

Investigative Unit Operations Plan

County: Madison County

Contact Person: Julie Netzband

Title: Deputy Sheriff Sergeant

Phone #: 315-366-2834

E-mail Address: julie.netzband@madisoncounty.ny.gov

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 Madison County Sheriff's Office Criminal Investigations Division is the unit responsible for investigating allegations of fraud. There are five total member assigned to investigate fraud complaints, four Investigators and one Sergeant. Complaints of fraud received by the Criminal Investigations Division are forwarded to the Madison County Department of Social Services for preliminary review. If there is merit to the complaint it is returned and subsequently investigated, if the complaint is deemed unfounded it is no longer pursued.

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.

The Madison County District Attorney's Office is responsible for the prosecution of individuals arrested by the Madison County Sheriff's Office for criminal acts related to welfare fraud or filing false instruments during the application process.

The Madison County District Attorney's Office is made up of the District Attorney, Chief Assistant District Attorney, five Assistant District Attorneys, and one Investigator.

Once a fraud allegation is investigated by the Sheriff's Office and an arrest has been made, it is referred to the Madison County District Attorney for prosecution. In the event assistance is required during the investigative stage, assistance is available through the District Attorney's Investigator. Allegations/Arrests are processed as a criminal act and follow the same court proceedings as other violations of the law.

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

Madison County Department of Social Services is responsible for determining the overpayment amount and establishing the claim. At the onset of a fraud complaint/investigation, the complaint is forwarded to a designated employee to research and determine what area the investigation should focus. If the investigation reveals that a fraud violation has occurred the employee is notified and then calculates an overpayment amount.

In the event of an overpayment that is remedied by a sanction it is handled by the Madison County Department of Social Services. In the event the fraudulent act is pursued criminally an overpayment may then be ordered as restitution by the presiding Judge.

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?

Madison County does not offer individuals the opportunity to sign a DCA in lieu of arrest.

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?

Once a fraud investigation is opened in the Madison County Sheriff's Criminal Division a notice is sent to the Investigator for the District Attorney's Office. In the event the assistance is required he/she is familiar with the party being investigated. If no assistance is required the case is investigated, the arrest is made and the subsequent paperwork (Incident report, Arrest report, Accusatory Instruments, Supplement Reports and Case notes) are forwarded to their office. The timing of providing these notices can be within days of the arrest, or hours depending of the category of the offense (Felony/Misdemeanor). In the event criminal charges involve a felony level crime, and bail has been set on the individual, a preliminary hearing must be held within 144 hours of their arraignment. This requirement would naturally increase the timing that the paperwork/notices are delivered to the District Attorney.

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

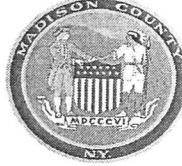
Madison County Sheriff's Criminal Investigative Division Members do not have a procedure for offering Disqualification Consent Agreement.

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

All court proceedings are recorded.

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

MADISON COUNTY
DISTRICT ATTORNEY'S OFFICE



HON. WILLIAM G. GABOR
DISTRICT ATTORNEY

Veterans Memorial Building Telephone: 315-366-2236
Wampsville, New York 13163 Facsimile: 315-366-2503

Chief Assistant District Attorney
Robert A. Mascari

Assistant District Attorneys
Elizabeth S. Healy
Scott T. Bielicki
Joseph A. Mellace
Kathleen A. Rapasadi

Confidential Secretary
Cheryl F. Williams

Administrative Staff
Linda L. Barbour
Mary F. Egger
Kelley S. Hood
Mary L. Monashefsky
Linda L. Paul

Victim Advocate
Carlene Holt

MEMORANDUM OF UNDERSTANDING BETWEEN THE
MADISON COUNTY SHERIFF'S OFFICE,
THE MADISON COUNTY DISTRICT ATTORNEY OFFICE,
AND THE MADISON COUNTY DEPARTMENT OF SOCIAL SERVICES

It is hereby understood and agreed to by the undersigned parties that the members of the Madison County Sheriff's Office assigned to the Welfare Fraud Unit, also known as the Intentional Program Violation Unit, shall coordinate their investigation of alleged fraud upon the County of Madison with a member of the Madison County District Attorney's Office.

Contact with the District Attorney's office shall commence during the initial phases of the investigation when believed by the investigating officer that such contact is necessary with respect to legal or evidentiary questions arising therein. Otherwise, contact will be made with the District Attorney's Office as it pertains to the arrest and detention of any person deemed to have committed a crime with respect to the subject of the investigation.

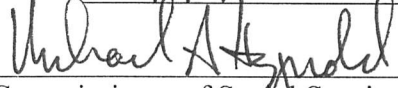
Once a suspect is arrested the Sheriff's Office shall immediately provide the District Attorney's Office with a full copy of the case file.

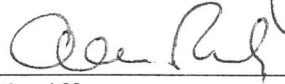
All decisions pertaining to the manner by which the matter is prosecuted shall be in the sole discretion of the District Attorney.

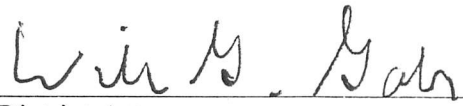
The District Attorney's Office shall advise the magistrate before whom the case is prosecuted with respect to matters pertaining to disqualification of the defendant and will insure that the appropriate documentation to this effect is obtained from the defendant during the course of the legal proceedings.

It shall be the purpose of this understanding to permit full and complete mutual disclosure of information pertaining to the targeted cases and all agencies shall seek to insure cooperation and coordination throughout the investigation and prosecution of the targeted case.

