

County: Schenectady

Contact: Patrick J. McCloskey

Title: Supervising Investigator

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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 Special Investigations Unit is the sole entity responsible for investigating all allegations of client or vendor fraud. This unit is comprised of one (1) Supervising Investigator and five (5) Investigators. Allegations of fraud are recorded on a standardized unit referral form. Referrals routinely originate from both internal and external sources. Internal referral sources include, but are not limited to Temporary Assistance, Medicaid, Supplemental Nutrition Assistance Program (SNAP), Daycare, and Children and Family Services caseworkers. External referral sources include, but are not limited to other county agency staff, local, state, federal law enforcement, and the public at large. Regardless of the referral source, all cases are received by or forwarded to the Supervising Investigator who then logs and assigns the referral an investigative case control number after which it is assigned to an investigator.

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?

District Attorney Robert M. Carney or (or his designee) is responsible for the prosecution of welfare fraud and all public benefit related criminal offenses within Schenectady County. Typically, his designee is a newly assigned Assistant District Attorney which varies widely according to the needs of this department. Allegations of welfare fraud referred to the Schenectady County District Attorney's Office by the Special Investigations Unit are processed in accordance with provisions outlined in responses 4, 5 and 6.

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

The Special Investigation Unit is responsible for the oversight and facilitating the determination of overpayments associated with all fraud cases in all program areas. Overpayments are calculated by Social Welfare Examiners under close advisement of the Investigator and/or the Senior Social Welfare Examiner or the Principal Social Welfare Examiner. Clients are noticed by a Social Welfare Examiner in all cases involving Family Assistance, Safety Net, and SNAP where overpayments are confirmed through the client's own admission, a criminal conviction or an Administrative Disqualification Hearing (ADH). Furthermore, the TA and SNAP units shall also initiate all recoupments occurring as a result of agency error or inadvertent client error as determined by the

Investigator and/or the Principal Social Welfare Examiner. In all cases, collection activities are initiated by the Special Investigations Unit in CAMS and tracked accordingly:

- Criminal restitution payments are typically received by the Special Investigations Unit from three sources: from the restitution clerk of the County Probation Department, from The Center for Law, Order, Justice, or directly from the client. In all cases, these payments are forwarded to the Accounting Supervisor for immediate processing.
- Civil recoupments and instances of agency error or inadvertent client error are processed via a reimbursement agreement signed by the client and the Commissioner of Social Services or his designee. This takes place during a conference scheduled by both parties. At this conference, acceptable payment methods and payment timeframes are discussed in detail and agreed to before the agreement is signed. Similarly, clients are also given detailed written instructions on how to contact the Special Investigations Unit if their future financial situation changes such that the agreement must be amended or restructured. Once the reimbursement agreement is fully executed, the client is then provided copies of everything that they have signed, and the conference adjourns. Immediately after the conference, the agreement is entered into CAMS by a Social Welfare Examiner at the direction of the Investigator or the Principal Social Welfare Examiner. Once a CAMS claim has been established for the debt, it is subsequently retained, tracked, and held in abeyance by the Special Investigation Unit until such time as the debt/overpayment is fulfilled by the client in accordance with the terms of the aforementioned agreement. All reimbursement agreements that are 90-days in default are referred to the County Attorney's Office for further legal action.

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?

Verified fraud cases are referred to District Attorney's office to review, for the purpose of criminal prosecution. The DA's office reviews the investigative report and the evidentiary packet and subsequently accepts or declines a case for prosecution. If the case is accepted for prosecution, the DA's office can choose one of the following options:

- Present the case to the grand jury
- Immediately prepare and file an accusatory instrument
- Provide the client an opportunity to resolve the case with a civil settlement with DSS. If notice of an offer of civil resolution is sent to the client by the DA, included with this notice are the following: Notice of Consequences, Disqualification Consent Agreement, Summary of Evidence, as well as copies of evidence.

