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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

LUZ VILLAFANA,
UHM BAYA LAURY;

 Plaintiffs,

v.

COUNTY OF SAN DIEGO,

 Defendant.

CASE NO:

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

1 **INTRODUCTION**

2 1. This action challenges a state-funded program that disproportionately impacts
3 people of color and women. Unlike every other county in the state, Defendant San Diego County
4 (“the County”) forces nearly all persons seeking welfare assistance to submit to home inspections
5 without any reason to believe they are ineligible. The County has effective other means to verify
6 eligibility, yet it continues to waste time and money routinely inspecting the homes of families in
7 distress.

8 2. CalWORKs (“California Work Opportunity and Responsibility to Kids”) is the
9 state’s cash assistance welfare program. It provides a safety net for persons who may become
10 income-eligible, including those who suffer a catastrophic loss of income due to job loss or
11 otherwise.

12 3. For over 20 years, the County has required persons in need of CalWORKs benefits
13 to submit to “Project 100%,” also known as “P100,” or face denial of benefits. Under P100, absent
14 any suspicion of ineligibility, nearly all persons applying for CalWORKs benefits must submit to
15 an unannounced home inspection by a law enforcement investigator. The investigators may
16 interrogate applicants about matters such as child care, living, and sleeping arrangements and
17 inspect private areas such as closets, cupboards, desks, dressers, hampers, and laundry bags.

18 4. If persons do not cooperate with P100 inspections, they face denial of their
19 applications, leaving them destitute. When not notified when the inspections will occur,
20 CalWORKs applicants are effectively held hostage in their homes waiting for the investigator to
21 arrive.

22 5. Plaintiffs bring this action to compel the County to stop operating P100, which
23 adversely impacts thousands of innocent people each year at significant waste of public funds that
24 could be put to better use investigating actual violations of law. The County can and does verify
25 eligibility and prevent fraud through cost-effective means that do not require indiscriminate home
26 inspection. Plaintiffs respectfully request the Court to issue declaratory and injunctive relief to cure
27 the County’s illegal expenditure of taxpayer funds.
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1 **PARTIES**

2 6. Plaintiff Luz Villafana is and at all times mentioned herein has been a citizen
3 resident of San Diego County. Ms. Villafana owns a home in Escondido and, within the one year
4 before the commencement of this action, has paid property taxes to the County of San Diego and
5 the State of California for that property, and is currently assessed and liable to pay additional taxes
6 therein.

7 7. Plaintiff Uhmbaya Laury is and at all times mentioned herein has been a citizen
8 resident of San Diego County. She has previously applied or re-applied for public benefits under
9 the CalWORKs program. As a condition of seeking benefits, for which she was ultimately
10 approved, she was forced to submit to Project 100%. Within one year before the commencement
11 of this action, she has paid sales tax, gasoline tax, or other taxes, charges, or fees routinely imposed
12 in the County of San Diego.

13 8. Defendant County of San Diego is a public entity responsible for ensuring that the
14 County, its agencies, officers, employees, and agents fulfill the requirements of all applicable
15 provisions of federal and state constitutional law, statutes, and regulations with respect to the
16 administration of public benefits, including CalWORKs.

17 **STATUTORY AND REGULATORY FRAMEWORK**

18 9. Congress enacted Title IV-A of the Social Security Act to “provide assistance to
19 needy families so that children may be cared for in their own homes or in the homes of relatives.”
20 42 U.S.C. § 601(a)(1). Public assistance funding under the Social Security Act stems from “the
21 Nation’s basic commitment . . . to foster the dignity and well-being of all persons within its borders”
22 and is based upon the recognition “that forces not within the control of the poor contribute to their
23 poverty.” *Goldberg v. Kelly*, 397 U.S. 254, 264-65 (1970).

24 10. CalWORKs is the state analog to the federal Temporary Assistance for Needy
25 Families (“TANF”) program, formerly known as Aid to Families with Dependent Children
26 (“AFDC”). AFDC was established by Title IV-A of the Social Security Act of 1935, 49 Stat. 627,
27 as amended, 42 U.S.C. §§ 601-610.

