

## MEMORANDUM OF UNDERSTANDING

BY AND BETWEEN THE LIVINGSTON COUNTY DEPARTMENT OF SOCIAL SERVICES AND THE LIVINGSTON COUNTY DISTRICT ATTORNEY

WHEREAS, the Livingston County Department of Social Services (LCDSS) is responsible for administering public welfare programs for the benefit of the residents of Livingston County; and

WHEREAS, situations arise in which applicants and/or recipients of public welfare programs obtain or attempt to obtain or aide another in obtaining or attempting to obtain public benefits by fraudulent or deceptive means; and

WHEREAS, The District Attorney is solely responsible for the prosecution of all crimes committed within the jurisdiction of Livingston County, including crimes of suspected welfare fraud; and

WHEREAS, the Livingston County Department of Social Services and the Livingston County District Attorney are desirous of entering into an agreement setting forth a procedure for the identification, referral and prosecution of cases of suspected welfare fraud in Livingston County and holding those who obtain benefits fraudulently from the system accountable for their actions;

NOW, THEREFORE, it is agreed as follows:

FIRST: Reported cases of suspected welfare fraud shall be initially referred to the Fraud Unit within the Administrative Services Division at LCDSS for investigation;

SECOND: Upon receipt of the referral, the Fraud Investigator will conduct a thorough desk investigation into the allegations of suspected welfare fraud and compile evidence in support of the allegations;

THIRD: Upon completion of the desk investigation, the Fraud Investigator shall prepare a summary packet with a written summary of the findings. The Fraud Investigator will identify any field investigation requirements that may be necessary to affirm or negate the allegation.

FOURTH: The Fraud investigator will send summary packet to the Director of Administrative Services at LCDSS for review.

FIFTH: The Director of Administrative Services will review all summary material and take one of three actions: refer on for additional field investigation if appropriate; refer to District Attorney if it is determined that the evidence and information reasonably support grounds to believe that welfare fraud has been committed; explore alternative civil collection methods if the review determines that the evidence and information do not reasonably support grounds that welfare fraud has been committed.

SIXTH: In all cases where reasonable a grounds to believe that welfare fraud has been committed, the matter will be referred to the Livingston County District Attorney's Office for consideration for possible criminal prosecution. The referral by LCDSS to the Livingston County District Attorney shall include a short summary of the findings of the investigation, names, addresses and contact information for any witnesses, the Disqualification Notice for Temporary Assistance and Food Stamp Programs, and all documentation needed for prosecution which could include but not be limited to: copies of the application, budget calculations, a calculation of the assistance that is believed to have been fraudulently obtained, verification of wage income, bank account(s), and supporting depositions of any witnesses.

SEVENTH: If the District Attorney determines that reasonable grounds to prosecute the matter in question do not exist, after a review of the materials submitted by LCDSS and any additional information gathered subsequent to the initial referral, the District Attorney shall so notify LCDSS. The District Attorney shall then return the fraud packet to LCDSS with a letter indicating his decision not to prosecute the case.

EIGHTH: If the District Attorney determines that reasonable grounds exist to believe that a welfare fraud has been committed, the Livingston County District Attorney's Office will take all appropriate steps necessary to prosecute the matter in question. The District Attorney shall determine the appropriate jurisdiction where the criminal matter should be filed.

NINTH: If the District Attorney determines that further documentary material is required to successfully prosecute the matter at any time during the proceedings, he will request the same through the LCDSS.

TENTH: Once referred to the Livingston County District Attorney's Office, there will be three possible outcomes where the District Attorney's Office accepts the case for possible prosecution:

1. The District Attorney's Office may suspend the prosecution if the client executes a Disqualification Consent Agreement. In such a case, the District Attorney's Office will keep the case open until the DCA is complied with or until the Agency notifies the District Attorney's Office that the client is not in compliance. In such case, the District Attorney's Office will pursue prosecution.

