

## **Investigative Unit Operations Plan**

**County: Genesee**

**Contact Person: Michael Kowalczyk**

**Title: Investigator**

**Phone #: (585) 344-2580 ext. 6416**

**E-mail Address: mike.kowalczyk@dfa.state.ny.us**

1. What unit is responsible for the investigation of client fraud allegations?

The Fraud Unit is the unit responsible for the investigation of fraud allegations. The unit consists of two Department of Social Services (DSS) Investigators. The Director of Financial Services reviews each of the Social Services Investigators' completed investigations. The referral for investigation usually comes from the examiners in the non-services unit but may also be initiated by contact from a citizen, an observation made by the DSS Investigator or by various state and local agencies.

The DSS Investigators obtain necessary information to document the allegations made on any referral. This information is obtained by direct client contact as well as collateral contacts. Additional information is obtained from the eligibility worker based on their observations and file documentation. Information is also obtained through various state reports and computer verifications. These include but are not limited to; State Prison Matches, EBT Out of State Matches, PARIS Matches, USDA e-DRS, Equifax Credit Reports, Accurant Reports, UIB records, DMV records, NDNH Matches, The Work Number Reports (TALX), Criminal History Records Searches, and Police records.

When the DSS Investigator has made a determination about the referral he reviews it with the eligibility worker responsible for the case so that if necessary, immediate action can be taken on the case. The DSS Investigator then completes a summary of the investigation that is reviewed by the Director of Financial Services. At that point the completed investigation is returned in writing to the eligibility worker.

2. What unit is responsible for the prosecution of client fraud allegations?

The Fraud Unit and the District Attorney's Office are responsible for the prosecution of client fraud allegations. The Fraud Unit consists of two DSS

Investigators and the District Attorney's Office has assigned an Assistant District Attorney (ADA) to handle the cases being prosecuted. During the course of an investigation if the DSS Investigator discovers a potential crime has been committed the DSS Investigator will gather evidence in order to present the case to the ADA. Generally the ADA meets with the DSS Investigator and reviews the evidence and potential charges the DSS Investigator has developed. The evidence packet can also be submitted to the ADA electronically. Regardless of how the information is submitted to the ADA, the ADA reviews the case and may decide to ask the DSS Investigator to provide more information. The ADA may decide to accept the case for prosecution or in lieu of filing criminal charges the ADA has the option of offering the client a DCA (Disqualification Consent Agreement). The ADA may also advise the DSS Investigator the correct action may be to pursue a disqualification through an Administrative Disqualification Hearing or to not pursue any disqualification against the client.

3. What unit is responsible for determining the overpayment amount, establishing the claim, and collection activities?

After the DSS Investigator obtains the necessary information to document and support the allegations of overpayments he computes the overpayment if it has not been previously established by the eligibility worker making the referral. The eligibility worker having responsibility for the case record is advised to begin recoupment procedures on any open case and notify clients of overpayments for all closed cases. Collections are tracked by the accounting unit and in some cases through the CAMS system. In addition the accounting unit sends follow-up notices on delinquent accounts and contacts Departments of Social Services in other counties and requests their assistance in collecting an overpayment when a client with an outstanding recoup balance applies for assistance in another district.

4. What are the step by step procedures for the referral of fraud cases for administrative hearings, including the notices provided and the timing of providing such notices?

In almost every case that involves an administrative hearing the client has been interviewed by the DSS Investigator. At the time of the interview the DSS Investigator informs the client of the possible outcomes of the case. These outcomes may include prosecution, a DCA, an ADH, a recoupment or no action taken at all. If the evidence does not rise to the level of a prosecution it may be determined there is enough evidence to pursue an IPV through the administrative disqualification hearing process. In those cases packets are prepared following the prescribed procedures of the OTDA ADH Unit. The evidence packets are sent to the OTDA ADH Unit. The OTDA ADH unit then sends a copy of the packet to the client with a hearing date which the OTDA ADH unit sets.

5. What are the step by step procedures for the referral of fraud cases to your District Attorney, including the notices provided and the timing of providing such notices?

Referrals are made to the District Attorney's Office in several different fashions. In most instances an appointment is made by the DSS Investigator to meet with the ADA regarding a potential fraud case. In other instances a referral can be made electronically by scanning the documents. In the past photocopies were even sent via the county courier. Due to the availability of several new copier/scanners at DSS if we need to we can now have the ADA on the phone and be viewing the same scanned documents. In all cases where a referral is made to the ADA the ADA is consulted in some fashion either by phone, email or in person.

In Genesee County the only "notice" that is used between DSS Investigator and the ADA is a form letter. (example attached). This form letter is used in cases where a face to face meeting with the ADA is not practicable. When sent electronically and accompanied by a basic evidentiary packet it is reviewed by the ADA and the ADA determines if they will possibly pursue the case for prosecution, offer the client a DCA or return the case to DSS to be handled in-house. As stated above, before making a determination the ADA confers with the DSS Investigator to help with their determination.

6. What are your procedures for offering a Disqualification Consent Agreement (DCA)?

A DCA is offered by the District Attorney's Office not the DSS Investigator. The ADA has to determine if a prosecutable crime has been committed. After reviewing a potential fraud case it is at the discretion of the ADA if a DCA may be offered to the client(s) in lieu of prosecution. The ADA usually asks for the input of the DSS Investigator before making that final determination.

