

## Investigative Unit Operations Plan

**County:** Montgomery

**Contact Person:** Johanna Delcostello/James Nicosia

**Title:** Director of Eligibility/Lead Investigator

**Phone:** 518-212-5828/518-853-8328

**E-mail Address:** [Johanna.delcostello@dfa.state.ny.us](mailto:Johanna.delcostello@dfa.state.ny.us)/[james.nicosia@dfa.state.ny.us](mailto:james.nicosia@dfa.state.ny.us)

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 Montgomery County Department of Social Services Fraud Unit (MCDSSFU) is responsible for the investigation of client fraud allegations. This unit consists of six (6) contractual Investigators. The unit has one Lead Investigator working thirty (30) hours per week, five (5) Investigators each working 15 hours per week and one full time Social Welfare Examiner (SWE).

It is the Fraud Units responsibility to perform all investigations, determine the type of overpayment, document the amount of all overpayment and submit the case to the local District Attorney's Office for review. The District Attorney's Office determines whether to proceed with a prosecution or a Disqualification Consent Agreement.

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 MCDSSFU, along with the District Attorney's Office, is responsible for the prosecution of all cases.

Once the investigation is completed by the Fraud Unit, they prepare a packet of the findings and present that to the District Attorney's Office along with a summary of their findings. The Assistant District Attorney (ADA) reviews the packet with the Investigator and then determines how to proceed with the case.

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

The Social Welfare Examiner in the Fraud Unit establishes the overpayment based on the information she receives from the Investigator and the SWE in the Eligibility Unit. The SWE is also responsible for conducting and monitoring collection activities.

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?

At the present time MCDSSFU refers all potential IPV cases to the District Attorney's Office and the case of processed through their office.

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 Investigative Unit is responsible for all referrals made to the District Attorney's Office by the Montgomery County Department of Social Services. Once the Investigative Unit conducts an investigation and determines that there is sufficient information to pursue and Intentional Program Violation (IPV) the Fraud Unit prepares an Investigative Information packet that is submitted to the DA's office. This packet includes a cover sheet providing the following information:

- Name, DOB and address of the individual
- Possible criminal charges
- Synopsis of case outlining the elements of a crime
- Exhibits that support the charges
- An overpayment summary
- Witness list for the prosecution

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

All potential IPV's are submitted to the DA's office for review. If the ADA determines that a Disqualification Consent Agreement would be the appropriate action to take, the MCDSSFU would proceed with the case as follows:

- Contact the individual to set up an appointment to meet with the Fraud Unit
- At the meeting the Investigator and SWE will provide the individual with a copy of the Notice of Consequences of Consenting to a Disqualification Consent Agreement
- They will discuss the allegations and present the individual with an evidence packet
- A second appointment will be scheduled for at least 10 days after the first meeting
- At the second meeting the individual will be presented with the Disqualification Consent Agreement and the DCA Acknowledgement Form (DCAAF)
- The Investigator and the SWE will go over both of these forms with the individual
- The individual will be asked to sign and initial both forms where indicated. After the second meeting the ADA will be notified of the outcome. Copies of all documents will be provided to the ADA for their records. In the event that the individual decided not to sign the DCA, the DA's office will then determine how to proceed

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

If a case is presented in criminal court, prior to a client pleading to those charges filed against him/her, the District Attorney will place a statement for the record in court that advises the individual those penalties, if any, that will be imposed as a result of a guilty plea. Those penalties will include, where appropriate, Disqualification Consent Agreements and repayment agreements as prepared by MCDSSFU staff and signed by the individual as part of the plea agreement.

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

## DISTRICT ATTORNEY'S COOPERATIVE AGREEMENT

This Cooperative Agreement made the 1<sup>st</sup> day of February, 2014, between the MONTGOMERY COUNTY DEPARTMENT OF SOCIAL SERVICES, (the DEPARTMENT), and the MONTGOMERY COUNTY DISTRICT ATTORNEY'S OFFICE, (the DISTRICT ATTORNEY) is entered into between the parties.

### WITNESSETH:

**WHEREAS**, 18 NYCRR359.4(b) and 399.4(d) requires the DEPARTMENT to enter into a written agreement with the District Attorney with regard to advance written notifications of the consequences of signing a disqualification consent where Intentional Program Violations are alleged,

**NOW THEREFORE**, it is agreed as follows:

1. The DISTRICT ATTORNEY agrees that in all cases referred to his office where; (1) an Intentional Program Violation is alleged, and (2) where the case is to be settled upon a basis of a deferred adjudication (e.g. adjournment in contemplation of dismissal), and (3) where a disqualification consent agreement in part of such settlement or order, the DISTRICT ATTORNEY will notify the DEPARTMENT prior to such settlement for the purpose of permitting the DEPARTMENT to send advance written notice to the defendant of the consequences of signing a disqualification consent agreement.

### COUNTY DISTRICT ATTORNEY'S OFFICE

By:   
Jed Conboy  
Montgomery County District Attorney

Date: 3/5/14

### COUNTY DEPARTMENT OF SOCIAL SERVICES

By: MM  
Michael McMahon  
Commissioner of Montgomery County Social Services

Date: 3/4/14