

COOPERATIVE AGREEMENT 2014

YATES COUNTY DEPARTMENT OF SOCIAL SERVICES

AND

YATES COUNTY DISTRICT ATTORNEY

INTENTIONAL PROGRAM VIOLATIONS – FA, SNA, SNAP, HEAP, MA AND CHILDCARE

WHEREAS: The Yates County Department of Social Services, hereinafter referred to as "DSS" is required by NYSDSS regulations, 18 NYCRR 382.2(b) and 18 NYCRR 359.4(b)(4), to enter into a written agreement with the Yates County District Attorney, hereinafter referred to as the "DA", establishing the procedures for referral to the DA of all cases where DSS has reasonable ground to suspect that an intentional program violation (IPV) has been committed; and

WHEREAS: The NYS OTDA, OCFS and DOH have established guidelines for DSS to follow with regard to the detection, investigation and prosecution of suspected Welfare Fraud in the Family Assistance (FA), Safety Net Assistance (SNA), Supplemental Nutrition Assistance Program (SNAP), Home Energy Assistance Program (HEAP), Medicaid (MA), and Childcare (CC) Programs in its regulations (18NYCRR Parts 348 and 359) and administrative directives (91 ADM-51 and 93 ADM-8); and

WHEREAS: Federal and State regulations permit the use of Disqualification Consent Agreements (DCA's) in FA, SNA, or SNAP cases where intentional program violations are alleged, in lieu followed, pursuant to 18 NYCRR 359.4; and

WHEREAS: It is the intention of DSS that cases of alleged Intentional Program Violations (IPV's) in the FA, SNA, or SNAP Programs are handled in accordance with the foregoing laws and regulations; and

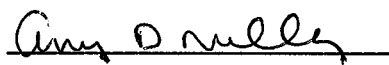
NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. All cases shall first be investigated by the DSS Fraud Investigator and shall refer to the DA all cases where it is believed reasonable grounds exist to warrant civil or criminal court prosecution for suspected Welfare Fraud in the FA, SNA, SNAP, HEAP, MA, and CC Programs.
2. When a case is accepted for prosecution and the DA chooses to settle the case by agreeing to the use of a Disqualification Consent Agreement (DCA), (Attachment A) or where the court of appropriate jurisdiction hearing the case issues an order adjourning the case in contemplation of dismissal, provided that restitution is made, the DA shall notify, in writing, the DSS designated contact person of the proposed deferred adjudication.

3. In all cases referred to the DA by DSS, where an Intentional Program Violation (IPV) is alleged under either FA, SNA, or SNAP or Programs, and where a Disqualification Consent Agreement (DCA) is the agreed upon disposition, the DA shall notify DSS prior to reaching said settlement for the purpose of enabling DSS to send the required ten (10) day advanced notice (Attachment B) along with the proposed DCA to the defendant/client informing him/her of the consequences of signing a Disqualification Consent Agreement (DCA) pursuant to 19 NYCRR 359.4(b)(2).
4. In all cases where the DA intends to have a case referred by DSS settled by having the client sign a Disqualification Consent Agreement (DCA) the DA shall request that the client is advised on the record of the court and receives a copy of the "Statement for the Record" (attachment C) advising said client of the disqualification provisions contained in Social Services Law Section 145-C and NYCRR regulation 18 NYCRR 359(d)(5).
5. The DSS shall request of the presiding judge in every case where the client is advised on the court record, as specified in Section 6 above, that the "Statement for The Record" be ordered entered into the court's record (attachment D, pursuant to 18 NYCRR 359(d)(5).
6. The DA agrees to notify DSS in writing of the withdrawal of any referral when the DA declines to prosecute or fails to take action on a DSS referral within ten (10) days, in order that the DSS may pursue recoveries of any overpayment.
7. The DA Office agrees to notify DSS within ten (10) days of the outcome of all Fraud referrals and court proceedings.
8. 93 ADM-8 (attachment E) and 91 ADM-51 (attachment F) are hereby made a part of this agreement.
9. Voluntary agreements for Child Care fraud will be referred back to DSS within ten (10) days of agreement for DSS to complete appropriate notices.

YATES COUNTY

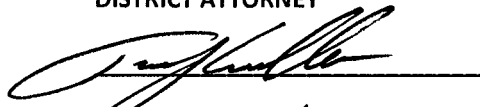
DEPARTMENT OF SOCIAL SERVICES



DATED: 1/31/18

YATES COUNTY

DISTRICT ATTORNEY



DATED: 1/31/18



Investigative Unit Operations Plan

County: Yates

Contact Person: Elizabeth Russell-Orr

Title: Director of Income Maintenance and Child Support

Phone #: 315-531-3447

E-mail Address: Elizabeth.Russell-Orr@dfa.state.ny.us

1. **What unit is responsible for the investigation and prosecution of client fraud allegations?**

Yates County Department of Social Services (DSS) contracts with the **Yates County Sheriff Department** for a half-time Sheriff Investigator to conduct investigations for fraud. When there is suspicion of fraudulent activities in a Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance (TA), Home Energy Assistance Program (HEAP), Child Care (CC) or Medical Assistance (MA) case, the eligibility worker completes an intra-agency fraud referral form with all pertinent information and submits it to the agency fraud contact person.

