

Investigative Unit Operations Plan

County: Warren

Contact Person: Liz Burke

Title: Senior Social Services 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 Fraud and Investigations Unit in Warren County is responsible for the investigation of alleged client fraud. The Unit consists of one Senior Social Services Investigator, two Social Services Investigators, and one Senior Account Clerk. We are currently contracted with the Warren County Sheriff's Department for a part time Sheriff's Investigator who may assist with some aspects of our investigations and acts as liaison between the Unit and the District Attorney's office in the cases of criminal action. This Unit is responsible for investigating allegations of program fraud and abuse, preparing affidavits and criminal complaints, obtaining overpayment information from eligibility staff, following cases through the court system, and tracking restitution. This unit is also responsible for the submission of and testimony at Administrative Disqualification Hearings, as well as obtaining Disqualification Consent Agreements. The Unit investigates allegations of fraud and misuse in all assistance programs administered by the Department of Social Services, Temporary Assistance, Medicaid, SNAP, HEAP, Child Support, and Child Care. The investigators work one on one with the Department of Social Services Attorneys, the Warren County Sheriff's Office, and the District Attorney's Office.

Allegations are received in various ways – Eligibility Examiner referrals, telephone complaints, in-person complaints and information from other agencies being the most common. When a complaint is received, the Senior Account Clerk assigned to the unit verifies the complaint should be investigated, logs the case into the computer for tracking purposes, and assigns it to an investigator. The case remains with the same investigator until completion. Once the investigation is completed, a written summary is given to the appropriate program area examiner for either information only, or, if necessary, for overpayment calculation, denial, reduction in benefits, or closing. In cases of overpayments, it is the Senior Social Services Investigator's decision if the case will be handled administratively, referred for criminal prosecution, or if voluntary repayment will be sought.

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 prosecution of alleged fraud is handled by the Warren County Sheriff's Office (which contracts with our department to provide one part time Sheriff's Investigator) and the District Attorney's Office and is heard in Queensbury Town Court. Occasionally, cases that were initially arraigned in Queensbury Town Court are turned over to Warren County Court to be heard.

When it is determined by the Fraud and Investigations Unit that an allegation may warrant a criminal prosecution, the Investigator assigned to the case prepares a packet containing a summary of their findings along with evidence supporting the findings. This packet is given to the part time Sheriff's Investigator who, in conjunction with the District Attorney's office, determines whether the findings are sufficient to warrant criminal prosecution. If they find that the evidence supports criminal prosecution, the Sheriff's Investigator and District Attorney's office will either proceed with the prosecution, or request that the Unit seek a Disqualification Consent Agreement.

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

The eligibility staff for the appropriate program area is responsible for determining the amount of overpayment. The Senior Account Clerk assigned to the Fraud and Investigation Unit is responsible for establishing the claim and follow up collection activities. We currently utilize the billing feature in CAMS (Cash Management System) for 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?

When the Fraud and Investigations Unit determines that a case is not suitable for criminal prosecution, but meets the criteria for an Administrative Disqualification Hearing (ADH), the District Attorney's Office requests that we obtain a Disqualification Consent Agreement and the defendant chooses not to enter into the agreement, or the District Attorney's Office determines no criminal charges are warranted, but we believe that an Intentional Program Violation occurred, we seek an Administrative Disqualification Hearing.

When requesting an ADH, the Senior Social Services Investigator assembles an evidentiary packet and completes a *Transmittal of Request for Administrative Disqualification Hearing (LDSS 4422)* and sends the evidentiary packet to the Office of Administrative Hearings. When the Office of Administrative Hearings (OAH) accepts a case for a disqualification hearing, it is the responsibility of OAH to schedule the hearing to ensure the hearing and decision all take place within 90 days of the Notice of Disqualification Hearing and send the Notice of Disqualification Hearing and packet to the accused client and a notice to the local district at least 30 days prior to the date of the ADH. The client notice packet includes: *Advance Notice of Your Administrative Disqualification Hearing*, *Waiver of Administrative Disqualification Hearing*, a copy of the evidentiary packet, a copy of federal, state, or department regulations pertinent to their ADH and alleged IPV, and a listing of legal aid and/or legal services available.

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?