1 11. CalWORKs exists for the benefit of all otherwise qualified California families to
2 provide a safety net for anyone who might become income-eligible due to job loss or otherwise.

3 12. To receive CalWORKs benefits, a family must be income-eligible. A family of
4 three in San Diego County, for example, must have no more than \$1,292 in net monthly income.
5 *See* California Department of Social Services. *All County Letter No. 16-47, California Work*
6 *Opportunity And Responsibility To Kids (CalWORKs): Cost Of Living Adjustment (Cola)*
7 *Increase To The Minimum Basic Standard Of Adequate Care (MBSAC) Levels, May 27, 2016 at*
8 *3; Manual of Policies and Procedures: Eligibility and Assistance Standards (“MPP”) § 44-207.*

9 13. California counties administer the CalWORKs program within their respective
10 localities in conformity with state rules and regulations. CAL. WELF. & INST. CODE §§ 11209,
11 10802.

12 14. “The basic purpose of the [benefits] application process is to assist the individual in
13 establishing his/her eligibility for aid and services.” MPP § 40-115.1. Gathering the requisite
14 evidence to make an eligibility determination is a “joint responsibility” of the applicant and the
15 county. MPP § 40-157.21. The county requires the applicant to produce “only evidence necessary
16 to determine past or present eligibility for the amount or delivery of aid.” MPP § 40-126.31.

17 15. The regulations spell out the “Steps in the Application Process” to determine
18 eligibility for aid. *See* MPP § 40-115.2. Initially, an applicant discusses with an eligibility worker
19 the circumstances that have led to the application. MPP § 40-115.211. The eligibility worker, in
20 turn, explains the “agency requirements, program limitations, [his/her] rights and responsibilities
21 and what he/she can expect from the agency.” *Id.*

22 16. The applicant completes a “Statement of Facts” form, which is signed under penalty
23 of perjury. MPP §§ 40-115.22, 40-128.1. The application is submitted to the “Applicant System”
24 component of the state’s Income Eligibility Verification System (“IEVS”), administered by the
25 Department of Health Care Services. *See* MPP § 40-115.225.

26 17. The IEVS is a “federally-mandated system” consisting of “a coordinated data
27 exchange” among various databases including but not limited to “[w]age information from the State
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1 Wage Information Collection Agency ... [u]nemployment/disability compensation benefits from
2 the agencies administering those programs ... [b]enefits/pensions/wage information from the
3 Social Security Administration ... [i]nternal Revenue Service (IRS)/Franchise Tax Board (FTB)
4 unearned income data ... Social Security number (SSN) verification information from SSA; and
5 [i]nter/intra-county duplicate benefit matches.” MPP § 20-006.12.

6 18. The County must submit “specific identifying information” to IEVS for each
7 CalWORKs applicant, “such as, but not limited to, name, SSN [and] date of birth.” MPP § 20-
8 006.211. The County “shall input applicant data into IEVS at the first available opportunity ... but
9 no later than five working days after the signed statement of facts is completed.” MPP § 20-
10 006.212. The County “shall use information obtained through the IEVS for the purposes of ...
11 [v]erifying the applicant’s/recipient’s eligibility ... [and v]erifying the proper amount of benefits.”
12 MPP § 20-006.3.

13 19. After the application is submitted, the applicant is required to, among other things:
14 (a) complete all documents required in the application process; (b) provide all documents in her
15 possession which are needed to determine eligibility; (c) report all facts the applicant believes to
16 be material to her application or which the county has identified as affecting eligibility; (d) report
17 any change in these facts within five calendar days of the change; (e) identify any third party who
18 may be liable for care and services; and (f) identify any other family member required to be in the
19 assistance unit. *See* MPP §§ 40-105.11-105.16; CAL. WELF. & INST. CODE § 11268.