If the client contacts DSS after receiving this DA's notice they are advised that we are unable to discuss the case with them for a period of not less than 10 days in order to allow them to review the documents sent to them by the DA's office. They are further advised that after the 10 day waiting period and prior to discussing the case they will be required to engage in a brief interview so that they can again be advised of their rights. They are further informed that they will be asked to confirm whether they have been advised of these rights by providing their initials after each right and by signing the interview form which lists all of those rights. Under certain circumstances, interviews are conducted by phone and the acknowledgements are recorded by the investigator.

Once the interview is conducted, the agency addresses all of the clients concerns by answering all questions and reviewing all evidence with which they have been confronted. If further investigation is warranted or the agency determines to revise the finding from “fraud” to “inadvertent household error” or “agency error”, those steps are taken, and the revision is transmitted to the DA’s office. If no longer considered a case involving fraud, the DA’s office returns the case to DSS for administrative processing, and collection of overpayment, if any exists.

If the client signs a DCA, the DA’s office is notified immediately. In most cases, the DA will decide to defer prosecution in anticipation that an adequate resolution has and will be reached which always includes full repayment of any/all overpayments involved. When the client decides not to resolve the matter with DSS, and is not able to provide additional information or evidence that the agency’s determination of fraud was incorrect, the DA’s office is advised that the matter has not been resolved and that further criminal prosecution is thereby warranted. If the DA’s office declines to pursue further criminal prosecution due to lack of evidence or insufficiency for any reason, insufficiency other than the merits of the case, the case is returned to DSS and is prepared for Administrative Disqualification Hearing (ADH). Additionally, if criminal prosecution does not take place within the required criminal statutory timeframes, the case is then returned to the Special Investigations Unit where preparations for an ADH are made. The ADH packet is prepared by the SIU and transmitted to NYS Office of Administrative Hearings. OAH thereby notices the client to appear on a specified date and time.

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?

All referrals to the District Attorney’s Office are processed in accordance with the steps outlined in Question # 4.

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

All referrals to the District Attorney’s Office are processed in accordance with the steps outlined in Question # 4.

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

The District Attorney’s Office has been provided with the enclosed plea allocution form titled “Notice of Disqualification from Receipt of Public Assistance Benefits”. The District Attorney’s Office has instructed all ADA’s to have the defendant acknowledge this on the record at arraignment and to execute it prior to the defendant entering a plea to a welfare fraud charge or any other charge in which the substantive facts of the plea include an admission of fraud in one or more public benefit programs.

DEPARTMENT OF SOCIAL SERVICES

797 BROADWAY, SUITE 301, SCHENECTADY, NEW YORK 12305



DENNIS J. PACKARD
COMMISSIONER

COOPERATIVE AGREEMENT
Between
The Schenectady County District Attorney
And
Schenectady County Department of Social Services

This Agreement made the 16th day of June, 2014, between the Schenectady County Department of Social Services, (the Department), and the Schenectady County District Attorney's Office, (the District Attorney), is entered into between the parties

WITNESSETH

- a) Whereas, 18 NYCRR 359.4 (4) requires the Department to enter into a written notification of consequences of signing a disqualification consent agreement (D.C.A.) where food stamp intentional program violations are alleged; and
- b) Whereas, 18 NYCRR 359.4 (4) requires the Department to enter into a written notification of consequences of signing a disqualification consent agreement (D.C.A.) where pubic assistance 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; food stamp intentional program violation is alleged or a public assistance intentional program violation is alleged, and where the case is to be settled upon a basis of a deferred adjudication (e.g. adjournment in contemplation of dismissal), and where a disqualification agreement (D.C.A.) is part of such settlement or order, the District Attorney will notify the Department prior to such settlement for the purposes of permitting the Department to send advance written notice to the defendant for the signing of a disqualification consent agreement (D.C.A.).

Schenectady County District Attorney's Office

By [Signature] District Attorney

Schenectady County Department of Social Services

By [Signature] Commissioner