When the ADA decides to offer a client a DCA the ADA sends the client a DCA "packet" and a letter advising the client to contact the DSS Investigator at the Social Services office (sample letter attached). The DCA "packet" consists of a "Notice of Consequences of Consenting to a DCA", the actual DCA form and the DCA Affidavit. The client is given ten days to contact the DSS Investigator to set up an appointment to review their case.

When the client contacts the DSS Investigator an appointment is set up a minimum of ten days after the client receives the packet from the ADA. Usually the client and the DSS Investigator have already met and spoken regarding the client's situation and possible criminal charges before the DSS Investigator even discusses the case with the ADA. The client therefore is usually aware of the possible outcomes involving their case that range from prosecution to no adverse action being taken. If the client and DSS Investigator have not met previously, the scheduled appointment is an opportunity to review the case with the client. If new information is provided by the client that indicates a prosecution or a DCA may not be warranted the new information is presented to the ADA for review. The ADA would then make a determination whether or not to proceed with the case.

When a client agrees to proceed with a DCA the client and DSS Investigator review the Notice of Consequences of Consenting to a DCA, DCA Affidavit, the DCA form and if appropriate, a Confession of Judgment. The client has an opportunity to

ask any additional questions that they may have. After signing the Affidavit, DCA and Confession of Judgment, copies are provided to the client. No action is taken on the case for another ten days after the paperwork is signed. After the ten days elapse the appropriate notices are sent to the client and copies of all the signed paperwork and notices are sent to the ADA as well for their prosecution records.

7. How is it proven that an individual has been advised on the court record of the Public Assistance disqualification penalties?

As part of any court case the ADA requests that the judge order the client and the client's attorney to sign a Statement for the Record to advise the client on the record of the disqualification provisions contained in Social Services Law Section 145-c and Regulations at 18 NYCRR 359.9. The judge then signs an order entering the statement into the record. Copies of both forms are attached.

**Attach a copy of the agreement between your social services district and the District Attorney's Office for the prosecution of welfare fraud.**

**COUNTY OF GENESEE  
DEPARTMENT OF SOCIAL SERVICES**

5130 EAST MAIN STREET - SUITE 3  
BATAVIA, NEW YORK 14020-3433  
585-344-2580

Public Assistance, Medicaid, Food Stamps: 585-344-2587  
Child Support Collection/Enforcement: 585-344-8500  
FAX: 585-343-5548

**EILEEN M. KIRKPATRICK**  
Commissioner  
**MARK CASTIGLIONE**  
Director of Financial Services

**JERRY MORAN**  
Director of Social Services  
**LISA PENNA**  
Director of Administrative Services

**AGREEMENT BETWEEN**

**GENESEE COUNTY DEPARTMENT OF SOCIAL SERVICES**

**AND**

**GENESEE COUNTY DISTRICT ATTORNEY'S OFFICE**

THIS AGREEMENT, by and between the **GENESEE COUNTY DEPARTMENT OF SOCIAL SERVICES** (hereinafter referred to as the **Department**), and the **GENESEE COUNTY DISTRICT ATTORNEY'S OFFICE** (hereinafter referred to as the **District Attorney**) is effective when signed by both parties hereto and approved by an appropriate official of the New York State Department of Social Services.

WITNESSETH:

WHEREAS part 348 of Title 18 of the Codes, Rules and Regulations of the State of New York requires the Department to refer to the District Attorney all cases wherein reasonable grounds exist to believe that fraud was committed; and

WHEREAS Section 700 of the County Law of the State of New York requires the District Attorney to conduct all prosecutions for crimes and

offenses cognizable by the courts of the County for which he shall have been elected or appointed;

NOW THEREFORE it is agreed and understood as follows:

**A. Responsibilities of the Department**

1. The Department will maintain systems to detect suspected cases of Intentional Program Violations involving Public Assistance, Food Stamps or any other program providing benefits and care administered by the Department.
2. The Department will refer appropriate cases of alleged program violations by Applicants or Recipients of such benefits to the District Attorney for consideration of Prosecution or other disposition.
3. The Department will provide and make available to the District Attorney such records and information as required by the District Attorney for further investigation or prosecution of Referred Intentional Program Violations including, but not limited to, the computation of overpayment for these cases.

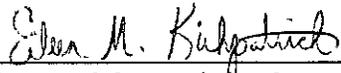
**B. Responsibilities of the District Attorney**

1. The District Attorney's Office shall accept Intentional Program Violation referrals from the Department and prosecute such cases wherein the District Attorney determines a criminal prosecution is appropriate. The District Attorney's Office will also advise the Department of those cases where prosecution is declined.

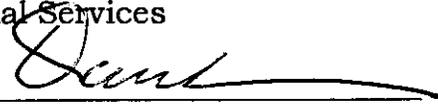
2. The District Attorney's Office, for those cases which in its discretion it deems appropriate, shall, in lieu of a criminal prosecution, authorize the Department to use Intentional (ADH) Violation Hearings and Disqualification Consent Agreements as well as such other procedures which may be required by the Department in the prosecution of Intentional Program Violations.
3. In accordance with the intent of Penal Law Section 60.27, "Restitution and Reparation", the District Attorney's Office, upon a Defendant's conviction in appropriate cases, will seek an Order of Restitution for recovery of monies fraudulently obtained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates appearing opposite their respective signatures.

DATE: 3/4/14

  
\_\_\_\_\_  
Eileen Kirkpatrick, Commissioner  
Genesee County Department  
of Social Services

DATE: 3/5/14

  
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Lawrence Friedman  
Genesee County District Attorney