20 20. Once applicants have been enrolled, they are subjected to “ongoing eligibility
21 verification” through IEVS. *See* California Department of Social Services, “Income and Eligibility
22 Verification System,” <http://www.cdss.ca.gov/fraudextranet/PG2877.asp>. “Every quarter the
23 [County] shall submit” to IEVS “income and eligibility information on each recipient of
24 CalWORKs....” MPP § 20-006.221.

25 21. In addition to using IEVS to verify applicant eligibility and proper benefits amount,
26 the County shall use information obtained through the IEVS for “[d]etermining whether a recipient
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1 received benefits to which he/she was not entitled” and where appropriate, “[c]onducting criminal
2 or civil prosecutions.” MPP § 20-006.3

3 22. Among other measures designed to prevent fraud is the requirement that each adult
4 in the household submit fingerprints that can then be checked through the Statewide Fingerprint
5 Imaging System. MPP § 40-105.3.

6 23. Meanwhile, the eligibility worker begins the process of compiling “acceptable
7 evidence” to verify the “linking” and “nonlinking” factors of the applicant’s eligibility for aid. MPP
8 § 40-115.22. The regulations set forth in considerable detail what constitutes acceptable evidence
9 for each such factor. *See, e.g.*, MPP § 42-111.1 (regarding proof of age); and MPP § 42-407
10 (regarding proof of residence).

11 24. “A face-to-face interview with the applicant is required prior to the granting of aid.”
12 MPP § 40-131.11. This interview by the eligibility worker must cover a long list of topics,
13 including the applicant’s obligation to report all facts material to a correct determination of
14 eligibility and the grant amount, the joint responsibility of the county and the applicant for exploring
15 all the facts concerning eligibility, and the “kinds of evidence which may be needed to establish
16 eligibility.” MPP § 40-131.3.

17 25. Within ten calendar days of application, the county must give written notice to the
18 applicant of any “required evidence and examples of alternative evidence, if any, to determine
19 eligibility.” MPP § 40-126.32. The county shall, however, assist the applicant in obtaining any
20 such evidence concerning eligibility from a third party if the applicant has made a good faith effort
21 to obtain such evidence but did not succeed due to the third party’s failure or refusal to provide the
22 necessary information. MPP § 40-126.331. Moreover, the “county shall not deny an application
23 for failure to provide evidence of eligibility if the county has determined that the applicant is
24 continuing to cooperate by attempting to comply in obtaining necessary evidence.” MPP §
25 40.126.34.

26 26. The state has prescribed the methods of gathering evidence of eligibility. *See* MPP
27 § 40-157.2. Throughout the entire application process, the county must “inform the applicant what
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1 evidence is desired, why it is needed and how it will be used.” MPP § 40-157.211; *see also* MPP
2 § 40-115.223. The applicant, on the other hand, must agree to participate in, and “cooperate with
3 the county in the evidence gathering process to the fullest extent possible.” MPP § 40-157.212; *see*
4 MPP §§ 40-115.221, 40-115.222. “When it is not possible for the applicant to obtain necessary
5 evidence, the county shall obtain it for him.” MPP § 40-157.213. “When evidence is conflicting,
6 inconsistent or incomplete, the investigation shall be pursued to the point that the preponderance
7 of evidence supports the determination regarding the applicant’s eligibility.” MPP § 40-157.14.

8 27. State regulations require a home visit only when “living arrangements or other
9 factors affecting eligibility, or apparent eligibility in cases of immediate need or diversion, cannot
10 be satisfactorily determined without such a visit.” MPP § 40-161.

11 **STATEMENT OF FACTS**

12 28. CalWORKs is a state-funded program or activity, or a program or activity that
13 receives state financial assistance, of which P100 is a part.

14 29. To the extent it could be considered a program or activity separate from CalWORKs,
15 P100 is a state-funded program or activity, or a program or activity that receives state financial
16 assistance.

17 30. With approval of the County Board of Supervisors, P100 began in 1997 as a pilot
18 program proposed by the District Attorney’s office and the County Department of Social Services,
19 ostensibly to “increase efforts in Welfare Fraud prevention” at the point of intake. Board of
20 Supervisors Minute Order No. 45, April 29, 1997; AFDC Program Guide, Special Notice (hereafter
21 “Special Notice”) 98-60 at 1.

