

**SAN BERNARDINO COUNTY
AUDITOR-CONTROLLER/TREASURER/TAX COLLECTOR
INTERNAL AUDITS DIVISION**



**DISTRICT ATTORNEY:
REAL ESTATE FRAUD PROSECUTION FUND AUDIT**

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Mission Statement

This office is committed to serving our customers by processing, safeguarding, and providing information regarding the finances and public records of the County. We perform these functions with integrity, independent judgment, and outstanding service. We are accurate, timely, courteous, innovative, and efficient because of our well-trained and accountable staff.

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District Attorney:

Real Estate Fraud Prosecution Fund Audit

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San Bernardino County

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June 14, 2024

Jason Anderson, District Attorney
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RE: District Attorney Real Estate Fraud Prosecution Fund Audit

We have completed an audit of the District Attorney (Department) for the period of July 1, 2022, through June 30, 2023. The objectives of the audit were to determine whether usage of the Real Estate Fraud Prosecution Fund is in compliance with Government Code 27388 and to determine whether the internal controls over usage of the Real Estate Fraud Prosecution Fund are adequate. We conducted our audit in accordance with the International Standards for the Professional Practice of Internal Auditing established by the Institute of Internal Auditors.


We identified procedures and practices that could be improved. We have listed these areas for improvement in the Audit Findings and Recommendations section of this report.

We sent a draft report to the Department on May 31, 2024, and discussed our observations with management on June 3, 2024. The Department's responses to our recommendations are included in this report.

We would like to express our appreciation to the personnel at the Department who assisted and cooperated with us during this engagement.

Respectfully submitted,

Ensen Mason CPA, CFA
Auditor-Controller/Treasurer/Tax Collector
San Bernardino County

By: 
Denise Mejico, CFE
Chief Deputy Auditor

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Date Report Distributed: 6/14/24

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Summary of Audit Results

Our findings and recommendations are provided to assist management in improving controls and procedures related to the Department's Real Estate Fraud Prosecution Fund.

The table below summarizes the audit findings and recommendations for this audit engagement. For further discussion, refer to the *Audit Findings and Recommendations* section of this report.

Finding No.	Findings and Recommendations	Page No.
1	The annual Real Estate Fraud Report was not submitted to the Board of Supervisors on or before September 1.	6
	We recommend the Department create a timeline for the creation and approval of the annual report to ensure that the report is submitted to the required parties on or before September 1 of each year in accordance with Government Code 27388.	
2	An unallowable amount was expended from the Real Estate Fraud Prosecution Fund.	7
	We recommend the Department review all vehicle charges for the audit period and going forward. Additionally, we recommend the Department compare the vehicle charges to the list of vehicles assigned to the Real Estate Fraud Unit for the respective time period. If there are any discrepancies found, we recommend that the Department return all overcharges to the Fund.	

District Attorney Real Estate Fraud Prosecution Fund Audit

The Department

The San Bernardino County District Attorney's Office strives to provide the best legal representation for the people, as well as the finest customer service to those they serve. With a staff of 241 deputy district attorneys, 62 district attorney investigators, 41 victim advocates, 246 administrative and clerical staff members, and 10 law clerks, the District Attorney's Office proudly serves the approximately 2.19 million people who live in San Bernardino County.

The San Bernardino County District Attorney's Office represents the interests of the People in the criminal justice system, as mandated by California State law. The District Attorney's Office serves the residents of San Bernardino County by:

- Respecting and inspiring confidence in the rule of law, both inside and outside the office.
- Collaboratively ensuring justice with excellence, integrity, and compassion by transparently partnering with the public, law enforcement, and the judiciary.
- Stewarding public resources to hold the guilty accountable, support victims of crime, and honor the humanity of all involved in the criminal justice system.
- Restoring a culture of service and accountability to the most powerful law office in the county whose singular mission will be to restore systems and people to provide equal justice for all.

The Fund

The Real Estate Fraud Prosecution Fund (Fund) accounts for the investigation and prosecution of real estate fraud crimes pursuant to Government Code Section 27388. Costs are funded through a \$10 fee charged on recorded documents. These fees are placed in the Fund and are expended to fund the District Attorney's Real Estate Fraud Unit in deterring, investigating, and prosecuting real estate fraud crimes.

