

## Investigative Unit Operations Plan

County: Rensselaer

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1. The Special Investigations Unit (SIU) is responsible for the investigation of client fraud allegations. When at full staff there are six investigators: 1 supervisor, 3 investigators, and 2 FEDS. Allegations of fraud are received through, employee referrals, tip line calls, other agency referrals, data matches, and various other means. When there is an allegation of fraud it is reviewed by the supervising investigator and forwarded to the investigations unit for follow up.
2. The Rensselaer County District Attorney's Office is responsible for the prosecution of all welfare fraud cases. The Rensselaer County District Attorney's office is made up of the District Attorney, a First Assistant District Attorney, and numerous Assistant District Attorney's. Allegations of fraud are investigated by the SIU and a determination is made whether or not to forward the case to the District Attorney for criminal action. Investigators and/or the District Attorney may handle the case administratively rather than criminally.
3. SIU is responsible for determining overpayment amounts and for establishing claims for overpayment. The social welfare examiner for the client in question calculates the overpayment amount and relays this information to the assigned investigator.
4. Rensselaer County does not refer cases for administrative hearings. Cases are either prosecuted criminally or presented for civil action. Rensselaer County SIU is currently adding staff and once staffing permits Rensselaer County will pursue administrative hearings.
5. Cases that are referred to the District Attorney are reviewed by the assigned ADA and a warrant of arrest for the individual is obtained by the assigned investigator. Once the individual is arrested, all necessary documentation is turned over to the District Attorney's Office for prosecution.
6. SIU will receive a notice from the District Attorney offering deferred adjudication and a civil resolution to the case. If the client is suspected of an Intentional Program Violation, and was interviewed, they will have been given a Notice of Consequences of Consenting to a Disqualification Consent Agreement. If the client was not interviewed, SIU investigators will attempt to contact the client and serve them the Notice. After the client is given advanced notice, ten days, and had the opportunity to be represented by legal counsel an appointment will be made with the client meet an investigator and sign the DCA.

7. In the past, SIU would receive a copy of the signed disqualification papers from the District Attorney's Office. SIU would then send a request for action with the DCA papers to the social welfare examiner to take appropriate actions. The client would then be notified via a client notice through WMS.

## MEMORANDUM OF UNDERSTANDING (MOU)

THIS MEMORANDUM OF UNDERSTANDING, made this 27<sup>th</sup> day of JANUARY, 2016, between

Randy J. Hall, Commissioner of the  
Rensselaer County Department of Social Services,  
With offices at 127 Bloomingrove Drive Troy, New York 12180,  
Hereinafter called "COMMISSIONER"

Party of the First Part

-AND-

Joel E. Abelow, District Attorney of the County of Rensselaer,  
With offices at 80 Second Street Troy, New York 12180  
Hereinafter called "DISTRICT ATTORNEY"

Party of the Second Part

**WHEREAS**, The COMMISSIONER, is required, pursuant to Section 145 of the Social Services Law of the State of New York, is to refer to the DISTRICT ATTORNEY's office all cases where the COMMISSIONER has reason to believe that a willful act designed to interfere with the proper administration of public assistance and care has been committed; and

**WHEREAS**, Section 348.2 of the New York State Code of Rules and Regulations requires that the COMMISSIONER enter into agreement with appropriate DISTRICT ATTORNEY'S offices to establish referral procedures for all cases in which reasonable grounds exist to believe that an act of welfare fraud has been committed; and

**WHEREAS**, The DISTRICT ATTORNEY recognizes the COMMISSIONER maintains the Rensselaer County 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 the 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 Rensselaer 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 material fact (i.e. unreported income, unreported

resources or assets, etc.) resulting in an overpayment of assistance which totals more than 1,000.00, (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. Supplemental Nutrition Assistance Program (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 Rensselaer County Department of Social Services shall prepare the Accusatory Instrument for all Welfare Fraud cases referred by the COMMISSIONER. The Rensselaer County Department of Social Service's Investigators shall file an evidence package with the DISTRICT ATTORNEY. The evidence package shall include, but not limited to, 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 Service Investigator assigned to the case shall attempt to seek restitution in the appropriate area by civil remedy and seek a voluntary Disqualification Consent Agreement (DCA) in the necessary program area. On overpayments involving the Public Assistance and SNAP programs, an Administrative Disqualification Hearing transmittal may be filed for the purpose of establishing an Intentional Program Violation (IPV.)

**FOUR:** The DISTRICT ATTORNEY authorizes the Department of Social Services to send advance written notification of the consequences of signing a Disqualification Consent Agreement (DCA) 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 Memorandum of Understanding.

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

 2/2/16  
Randy J. Hall, Commissioner  
Rensselaer County Department of Social Services

 1/27/16  
Joel E. Abelove, District Attorney  
County of Rensselaer