2. The District Attorney's Office may dispose of the case through an ACD (Adjournment in Contemplation of Dismissal). In such cases, the District Attorney's office will assist the Agency in obtaining a Disqualification Consent Agreement from the client.

3. The District Attorney's Office will pursue criminal prosecution and conviction if the client has not or will not sign a Disqualification Consent Agreement.

ELEVENTH: a. It is understood that where a criminal conviction is obtained, the District Attorney's Office will request a sentence of the court that will include court ordered repayment/restitution with a period of probation supervision as appropriate, and such other terms as may be necessary to institute an intentional program violation (IPV).

b. The District Attorney will periodically advise LCDSS as to the status of the matter in question and of the final disposition of the case.

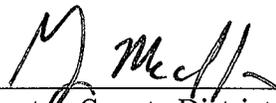
c. The District Attorney recognizes that it is important that LCDSS be advised of those cases where there is a conviction, and all terms of sentencing in order for the Agency to monitor compliance and institute appropriate sanctions.

d. Upon completion of any case resulting in a criminal conviction, the District Attorney's Office will provide LCDSS with a copy of the certificate of conviction for the client, as well as any terms or conditions of probation.

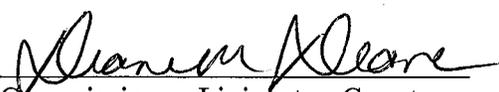
TWELFTH: If the testimony of a representative or representatives of LCDSS is required at any stage of the commencement, indictment, prosecution or sentencing phase of the case, the Livingston County District Attorney shall notify the LCDSS so that arrangements can be made for the appearance of the necessary LCDSS witness or witnesses at the appropriate time and date.

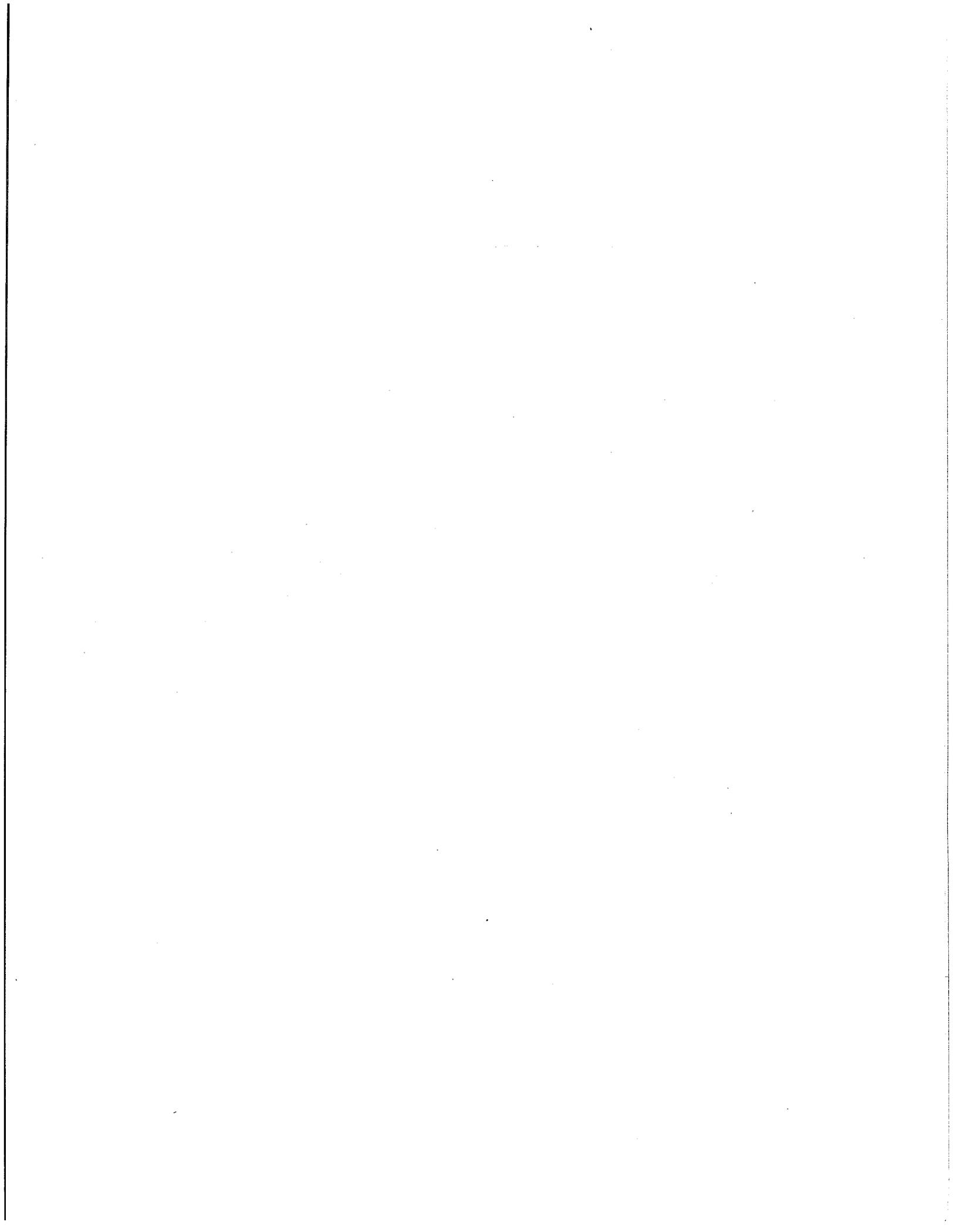
THIRTEENTH: This agreement sets forth a working understanding between the respective agencies. Nothing contained herein shall be construed to limit, abridge or otherwise restrict the District Attorney's authority, responsibility and/or prosecutorial discretion. No part of the District Attorney's authority is hereby delegated to the Department of Social Services. The intent of this agreement is to establish consistency in the treatment of defendants and/or potential defendants, and to facilitate a flow of information between the agencies.