22 31. Effective January 4, 1999, the County expanded P100 to require home inspections
23 for all new applications that were not deemed “obvious denials.” Special Notice 98-60 at 1.

24 32. P100 investigators are and have always been licensed peace officers. They
25 previously worked out of the District Attorney’s office. Currently they are assigned to the Public
26 Assistance Fraud (“PAF”) division of the Department of Child Support Services (“DCSS”).

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1 33. In San Diego County, all applications for CalWORKs benefits that are not denied
2 outright are referred to PAF under P100, regardless of whether the applications present any reason
3 to suspect ineligibility or fraud.

4 34. Apart from P100, the County also conducts investigations of specific individuals
5 suspected of committing welfare fraud, known as “allegation-based” or “referral-based”
6 investigations. The lawfulness of allegation-based or referral-based investigation is not challenged
7 in this action.

8 35. Upon receipt of a P100 referral, a PAF investigator makes an unannounced attempt
9 to investigate the applicant at the address listed on the application. Special Notice 98-60 at 3. If
10 no one is home, the investigator is supposed to leave his or her business card. *See id.*; County of
11 San Diego CalWORKs Program Guide § 20-000.B.5.

12 36. If the applicant “is not home when the second home call attempt is made, another
13 business card will be left with a note on it for the applicant/recipient to call the investigator.”
14 County of San Diego CalWORKs Program Guide § 20-000.B.5.

15 37. The notice sent to CalWORKs applicants concerning P100 indicates that the purpose
16 of the investigation is to “verify the facts related to your application for CalWORKs,” and states
17 that County policy “requires” that the investigation be “completed . . . prior to approving ongoing
18 CalWORKs benefits.”

19 38. Because applicants are typically not notified when the investigation will occur, they
20 must often remain effectively confined to their homes awaiting an unannounced and unscheduled
21 visit. As a result, they may be effectively required to postpone job searches, skip medical
22 appointments, and stop taking children to and from school for fear of suffering denial of income
23 necessary to feed their families.

24 39. If the applicant is at home, the investigator seeks entry into the home and questions
25 the applicant and others who may be in the home. The interrogation may address a variety of
26 subjects, including matters unrelated to eligibility or that have already been documented and
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1 verified during the application process, including but not limited to child care, living, and sleeping
2 arrangements.

3 40. The investigation may involve an inspection of the applicant's home, which may
4 entail viewing, among other things, the contents of private rooms, closets, cupboards, desks,
5 dressers, hampers, laundry bags, and other areas or items not in plain view.

6 41. If the investigator's attempts to contact the applicant are unsuccessful, or if the
7 applicant does not submit to the P100 investigation, the application for benefits is denied.

8 42. According to recent data, 50.33% of San Diego County CalWORKs recipients are
9 Hispanic, while 14.11% are African American.

10 43. Recent data show 33.5% of the County's general population is Hispanic, and only
11 5.5% is African American.

12 44. Recent data show adult women represent 72.73% of enrollees in San Diego
13 County's CalWORKs Welfare-to-Work ("WTW") program.

14 45. Recent data show adult women represent 39% of the County's general population.

15 46. On information and belief, because nearly all CalWORKs recipients are required to
16 participate in the WTW program, with very narrow exemptions, the WTW program's demographics
17 mirror or closely resemble those of the CalWORKs recipient pool.

18 47. The County currently employs several PAF investigators who spend a substantial
19 amount of their time on P100 investigations based on unsubstantiated suspicion that an applicant
20 violated any law. That time could be redirected to investigating suspected violations of law,
21 including but not limited to "fraud, perjury, embezzlement, [and] trafficking." MPP § 20-007.113.

22 48. No other county in California operates a program similar to P100. Instead, other
23 counties investigate claims of fraud based on individualized suspicion of applicant fraud rather than
24 conducting indiscriminate home inspections of all applicants.