The fraud coordinator for DSS is a Sr. Social Welfare Examiner (SR. SWE) located in the Employment Unit. The Sr. SWE reviews, logs and forwards all referrals to the Sheriff Investigator to complete the investigation. The Sr. SWE is responsible for tracking all Fraud Referrals and sumitting all FEDS/Fraud reporting requirements.

Once an investigation is complete the Sheriff Investigator completes a "Fraud Investigation Status Report" indicating if the fraudulent activities has been indicated and submits a copy to the Sr. SWE, the eligibility worker who submitted the fraud referral, the Account Clerk Typist responsible for overpayment collections, and the Commissioner. If the Sheriff Investigator makes a determination that fraudulent activity may have occurred that warrants criminal prosecution, he then takes the case to the District Attorney's office to review the case for further action to pursue criminal prosecution.

- .5 FTE Sheriff Investigator
- 1 FTE Sr. Social Welfare Examiner
- 1 FTE District Attorney
- 1 FTE account Clerk Typist, TA Unit
- 1 FTE Director of Income Maintenance and Child care
- 1 FTE Commissioner of DSS
- Program SWE's as applicable

2. What unit is responsible for the prosecution of client fraud allegations?

The Yates County District Attorney's Office is responsible for the prosecution of client fraud allegations.

1 FTE District Attorney
1.5 FTE Assistant District Attorneys
1 Director of Victim/Witness Services

Cases deemed to be fraudulent are presented to the County District Attorney by the Sheriff Investigator to make a final determination to pursue criminal prosecution or not. The DA reports the determination to the department within 10 days and the case will be prosecuted, will return to the department to recover overpayment or refer on to an Administrative Hearing.

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

The eligibility worker who submitted the initial fraud referral and who is responsible for the case will determine the overpayment amount. If the decision is made to pursue an overpayment, the eligibility worker will complete a LDSS-4778, Calculation of Total Overpayment Amount form and submit it to the Account Clerk Typist in the Temporary Assistance Unit who is responsible for establishing, billing and tracking all overpayment claims.

All collections are processed and entered into CAMS by a Sr. Account Clerk Typist in the Accounting Unit.

District Attorney's office will notify the Account Clerk Typist in writing within 10 days of the outcome of all fraud referrals and court proceedings.

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?

- Referrals are investigated by Sheriff Investigator and the determination is made to pursue criminal prosecution, administrative hearing or recoupment of overpayment.
- If the District Attorney declines to prosecute or the amount of the overpayment and/or issuance is less than the amount for which the district attorney will prosecute, the investigator will initiate procedures for an Administrative Disqualification Hearing.
- The Commissioner of DSS must formally, and in writing withdraw the referral to the District Attorney before referring the case for a hearing.

- If the Department decides to process a case for an ADH, compiling documenting evidence sufficient to support the determination of an IPV and forwards the packet to the Office of Administrative Hearings for scheduling.
- The evidentiary packet must include consecutively numbered pages, be submitted in three copies and include the following:
 - The full name, including middle name, the complete address including county of residence, the social security number, the case number and the date of birth of the person(s) charged;
 - A list of the particular charge(s) and the individual or individuals whose disqualification is sought together with a statement of the particular IPV(s) being alleged and the sanction sought for each alleged IPV, including any IPV and sanction for the Food Stamp program if the case has been consolidated with a public assistance IPV because the factual issues arise from the same or related circumstances;
 - A summary of the evidence to be introduced;
 - A list of the names, titles and phone numbers of all Yates County Social Services staff and district witnesses who will appear in support of the determination;
 - An itemized list of all the exhibits included in the packet with the page number(s) on which each exhibit is found;
 - Copies of all documents to be used in support of the determination;
 - Information as to when and where the original evidence in the case may be reviewed;
 - Information as to the availability of free legal services; and
 - A statement indicating whether the individual has previously been determined to have committed an ADC-IPV, HR-IPV, FS-IPV or has previously signed a disqualification consent agreement (DCA) or waived an ADH.
 - If so, supporting documentation of such facts must be included in the evidentiary packet.
- OAH will review the evidentiary material that is submitted. If there is either insufficient documentary evidence to establish that an IPV was committed or the packet does not meet the above criteria, OAH will return the packet to Yates County DSS and will not schedule an ADH.
- If upon review, OAH determines that the packet complies with the requirements for an evidentiary packet and contains sufficient documentary evidence to substantiate an IPV, OAH will schedule an ADH. OAH will send the notice of the scheduled hearing, along with a form which the accused individual can use to waive the scheduled hearing, to the accused. In addition, OAH will notify Yates County DSS of the time, date and place of the ADH.
- OAH will send a waiver of an ADH form to the individual at the same time the individual is notified that an ADA has been scheduled.
- When an individual waives their right to appear at an ADH, the disqualification must result regardless of whether the individual admits or denies the charges. If the individual is not currently in receipt of assistance, the period will begin when a PA or SNAP case is reopened.
- The accused must be advised of their right to:

