Calamuci -No, Lopez -No, Riggs- Yes, Marshall- Yes. Motion passes and the FY 2024-25 aggregate assessment will increase 5% to \$89,985,405.

c. Public Comments

Chairperson Marshall opened the floor for public comments.

There were no public comments.

IV. Other Business

a. Next Scheduled Meetings

Chairperson Marshall announced the next scheduled meeting is January 10, 2024. LAU Manager Diana Russell advised the Goals and Objectives will be voted on at the January meeting, so if a subcommittee is to be convened, it would need to be done before January. Commissioners Bobrowsky and Calamuci will be on the subcommittee to adjust the FAC Goals and Objectives.

V. Public Comments

There were no public comments.

VI. Public Comments

The floor was opened for public comment on any agenda item and there were none.

VII. Closing Remarks

Chairperson Marshall asked the Commissioners if they wished to make any closing comments. Vice-Chairperson Bobrowsky thanked LAU for their hard work. He feels the funding is appropriate, and he is looking forward to the future and building momentum.

Commissioner Calamuci stated he was happy to see an increase, although he was hoping for a larger increase. He said he'd like to see referrals increasing next year. He thanked Chairperson Marshall for his hard-work and dedication to the FAC.

Commissioner Lopez echoed Commissioner Calamuci's appreciation to Chairperson Marshall. He also said the assessment increase isn't as high as he was hoping, but it will take them in the right direction. He also said the DA's presentation last week was some of the best he's seen since being on the commission.

Commissioner Riggs thanked LAU and CDAA. He said he will also be sending in his resignation to the Governor and his last meeting will be 1/10/2024. He reiterated that continuity in DA staff is key. He also mentioned he hasn't heard from a DA since before COVID and that surprises him as he is available as a resource.

Chairperson Marshall said that he has been in law enforcement since 1969 and in this anti-fraud industry for 35-36 years. He said it is time for a change. He doesn't disagree that an argument could be made for higher assessments, but we are still in a transitioning phase and building continuity is key. In March he is retiring from Zenith, however until he retires, he encourages the DA offices to reach out to him as he has institutional knowledge he is happy to share. Chairperson Marshall thanked LAU, DC Mueller, Chief Charlick, and the other Chiefs for all the assistance over the years.

Motion

Commissioner Riggs made a motion to adjourn and Vice-Chairperson Bobrowsky seconded the motion.

Action

The Commissioners unanimously approved via a roll call vote and the meeting adjourned at 11:27 a.m.