25 49. Los Angeles County previously operated a program modeled on P100, but it
26 abandoned the program in or about 2009.

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1 50. Counties with CalWORKs caseloads of 1,000 cases or more are required to develop
2 and administer fraud investigation programs administered by special investigation units (“SIUs”),
3 which are distinct from county units performing eligibility and benefit determination functions.
4 MPP §§ 20-007.1, 20-007.21. Counties with smaller caseloads “may maintain an SIU,” but if they
5 do not, they must “designate one employee to be responsible for the referral of suspected fraud
6 cases to the prosecuting authority for investigation.” MPP § 20-007.112.

7 51. SIUs “shall be established and organized... for the purpose of investigating
8 suspected welfare fraud,” and shall “[i]nvestigate any activity, particularly during intake, which
9 may constitute welfare fraud.” MPP §§ 20-007.1, 20-007.31.

10 52. The administration and operation of P100 cause a disproportionate adverse effect on
11 the basis of race, color, national origin, ethnic group identification, or sex.

12 53. P100 is not justified by any legitimate governmental interest in fraud prevention.
13 The costs of operating P100 exceed any savings arising from prevention of any fraud detected
14 through the program.

15 54. Even if P100 were justified by any legitimate governmental interest in fraud
16 prevention, any such interest can be better served through other means that cause less
17 disproportionate adverse effect on protected classes, including but not limited to the use of existing
18 procedures for verifying eligibility for CalWORKs benefits and allegation-based or referral-based
19 investigations.

20 **CAUSE OF ACTION FOR ILLEGAL OR WASTEFUL EXPENDITURE OF PUBLIC**
21 **FUNDS IN STATE-FUNDED PROGRAM OR ACTIVITY BY ALL PLAINTIFFS**
22 **AGAINST DEFENDANT COUNTY UNDER CAL. GOV’T. CODE § 11135 AND CAL.**
23 **CODE CIV. PROC. § 526(A)**

24 55. Plaintiffs incorporate herein by reference each and every allegation set forth in
25 Paragraphs 1-54, above, as if set forth in full.

26 56. “No person in the State of California shall, on the basis of sex, race, color, religion,
27 ancestry, national origin, ethnic group identification, age, mental disability, physical disability,
28 medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied
full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any

1 program or activity that is conducted, operated, or administered by the state or by any state agency,
2 is funded directly by the state, or receives any financial assistance from the state.” CAL. GOV’T.
3 CODE § 11135.

4 57. Section 11135 and its implementing regulations, 2 Cal. Code Regs. §§ 11150 *et seq.*,
5 are enforceable by a civil action for equitable relief. CAL. GOV’T. CODE § 11139.

6 58. The County’s administration of CalWORKs, of which P100 is a part, is a program
7 or activity subject to § 11135 and its implementing regulations.

8 59. In the alternative, P100 is a program or activity subject to § 11135 and its
9 implementing regulations.

10 60. Section 11135 and its implementing regulations prohibit disparate impact
11 discrimination in the operation of any program or activity that is funded directly by the state, or
12 receives any financial assistance from the state.

13 61. In carrying out CalWORKs and P100, the County is violating § 11135 by causing a
14 disproportionate adverse effect on the basis of race, color, national origin, ethnic group
15 identification, or sex.

16 62. In carrying out CalWORKs and P100, the County is violating 2 Cal. Code Regs. §
17 11154(i) because it is using criteria or methods of administration that (1) have the purpose or effect
18 of subjecting a person to discrimination on the basis of ethnic group identification, sex, or color;
19 and/or (2) have the purpose or effect of defeating or substantially impairing the accomplishment of
20 the objectives of the CalWORKs program with respect to a person of a particular ethnic group
21 identification, sex, or color.

22 63. The County’s policies, practices, and actions as stated in this complaint constitute
23 an illegal or wasteful expenditure of public funds justifying an injunction under CAL. CODE CIV.
24 PROC. § 526(a).

25 64. There is no adequate remedy at law if the requested injunction does not issue to
26 prevent the illegal or wasteful expenditure of taxpayer monies.

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