When it is determined by the Fraud and Investigations Unit that an allegation may warrant a criminal prosecution, the Investigator assigned to the case prepares a packet containing a summary of their findings along with evidence supporting the findings. This packet is given to the part time Sheriff's Investigator who, in conjunction with the District Attorney's office, determines whether the findings are sufficient to warrant criminal prosecution. Cases that are accepted are either criminally prosecuted, or the District Attorney requests Social Services to assist in obtaining a Disqualification Consent Agreement. Cases where the loss to Social Services is in excess of \$1000.00 are handled criminally unless the District Attorney requests we seek a DCA. We have an agreement with our District Attorney to seek a DCA on cases where the loss is less than \$1000.00; however, the case may be criminally prosecuted if it is a repeat offender situation.

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

After referring a fraud case to the District Attorney and upon the District Attorney recommending the Investigator pursue a Disqualification Consent Agreement, the Investigator will schedule an interview with the individual(s) to present our findings regarding their Intentional Program Violation to them and to provide the individual with the *Notice of Consequences of Consenting to a Disqualification Consent Agreement* and the *Disqualification Consent Agreement* (DCA). Upon the conclusion of the interview, a second interview will be scheduled at least ten days from the date of the first interview; the purpose of which is to allow the individual ten days to review the contents of the DCA and, if the individual desires, to obtain legal or other authorized representative for counsel and advice prior to and at the time the DCA is signed during the second interview. At both the first and second interview, the attached *Interview Acknowledgement Form* will be discussed and reviewed with the individual. At the conclusion of the second interview, the Investigator will provide the individual(s) with a copy of the completed form.

If the individual(s) provides the DCA to this office before the date of the second interview, this office will send a copy of the *Interview acknowledgement Form*, along with a cover letter acknowledging receipt of the signed DCA, but notifying them that we wanted to ensure they understood their rights and notifying them that the DCA will not be executed until 10 days have passed from the date of the first interview.

The individual will always be afforded an opportunity to present a statement or evidence in support of finding that the allegation was caused by error (IHE or AE) rather than fraud and if they provide such, the *Interview Acknowledgement Form* will be noted, and the investigator will review the information prior to accepting the DCA and imposing the disqualification.

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

Included in the evidence packet that we provide to the District Attorney for prosecution is the attached *Statement Pursuant to Social Services Law §145-c and 18 NYCRR 359.9*. This statement is read during the proceedings before the individual enters their plea or is found guilty. The statement is signed by the District

Attorney (or Assistant District Attorney), the defendant and their counsel with copies of the signed statement provided to the defendant, to Social Services, and a copy is retained in the court records as part of the evidentiary packet.

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

Additional Attachments:

A.) Interview Acknowledgement Form

B.) Statement Pursuant to Social Services Law §145-c and 18 NYCRR 259.9



OFFICE OF THE
DISTRICT ATTORNEY
OF WARREN COUNTY

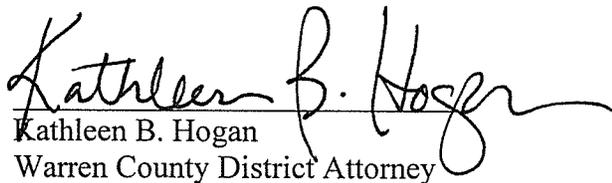
Warren County Municipal Center
1340 State Route 9
Lake George, New York 12845
(518) 761-6405

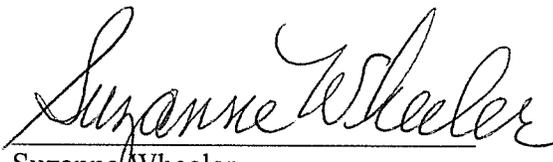
Kathleen B. Hogan
District Attorney

March 6, 2014

The Warren County Department of Social Services refers alleged Welfare Fraud cases to the Warren County Office of the District Attorney for evaluation for criminal prosecution. In cases acceptable for prosecution where the amount of loss is less than \$1,000.00, the Department of Social Services is requested to obtain a Disqualification Consent Agreement in accordance with 18 NYCRR Part 359.4, or to pursue an Administrative Disqualification Hearing. If the combined total of loss is less than \$1,000.00, the case may be criminally prosecuted if it is a repeat offender situation.

Tracking of case disposition is handled by either direct contact with the court of jurisdiction, the District Attorney Staff handling the prosecution, or the Probation Department. Restitution is made through the Warren County Probation Department, who advises Social Services when the Restitution Order has been executed.