Dated: June 7, 2016

  
Livingston County District Attorney

Dated: June 7, 2016

  
Commissioner, Livingston County  
Department of Social Services



## Investigative Unit Operations Plan

**County:** Livingston - 24  
**Contact Person:** George Macomber  
**Title:** Director of Administrative Services  
**Phone #:** 585-243-7300  
**E-mail Address:** gmacomber@co.livingston.ny.us  
**Date:** 6/1/2016

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

**Please provide the name of the unit, # of positions, titles of positions, and how allegations are processed.**

The Fraud and Internal Audit Unit, operates under the Division of Administrative Services. The Unit, in addition to its responsibilities for investigating all allegations of welfare fraud, also does Front End Detection investigations, Eligibility Verification Reviews, and conducts audit functions as requested by the Commissioner. The Unit is staffed by one Senior Social Welfare Examiner working as a fraud investigator, a part time private investigator and part time assistance from the Livingston County Sheriff's Department. The Director of Administrative Services supervises this Unit directly.

Allegations are received either externally from the public or internally from Agency staff. Allegations in the form of telephone calls and written correspondence are received and logged. A desk review is commenced to include but not be limited to: WMS review, case file review, income verification, and household composition verification. Field investigations are conducted as appropriate to reach a conclusion on an allegation.

Field investigations are completed by the Fraud Investigator, a private investigator or an investigator from the Livingston County Sheriff or Livingston County District Attorney's Office.

The Fraud Investigator writes a case summary making a determination and recommendation based on the results of the investigation. The Director of Administrative Services signs off on all case summaries before the next action is taken.

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

**Please provide the name of the unit, # of positions, titles of positions, and how allegations are processed.**

All referrals where it has been determined that assistance was received fraudulently, are referred to the Livingston County District Attorney's (DA) Office for prosecution consideration.

The District Attorney's office receives the case summary along with field investigation information. Any and all evidentiary backup that the District Attorney requires for prosecution is provided by DSS. These items could include certified copies from the case

record, all documents obtained regarding income from employers, from UIB, from Social Security, from Pension Plans, etc.; all depositions from witnesses, school verification forms.