Scope and Objectives

Our audit examined the usage of and controls over the Real Estate Fraud Prosecution Fund for the period of July 1, 2022, through June 30, 2023.

The objectives of our audit were to:

- To determine whether usage of the Real Estate Fraud Prosecution Fund is in compliance with Government Code 27388.
- To determine whether the internal controls over usage of the Real Estate Fraud Prosecution Fund are adequate.

Methodology

In achieving the audit objective, the following audit procedures were performed, including but not limited to:

- Review of Government Code 27388
- Interviews with Department staff
- Review of the Real Estate Fraud Report for Fiscal Year 2021-2022
- Review of a sample of disbursements from the Fund and the related supporting documentation

Finding 1: The annual Real Estate Fraud Report was not submitted to the Board of Supervisors on or before September 1.

Government Code 27388(d) states the county board of supervisors shall annually review the effectiveness of the district attorney in deterring, investigating, and prosecuting real estate fraud crimes based upon information provided by the district attorney in an annual report. The district attorney shall submit the annual report to the board on or before September 1 of each year. A county shall not expend funds held in that county's Real Estate Fraud Prosecution Fund until the County's auditor-controller verifies that the county's district attorney has submitted an annual report for the county's most recent full fiscal year pursuant to the requirements of subdivision (d).

The Real Estate Fraud Report for Fiscal Year 2021-2022 was not submitted on or before September 1, 2022. The report was dated and submitted on September 23, 2022.

If the report is not submitted in a timely manner, there may not be appropriate oversight of the effectiveness of the program and the Department may be out of compliance when disbursing from the Fund.

Recommendation:

We recommend the Department create a timeline for the creation and approval of the annual report to ensure that the report is submitted to the required parties on or before September 1 of each year in accordance with Government Code 27388.

Management's Response:

The District Attorney's Office did not allow enough time to prepare and internally review the report prior to the deadline of September 1 of each year in accordance with Government Code Section 27388.

Additionally, in FY22-23, the County Executive Officer (CEO) changed to a different CEO and the District Attorney sought direction from the new CEO for submittal procedures of the report. The prior CEO's established procedure was that the report should be submitted to the Chief Administrative Office (CAO) and he would submit it to the Board of Supervisors. The new CEO didn't initially provide specific direction when asked about submittal procedures, and changed the submittal procedure after September 1, and after the materials were submitted to

the CAO. Subsequently, a new procedure, consistent with the Government Code, is now in place.

The District Attorney will establish and follow the timeline to submit the report to the Board of Supervisors by September 1 of each year with a courtesy copy to the Auditor-Controller/Treasurer/Tax Collector and the County Executive Officer. Additional internal controls have been initiated to meet this requirement.

Auditor's Response:

The Department's actions and planned actions will correct the deficiencies noted in the finding.

Finding 2: An unallowable amount was expended from the Real Estate Fraud Prosecution Fund.

Government Code 27388 (b) states the money placed in the Real Estate Fraud Prosecution Fund shall be expended for the exclusive purpose of deterring, investigating, and prosecuting real estate fraud crimes.

We identified one amount of \$148 from March 2023 that did not relate to the purpose of deterring, investigating, and prosecuting real estate fraud when testing 22 expenditures. The expenditure related to a vehicle that was previously assigned to the Real Estate Fraud Unit but had been returned to Fleet Management in September 2022. Fleet Management determined that the total amount overcharged for this vehicle from October 2022 through March 2023 was \$888.

The department does not always review the amounts transferred to Fleet Management for vehicle charges as these are automated internal service payments. If all amounts expended from the Fund are not reviewed, they may not be used for the program's intended purpose.

Recommendation:

We recommend the Department review all vehicle charges for the audit period and going forward. Additionally, we recommend the Department compare the vehicle charges to the list of vehicles assigned to the Real Estate Fraud Unit for the respective time period. If there are any discrepancies found, we recommend that the Department return all overcharges to the Fund.

Management's Response:

The District Attorney will review vehicle charges after County Fleet Management charges have posted in SAP for the audit period and going forward. The District Attorney will coordinate with County Fleet Management for corrections when needed.

Auditor's Response:

The Department's actions and planned actions will correct the deficiencies noted in the finding.