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**SAN DIEGO
COUNTY GRAND JURY**

Hon. Janis Sammartino
Presiding Judge, San Diego Superior Court
220 West Broadway
San Diego, CA 92101

Dear Judge Sammartino:

I have read the report authored by the 2006-2007 San Diego County Grand Jury, entitled "San Diego Elder Care Program - Golden Years in Crisis." Our office continues to regard the investigation and prosecution of elder abuse as a major priority, particularly in light of the escalating elder demographics in this County. Over the past eleven years we have sought to build strong collaborative ties with other County and private agencies who are similarly dedicated to protecting seniors.

To this end, the District Attorney's Office will continue, as has been done for many years, to offer training to IHSS staff in the area of detecting elder abuse, as recommended in 07-69 of the report. In fact, Deputy District Attorney Paul Greenwood will be contacting Vickie Molzen, Program Manager for IHSS, to develop a new series of such trainings commencing in the fall of 2007.

Additionally, I am seeking to add at least one full time DA Investigator to assist with elder abuse investigations and prosecutions, as recommended in 07-68 of the report. This placement will occur just as soon as budgetary concerns are resolved, and a formal budget request to the Board of Supervisors will be forthcoming in order to accommodate the proposed assignment. While no specific time frame can be guaranteed, it is certainly envisaged that the addition will occur within the next six months.

I appreciate the recognition by the Grand Jury of the work being carried out by the Elder Abuse Unit. We are determined to uphold the reputation that this unit has gained both locally and nationally by strengthening the existing collaboration and by seeking to equip the unit with the resources it needs.

Sincerely,

BONNIE M. DUMANIS
District Attorney of San Diego County

ORIGINAL

SUBJECT: RESPONSE TO 2006-2007 GRAND JURY REPORTS (District: All))

**County of San Diego Response to Grand Jury Report:
“San Diego County Elder Care Program – Golden Years in Crisis”
Released May 23, 2007**

FINDINGS AND RESPONSES:

Finding: This program works well as long as caregivers honestly perform the functions assigned to them.

Response: Disagree. This finding implies that many caregivers are not honest. The report noted several client scenarios where it implied fraud was involved. No evidence was provided to substantiate these cases, or to indicate that a significant number of IHSS consumers agree with this statement. The In-Home Supportive Services (IHSS) Program is a State-mandated, consumer-driven program that serves 384,870 individuals in California. The program’s 98% customer satisfaction rating speaks volumes for the effectiveness of the program. At this time, there are no plans to make major changes to this program because it is regarded as effective in meeting consumer needs.

In San Diego County, very few cases require a referral to the District Attorney, with whom IHSS has an interagency agreement to investigate and prosecute fraud. It should also be noted that the Grand Jury has not yet provided the names of the consumers they interviewed who appear to have been victims of fraud (scenarios two and four of five).

Finding: The Public Authority does background checks on potential caregivers, but only for offenses committed in California. Thus, elderly consumers are not aware of criminal activity committed in other states.

Response: Agree. While this statement is correct, this limitation is set by State law and is not within the purview of the County. The Public Authority currently performs criminal record checks using Livescan technology and submits the clearances through the State Department of Justice for offenses committed in California. The Public Authority has gone beyond what is required by State law in performing this level of screening. County and Public Authority staff continue to work at the State level to advocate that the Department of Justice (DOJ) screen IHSS caregivers for offenses committed outside California. This limitation is set by State law, and the Governor has vetoed recent bills aimed at expanding the Public Authority’s abilities to perform criminal background clearances. The State will not pay for the DOJ criminal background clearances performed by the Public Authority; however, the County Board of Supervisors has mandated that the Public Authority perform these clearances in spite of the lack of State support received for this important function.

Finding: Many caregivers are deficient in their ability or desire to perform functions required by the elderly. Many caregivers falsify hours worked, wasting taxpayer dollars. There are also language difficulties with some caregivers.

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Response: Disagree. There are currently 21,864 IHSS consumers in San Diego County and 65% of those are served by immediate family members. The program has a 98% satisfaction rating among consumers. Since the Grand Jury only presented two scenarios that referenced potential fraud issues, and has provided no additional information to support these allegations, it does not appear that a significant number of IHSS consumers were interviewed for this report. The use of such a small sample of consumer scenarios is not a fair representation of the entire IHSS program. The Grand Jury is strongly encouraged to forward any information concerning potential fraud to the County so that these matters can be referred to the District Attorney.

Finding: These functions (hiring, training and supervising caregivers) may be beyond their capabilities. Thus, consumers often don't report abuses for fear of losing the only help that is provided for them.

Response: Disagree. IHSS clients are given the specific authority by law to hire, fire and supervise their own caregivers. The program is based upon the assumption that consumers are able to carry out these functions. While the Public Authority Registry is available to assist clients with finding a new caregiver, the IHSS program may not be an option for clients who are unable to complete the necessary tasks to hire, train and supervise their own caregiver.

