

## INVESTIGATIVE UNIT OPERATIONS PLAN

County: Albany

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Title: Supervising Investigator

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1. The Welfare Fraud Unit is responsible for the Investigations and the Albany County District Attorney's Office is responsible for the prosecutions.
  - The Welfare Fraud Unit is comprised of 1 Supervising Investigator, 1 Senior Investigator, 1 Investigator II, 3 Investigators, 5 Part-Time Field Investigators (current-former-retired police officers) 1 Supervising Eligibility Examiner and a Part-Time Clerk.
  - Allegations are received by employee referrals, tip line calls, Outside Agency Referrals (OTDA, OMIG, DOH, AG, etc.), data matches, Law Enforcement Referrals, etc. When an allegation is received by the Office, it is reviewed by the Supervising Investigator and forwarded to the Senior Investigator for assignment.
2. The Albany County District Attorney's Financial Crimes Unit handles the prosecution of Welfare Fraud cases. The Unit is comprised of a Bureau Chief and 3 Assistant District Attorneys. Evidentiary packets are submitted to the District Attorney's Office periodically and are reviewed by an ADA. In the event that a case is accepted for prosecution, a conference will be scheduled with the Investigator and ADA assigned to the case. If the District Attorney's Office offers a deferred adjudication and civil resolution to the matter, the DA's office will notify the ACDSS in writing and a Disqualification Consent Agreement will be pursued.
3. The Welfare Fraud Unit is responsible for the determining the overpayment amount on Fraud Investigations. This function is handled by the Unit's Supervising Eligibility Examiner who also handles any testimony (Grand Jury, Trials, Hearings) needed or explanation of the overpayment. The Supervising Investigator, Senior Investigator and Investigator II, all supervisors, have been trained to enter overpayments in the CAMS system. Collections on fraud overpayments are handled by the Investigators and accounting staff within ACDSS.
4. The Welfare Fraud Unit has not recently pursued any Administrative Disqualification Hearings. In 2016, the Welfare Fraud Unit is requesting an Eligibility Examiner II be added to the staff. The Eligibility Examiner II will be responsible for the presentation of fraud cases for Administrative Hearings. Once this individual is hired, the agency will abide by the processes and procedures detailed in Title 18 NYCRR 359.
5. Cases are referred to the District Attorney's Office in the form of an evidentiary packet that includes but is not limited to the following:
  - a. Copy of the Investigative Report.
  - b. Detailed breakdown of the Overpayment calculated.
  - c. Statements obtained (if any) and/or list of corroborative evidence obtained.

d. Case Referral for Consideration of Criminal Prosecution Form (in-house ACDSS form)

When a case is considered for prosecution, a conference will be set up between the ADA, the Investigator who completed the case and the Supervising Eligibility Examiner who calculated the overpayment. If the case is accepted, the ADA will return the Referral for Consideration form (Checked: “accepted for prosecution”) to the Supervising Investigator who will compose the arrest packet for the Sheriff’s Department. If the case(s) are not accepted the Referral for Consideration Form will be returned (Checked: “Pursue Disqualification Consent Agreement/Pursue Administrative Disqualification Hearing”) to the Supervising Investigator who will follow necessary guidelines for both procedures.

6. Process for offering a Disqualification Consent Agreement is as follows:

- The Investigator and/or Fraud Unit staff member will first receive a notice from the District Attorney offering deferred adjudication and civil resolution to the case.
- If the client is suspected of an Intentional Program Violation (IPV) and was interviewed, they will have been given the NOTICE OF CONSEQUENCES OF CONSENTING TO A DISQUALIFICATION CONSENT AGREEMENT (LDSS-4904).
- In the event that the client was not interviewed. The investigator and/or Fraud Unit Staff member will attempt to contact the client and serve them with the NOTICE OF CONSEQUENCES OF CONSENTING TO A DISQUALIFICATION CONSENT AGREEMENT (LDSS-4904).

After the client, in either case, is provided with advance notice (10 days) and an opportunity to consult with and be represented by an attorney and/ or other representative, the client will be given an appointment to meet with a Fraud Unit staff member and sign the DCA.