Dated: 3/7/14


Commissioner of Social Services


Sheriff


District Attorney



MADISON COUNTY BOARD OF SUPERVISORS

JOHN M. BECKER
Chairman
MARK SCIMONE
County Administrator
CINDY URTZ
Clerk

138 N. Court St., PO Box 635
Wampsville, NY 13163
Phone: 315/366-2201
Fax: 315/366-2502

May 2, 2017

Raymond Burke
rburke@empirejustice.org

Sent via Email

Re: FOIL Request

Dear Mr. Burke,

In response to your request received on April 27, 2017 under Freedom of Information Law for a copies, including any documents in electronic format, from Madison County Department of Social Services concerning the most recent agreement between the local social services district and the local prosecuting authority's office for the prosecution of intentional program violations and any and all attachments to the foregoing document., please find enclosed the records requested.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Scimone".

Mark Scimone
Records Access Officer

MS/cjc

Enc.

MEMORANDUM OF AGREEMENT

This agreement made this 1st day of January, 2017 between the Madison County Department of Social Services (hereinafter referred to as the Department) and the Madison County District Attorney's Office (hereinafter referred to as the District Attorney).

Whereas, 18 NYCRR 348 and 399 requires the Department to enter into a written agreement with the District Attorney where intentional program violations are alleged,

Now, therefore, it is agreed as follows:

I. The Department shall:

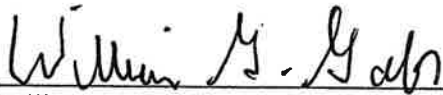
1. Have all instances of suspected fraud referred to the Department's Investigation Unit.
2. The Investigation Unit will conduct a thorough investigation to determine if the allegations are factual.
3. When the facts warrant criminal prosecution, the Department, or a law enforcement entity under contract with the Department to perform investigations, will follow the direction of the District Attorney regarding the appropriate course of action.
4. Take no action to initiate recovery of the alleged overpayment and/or over-issuance when the facts warrant criminal prosecution, as doing so could prejudice the prosecution.
5. Accept restitution, upon the request and direction of the District Attorney, and subsequently advise the District Attorney promptly whenever restitution is paid.
6. If the Department wishes for the District Attorney to consider an offer of a Disqualification Consent Agreement (hereinafter referred to as a DCA), the Department will make a request in writing to the District Attorney and will attach a case summary. The District Attorney may also choose to pursue a DCA based upon case circumstances post-arrest. In either instance, if the District Attorney agrees to proceed with a DCA, they will furnish the Notification of the Consequences of Signing the Disqualification Consent Agreement (hereinafter referred to as DCA) to the accused, at least ten (10) days prior to the execution of the DCA. This notification will instruct the accused to contact the Department. The Department will meet with the accused in an attempt to secure the DCA. If a DCA is obtained, a copy of the signed DCA will be furnished to the District Attorney. If the accused refuses to sign the DCA, the District Attorney will be notified to pursue prosecution. These actions will follow the guidelines pursuant to 18 NYCRR sections 359.4 and 399.4
7. Should the Department conclude that criminal prosecution is not warranted or if the District Attorney declines prosecution, the Department may choose to proceed with an Administrative Disqualification Hearing pursuant to 18 NYCRR sections 359.5-359.8 and 399.7.
8. Designate a liaison person.

II. The District Attorney shall:

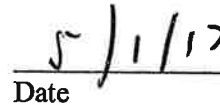
1. Where it is determined that a crime has occurred, the District Attorney will make a determination to prosecute the offender by submission of evidence to the Grand Jury or referring to a local law enforcement agency for filing the appropriate accusatory instrument.
2. If a DCA is contemplated, the District Attorney will instruct the Department to take such action. If the District Attorney chooses to settle a case by an order adjourning the case in contemplation of dismissal, a DCA may be used, providing that full restitution is made.
3. The results of the District Attorney's endeavors will be provided to the Department in writing, within thirty (30) days of the case disposition.

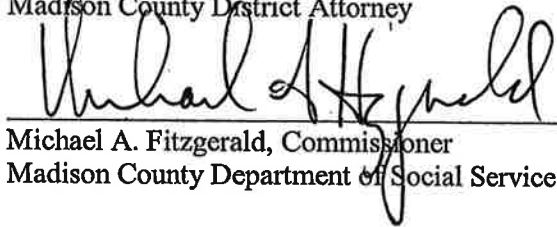
III. Terms

1. Either party may terminate this MOU by thirty (30) days written notice to the other party.



William Gabor, Esq.
Madison County District Attorney


Date



Michael A. Fitzgerald, Commissioner
Madison County Department of Social Services

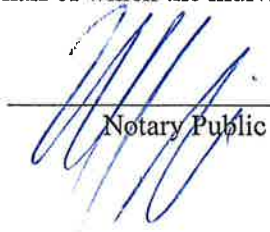

Date

STATE OF NEW YORK)

SS:

COUNTY OF MADISON)

On the ^{1st} day of May, in the year 2017 before me, the undersigned, personally appeared William Gabov, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

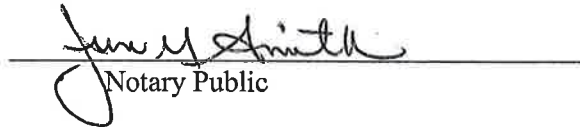
MISIASZAK
Appointed Madison Co.
Expires 11/30/19

STATE OF NEW YORK)

SS:

COUNTY OF MADISON)

On the 1 day of May, in the year 2017 before me, the undersigned, personally appeared Michael A. Fitzgerald, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

JUNE M. SMITH
Notary Public, State of New York
No. 01SM6171459
Qualified in Oneida County
My Commission Expires July 23, 2019