Finding: This (Quality Assurance not evaluating the quality of services rendered to the seniors) leads to the potential for abuse of the quality and quantity of services provided to seniors.

Response: Disagree. The IHSS Quality Assurance program was not established to evaluate the quality of the service performed by the IHSS caregivers. This is the responsibility of the IHSS consumer, who serves as their caregiver's supervisor. The Quality Assurance staff must refer cases to the District Attorney for fraud evaluation if they note that services are not being provided as authorized by the IHSS Social Worker. If the Quality Assurance staff note that the client is at risk of abuse or neglect, as mandated reporters, they must call in an elder/dependent adult abuse report to Adult Protective Services.

RECOMMENDATIONS AND RESPONSES:

The 2006-2007 San Diego County Grand Jury recommends that the County of San Diego's Health and Human Services Agency:

Recommendation 07-61: Direct IHSS take a more proactive approach in monitoring its caregivers through unannounced home visits to consumers, with the caregiver present.

Response: This recommendation will not be implemented because it is not feasible. IHSS is a consumer-driven program regulated by State laws. There is no federal, State or local funding to implement this recommendation.

Recommendation 07-62: Direct IHSS to assign social workers to inform elderly consumers on proper practices of hiring and supervising caregivers, and assist with completion of forms.

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Response: This recommendation will not be implemented because it is not warranted. The County of San Diego IHSS Public Authority operates the Registry which lists available IHSS caregivers. Public Authority staff match consumers with those caregivers who have been screened, have attended a mandatory orientation and who meet the consumer's specified needs. As part of the matching of consumer and caregiver, the Public Authority provides detailed instructions for the consumer, both in writing and verbally, on how to hire and supervise a new caregiver. The Public Authority staff also work closely with the IHSS social workers to ensure that consumers who need assistance with the hiring process receive it. IHSS social workers are also available to assist with completion of program application forms, if needed.

Recommendation 07-63: Require the Quality Assurance Department of IHSS to report *all* abuses to Adult protective services for investigation.

Response: This recommendation will not be implemented because it is not warranted. All IHSS staff, including those who work for Quality Assurance, and all Public Authority staff are mandated reporters of elder abuse and neglect. They are required to call in reports should they become aware of any instance in which a senior or dependent adult is at risk of abuse or neglect.

Recommendation 07-64: Require the Public Authority to coordinate with the District Attorney's Elder Abuse Division to provide annual training to IHSS staff in recognizing the signs of abuse.

Response: This recommendation will not be implemented because it is not warranted. IHSS and Public Authority staff, as noted, are mandated reporters of elder and dependent adult abuse. They are co-located with Adult Protective Services (APS) staff throughout the County and are well-aware of their legal requirement to report abuse. APS staff are the individuals designated by law to provide training on elder/dependent adult abuse, not the District Attorney's Elder Abuse Division. In addition to providing training on a regular basis, APS staff offers IHSS and Public Authority staff one-on-one consultation, as needed.

Recommendation 07-65: Require the Public Authority to expand all background checks to include National Crime Information Center (NCIC).

Response: This recommendation will not be implemented because it is not feasible. Background check requirements for this program are regulated by State law and are not within the purview of the County. The Public Authority currently performs criminal record checks using Livescan technology and submits the clearances through the State Department of Justice for offenses committed in California. The Public Authority has gone beyond what is required by State law in performing this level of screening. County and Public Authority staff have advocated at the State level for the authority vested in the Department of Justice to include screening IHSS caregivers for convictions committed outside California. The Governor has vetoed recent bills aimed at expanding the Public Authority's abilities to perform criminal background clearances. The State will not pay for the DOJ criminal background clearances performed by the Public Authority; however, the County Board of Supervisors has continually

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mandated that the Public Authority perform these clearances in spite of the lack of State financial support received for this important function.

Recommendation 07-66: Direct the Public Authority to institute a system to monitor caregivers to ensure consumers are getting proper care.

Response: This recommendation will not be implemented because it is not feasible. IHSS is a consumer-driven program regulated by State laws. There is no federal, State or local funding to implement this recommendation.

Recommendation 07-67: Require the Public Authority to ensure that all caregivers speak English or the language of the client or be enrolled in English as a Second Language Program.

Response: This recommendation will not be implemented because it is not warranted. Currently, the Public Authority Registry limits the caregivers they place on the Registry to those that speak English, with few exceptions. Consumers who use the Registry receive a personalized listing of caregivers that have indicated they speak the desired language requested by the consumer. The consumers, through their interviewing and hiring process, are also expected to screen for caregivers who meet their needs. The Public Authority also publicizes “English as a Second Language” classes for caregivers.