7. A NOTICE TO ADVISE INDIVIDUALS ON A COURT RECORD OF DISQUALIFICATION PROVISIONS (LDSS-4906) is included in the arrest packet given to the Albany County Sheriff’s Office and placed on the record at the time of arraignment. District Attorneys are instructed by the Bureau Chief to notify the defendant verbally of the Disqualification Provisions on the record at the time of a Guilty Plea or Criminal Conviction.

AGREEMENT

THIS AGREEMENT, made this 8 day of October, 2015, between

Eric Ehrmann, Commissioner of the  
Albany County Department of Social Services ,  
with offices at 162 Washington Avenue Albany,  
New York hereinafter called  
"COMMISSIONER"

Party of the first Part

-AND-

P. David Soares, District Attorney  
of the County of Albany, with offices at 6  
Lodge Street Albany, New York, hereinafter called  
"DISTRICT ATTORNEY"

Party of the Second Part

**WHEREAS**, the COMMISSIONER recognizes that is the statutory responsibility of the DISTRICT ATTORNEY to prosecute crimes in the County of Albany,

**WHEREAS**, the DISTRICT ATTORNEY recognizes the COMMISSIONER maintains the Welfare Fraud Unit with the responsibility to investigate allegations of Welfare Fraud in all program areas operated within the Department of Social Services and to recover overpayments of assistance that occur as the result of fraudulent activity, and

**WHEREAS**, The DISTRICT ATTORNEY recognizes the COMMISSIONER is required by the New York State Office of Temporary and Disability Assistance and the New York State Department of Health to make appropriate referrals to the DISTRICT ATTORNEY to prosecute cases of fraud committed against the Albany County Department of Social Services, and

**WHEREAS**, the parties are desirous of instituting procedures in the referral of fraud cases for criminal prosecution as accepted by the DISTRICT ATTORNEY, and for cases not accepted for criminal prosecution, which are to be dealt with by the COMMISSIONER administratively pursuant to the procedures set forth.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein contained, it is hereby agreed by and between the parties as follows:

**ONE:** The COMMISSIONER shall refer cases of Suspected Welfare Fraud to the DISTRICT ATTORNEY on Activity involving a) concealment of a material fact (i.e. unreported income, unreported resources or assets, etc.) resulting in an overpayment of assistance, b) the filing of a false instrument or false statement, c) any combination of a & b, or d) Criminal use or possession of Public Benefit cards (i.e. SNAP Trafficking) or any other fraudulent activity as recommended by the District Attorney. The acceptance of the case for Criminal Prosecution based upon the evidence presented shall be at the discretion of the DISTRICT ATTORNEY.

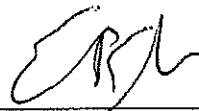
**TWO:** The DISTRICT ATTORNEY recognizes that Investigators with the Albany County Sheriff's Department shall prepare the Accusatory Instrument for all Welfare Fraud cases referred by the COMMISSIONER. The Sheriff's Investigators shall file an evidence package with the DISTRICT ATTORNEY. The evidence package shall include a Statement for the Record identifying Temporary Assistance and SNAP Disqualification penalties to be entered in the court record by the DISTRICT ATTORNEY.

**THREE:** If, after conferring with the Department of Social Services, the DISTRICT ATTORNEY believes that the administrative procedure is in the best interest of the People of the State of New York, then in that event the Social Services Investigator assigned to the case shall attempt to seek restitution in the appropriate area by civil remedy and seek a voluntary Disqualification Consent Agreement in the necessary program area. On overpayments involving the Public Assistance and SNAP programs and Administrative Disqualification Hearing transmittal may be filed for the purpose of establishing an Intentional Program Violation.

**FOUR:** The DISTRICT ATTORNEY authorizes the Department of Social Services to send advance written notification of the consequences of signing a Disqualification Consent Agreement to the assistance unit or household, and enter into a Disqualification Consent Agreement when deferred adjudication is contemplated on Intentional Program Violations (IPV's) resulting from a false statement with no overpayments of Public Assistance or SNAP or as directed by the DISTRICT ATTORNEY.

**FIVE:** This agreement may be terminated by either party upon thirty days written notice to the other party, which notice shall either be mailed by first class mail or delivered in person to the other party at the address for said party as shown on the first page of this agreement.

**IN WITNESS WHEREOF,** the parties hereto have affixed their respective signatures on the day and date of the first above written.



Eric Ehrmann, Commissioner  
Albany County Department of Social Services



P. David Soares, Esq. District Attorney  
County of Albany