Additionally any documents that are prepared in advance for use by the attorney in court are provided to the DA, as is the case with the Notice to Advise Individuals on a Court Record of Disqualification Provisions.

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

The Senior Social Welfare Examiner, in the Fraud and Internal Audit Unit, is responsible for determining the overpayment amount based upon eligibility rules for each program area. After the disposition of a case is determined, the SSWE is responsible for establishing claims on the Cash Management System (CAMS). Staff in the Division of Administrative Services is responsible for printing and mailing billing statements every other month. Payments received are posted by the Accounting Unit.

**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?**

Some cases submitted to the DA's office may not be accepted for criminal prosecution. In these instances, the Agency begins the action to obtain adjudication through an Administrative Disqualification Hearing.

The evidentiary packet which is required by the New York State Department of Administrative Hearings is prepared, and an ADH is requested. The prosecution packet prepared by the Fraud Investigator consists of a written summary of the investigation: what the allegation was, what the findings of the investigation were, and a conclusion; all evidentiary backup, including certified copies from the case record, all documents obtained regarding income from employers, from UIB, from Social Security, from Pension Plans, etc.; all depositions from witnesses, school verification forms, etc.

**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?**

The prosecution packet prepared by the Fraud Investigator is sent to the DA. It consists of a written summary of the investigation: the allegation, the findings of the investigation, and a conclusion; any and all evidentiary backup that the District Attorney requires for prosecution is provided by DSS. These items could include certified copies from the case record, all documents obtained regarding income from employers, UIB, Social Security, Pension Plans, etc.; all depositions from witnesses, school verification forms, etc; and any documents that are prepared in advance for use by the attorney in court. These documents are either required by the Department of Social Services, as is the case with the Notice to Advise Individuals on a Court Record of Disqualification Provisions, or that make handling the case easier for the court as is the case with the Information, the Certificate of Conviction, and the Confession of Judgment that are included in all Justice Court cases. In general, cases that exceed \$1000 of incorrectly received assistance will be heard by the Livingston County Grand Jury. For cases of \$999 or less, the case will generally be heard by a Justice Court. The DA retains all rights in making the final decisions on where the case will be presented.

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

The District Attorney's Office may decide in some instances to withhold criminal prosecution of a case due to the dollar amount of overpayment incurred, or, may offer an ACD provided that full restitution is made. In these instances a Disqualification Consent Agreement will be used as a mechanism for obtaining a disqualification period. A contact letter is sent to the client. The client makes an appointment to come in and speak to the Investigator. During the interview with the client the "Notice of Consequence" and the "Disqualification Consent Agreement" are read to the client explaining each bullet and answering any questions the client may have. The client is given in writing the address and phone number for the Legal Aid of the Finger Lakes. Before the client leaves the interview, they are given an appointment to return no earlier than 10 days from that date. They leave with both the "Notice of Consequence" and the "Disqualification Consent Agreement". When the client comes for the follow up appointment, they either present a statement or give a statement at that time. The Client then signs the DCA and is given a copy for their records. If applicable the client then signs a repayment agreement and is also given a copy. The Senior Social Welfare Examiner then completes client notices, adjusts the budget, and establish a claim and pursues collection.

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

When the District Attorney's Office is negotiating a plea for disposition of a case, the client and their representative will receive a Notice of Consequence and Disqualification Consent Agreement at least 10 days prior to the scheduled court appearance. The Statement for the Record document is included with each evidence package sent to the District Attorney, Criminal Court, and the Defendant.

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

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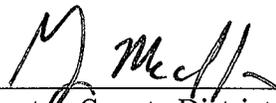
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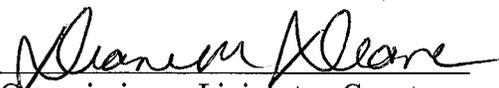
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