- Examine the contents of the case file and all documents and records included in the evidentiary packet prior to the hearing.
 - Present the case themselves or with the assistance of an authorized representative/attorney.
 - Bring witnesses
 - Establish all pertinent facts and circumstances
 - Present any arguments without undue influence
 - Question or refute any testimony or evidence, including the opportunity to cross –examine witnesses.
- The Hearing Officer will make a determination based on the evidence and notify Yates County DSS.
 - Yates County DSS will send the individual a notice of disqualification; enforce the disqualification no later than the first day of the second month following the date of notice if currently in receipt of PA. If not in receipt of PA, the disqualification will be imposed upon reapplication.
 - Yates County utilizes all state issued forms for this purpose.

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?

- Referrals are investigated by Sheriff Investigator and the determination is made to pursue criminal prosecution, administrative hearing or recoupment of overpayment.
- Cases determined to be eligible for criminal prosecution are taken to the District Attorney by Sheriff Investigator for review and final determination.
- Once the District Attorney makes a decision he/she makes notification to the Department within 10 days regarding that decision.
- If the District Attorney decides to pursue prosecution, standard prosecutorial procedures will be followed as outlined in the **Cooperative Agreement between Yates County Department of Social Services and the Yates County District Attorney.**

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

- Referrals are investigated by Sheriff Investigator and determination made to pursue criminal prosecution, administrative hearing or recoupment of overpayment.
- Evidence Packet containing sufficient evidence to support the finding of an Intentional Program Violation is provided for the District Attorney.
- The District Attorney will issue its determination letter offering deferred adjudication and civil resolution of the matter.
- The District Attorney mails the packet to the accused individual with the advance notice provided by the DA per regulation. (*Attachment LDSS 4904*)
- The investigator will contact the individual if not previously contacted by that individual, to schedule an interview within a reasonable time frame following mailing of the advance notification from the District Attorney.

- The interview will be scheduled no earlier than 13 days from the date of mailing, or no sooner than 10 days from the receipt of the packet, as confirmed by the applicant/recipient.
- No individual will be asked to waive their right to the 10 days' Notice of Consequences prior to signing the DCA.
- During the interview, the Interview Acknowledgement Form will be discussed and reviewed with the individual. If the interview is conducted by telephone, the fraud investigator may record the call, and use the form provided. At the conclusion of the in-person or telephone interview, the fraud investigator will deliver a copy of the completed form to the individual.
- If the DSS receives a signed DCA, dated at least 10 days after the date of the District Attorney's advance notification, this office will send a copy of the Interview Acknowledgement form by certified mail, return receipt requested, to the last known address, along with a cover letter acknowledging receipt of the signed DCA, but notifying them that we wanted to ensure they understood their rights, and to please contact DSS in order to review the form attached. Included in that mailing will be a Self Addressed Stamped envelope for return of the completed Form to the Office.
- If the individual chooses to present a statement or evidence in support of finding the allegation was caused by error rather than fraud, the form will be noted, and the investigator will review the information prior to accepting the DCA and imposing the disqualification status.
- NO staff member will threaten or imply any consequences beyond the wording incorporated on the attached INTERVIEW ACKNOWLEDGEMENT FORM, and any information or communication which is found to reasonably represent any kind of impermissible threat or coercion will subject the employee to disciplinary action.
- The staff person involved will sign and date the form titled *Protocol for Disqualification Consent Interviews*.
- The District Attorney follows standard prosecutorial and/or legal procedures, as appropriate, issuing LDSS-4906, LDSS-4906, and LDSS-4827.
- Forms:
 - LDSS-4904 Notice of Consequences of consenting to a Disqualification Consent Agreement
 - Protocol for Disqualification Consent Interview
 - Disqualification Interview Acknowledgement Form
 - LDSS-4906
 - LDSS-4906
 - LDSS-4827

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

- In all cases where the DA intends to have a case referred by DSS settled by having the client sign a Disqualification Consent Agreement (DCA) the DA shall request that the client is advised on the record of the court and receives a copy of the "Statement for the Record" (attachment C) advising said client of the disqualification provisions contained in Social Services Law Section 145-C and NYCRR regulation 18 NYCRR 359(d) (5).

8. Attached, please find copy of the Cooperative Agreement between the Yates County Department of Social Services and the Yates County District Attorney.