Kathleen B. Hogan
Warren County District Attorney


Suzanne Wheeler
Commissioner of Social Services

CASE NUMBER: _____ DCA INTERVIEW ACKNOWLEDGEMENT FORM

The Warren County Department of Social Services Fraud and Investigations Unit wants to be sure that you understand the allegations against you, and your rights and responsibilities when we discuss a possible Disqualification Consent Agreement (DCA) with you. **YOU WILL RECEIVE A COPY OF THIS FOR YOUR RECORDS.**

Name of Individual Interviewed: _____

Date and Time of first interview: _____

Date and Time of second interview: _____

Name of Staff Member Conducting Interview: _____

___ I DID need an interpreter or assistance with reading or writing, and it was provided to me (Specify what assistance/interpreter _____)

___ I DID NOT need an interpreter or assistance (but I know that I can always ask for assistance or an interpreter)

Initial: _____

First Interview

- 1) I have received the proposed Disqualification Consent Agreement and the Notice of Consequences of Signing a Disqualification Consent Agreement. Initial: _____
- 2) I know that I have a right to talk to a lawyer about these allegations, and I can access a lawyer of my own choosing, and if I can't afford one, I can call LEGAL AID at 1-800-870-8343. Initial: _____
- 3) I have been advised that I don't have to make any statement, or sign anything at all, but that if I do, any statement I make can and will be used against me on the trial or trials for the offenses outlined in the allegations against me. Initial: _____
- 4) If I decide not to give a statement or sign a Disqualification Consent Agreement, that decision will not affect my eligibility for benefits. Initial: _____
- 5) If I return a signed Disqualification Consent Agreement to the Department of Social Services prior to the tenth day after I receive the DCA, I understand that the DCA will not be executed until those ten days are complete and that I may contact the Department to withdraw my signature up to and including the tenth day. Initial: _____

Signature of Interviewed Individual: _____

Printed Name: _____ Date: _____

Second Interview

- 1) I understand all of the materials I have been provided, and have had the opportunity to ask any and all questions regarding the charges against me, and the consequences of signing or not signing today.

I asked questions about/stated the following:

- 2) I AM signing the Disqualification Consent Agreement today of my own free will, without promise or hope of reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever.

Initial: _____

-OR-

I am choosing NOT to sign the Disqualification Consent Agreement today of my own free will, without promise or hope of reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever.

Initial: _____

-OR-

This office received a signed Disqualification Consent agreement prior the tenth day after the individual received a copy of the Disqualification Consent Agreement and Notice of Consequences of Signing a Disqualification Consent Agreement. The individual was allowed the remaining time to contact this office to withdraw their DCA, if they so choose. The DCA was executed on _____.

(Date)

Initial: _____

Signature of Interviewed Individual

Signature of Staff Member Conducting Interviews

Print Name

Date: _____

State of New York
County of Warren

The People of the State of New York
v.
_____, Defendant

STATEMENT PURSUANT TO
SOCIAL SERVICES LAW §145-c and
18 NYCRR 359.9

PLEASE BE ADVISED:

If you or a member of your family or household are convicted of making a false or misleading statement or committing an act intended to mislead, misrepresent, conceal or withhold facts concerning your eligibility for the Safety Net assistance program (SNA), the Family Assistance program (TANF), and/or the Supplemental Nutrition Assistance Program (SNAP), you may be determined to have committed an intentional program violation (IPV) which may result in your disqualification from participating in these programs.

If an IPV is determined to have occurred for any program, you will be unable to receive SNA for six months times the total number of SNA and TANF violations you have committed.

If an IPV is determined to have occurred in TANF, you will be unable to receive TANF for six months for the first violation, twelve months for the second violation, and be permanently disqualified for the third violation. A person who is permanently disqualified from TANF may receive SNA instead of TANF after any SNA disqualification period has expired, but the amount of SNA received may not exceed the amount of TANF that would have been received had the person not been disqualified from receiving TANF.

If an IPV is determined to have occurred in SNAP, you will be unable to receive SNAP for twelve months for the first violation, twenty four months for the second violation and permanently for the third violation.

If you have committed an IPV in either the SNA or TANF programs and your eligibility for other assistance programs requires you to be eligible for SNA or TANF, your eligibility for the additional assistance programs may be affected. Such programs include but are not limited to: Medical Assistance, Child Care Assistance, and Emergency Assistance of other Social Services assistance or services.

If you are not getting benefits now, your disqualification penalty will be effective when you are eligible and apply for assistance again. If you have committed an IPV, you will have to repay any overpayments of assistance. If there are other members of your family or household that remain eligible for assistance during any period when you are not eligible, those remaining members of the assistance unit are responsible for repayment of the overpayment.

Dated: _____

Defendant

Assistance District Attorney

Defense Counsel