

March 2011

Audit of the Erie County Department of Social Services Special Investigations Division

For the period January 1, 2008 through December 31, 2009



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**HON. MARK C. POLONCARZ
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95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**

March 22, 2011

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202



Dear Honorable Members:

The Erie County Comptroller's Office has completed an audit of the Erie County Department of Social Services ("DSS"), Special Investigations Division ("SID"), for the period January 1, 2008 through December 31, 2009.

We¹ conducted our audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our objective was to determine the effectiveness and efficiency of operations within the Special Investigations Division. Specifically we assessed the significant recovery estimates shown in the County Budget and evaluated the internal control over collection processing and the recording of the collections, receivables and write-offs.

Management is responsible for establishing and maintaining an effective system of internal control. Our consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control that might be control deficiencies or material weaknesses.

A control deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their duties to prevent or detect errors. A material weakness is a control deficiency or combination of control deficiencies that results in more than a remote likelihood that material errors will not be prevented or detected by the system of internal control.

¹ In this report, "We" and "Our" refers to the Erie County Comptroller's Office.

The internal controls in place in the Collections Unit of SID are not adequate to ensure that all client over-grant cases referred to the unit are accounted for. This is due, in part, to the absence of a reconciliation process. Additionally, the inability of SID management to provide account balances, collection activity, and write-off detail for all cases is indicative that a control system is not in place. We were therefore unable to apply other auditing procedures to satisfy ourselves as to the accuracy and propriety of the client case records.

In our opinion, deficiencies in the system of internal controls over SID transactions result in more than relatively low risk that errors or irregularities may occur and not be detected.

I. SUMMARY OF FINDINGS:

1. Internal Control – The Collections Unit of SID does not have controls in place to ensure the proper accountability over all transactions.
2. Over-grant repayment collections – The disconnect between the New York State Cash Management System (“CAMS”) and the client cards provides no assurance that all cases are being reviewed.
3. Investigations – No log is kept of cases that are referred to the Collections Unit.
4. Testing – Audit tests could not be performed because of inadequate or nonexistent records.
5. Recoveries – The adequacy of SID’s efforts to recover overpayments could not be substantiated.

Details of the preceding findings may be found in the section entitled “**AUDIT RESULTS AND RECOMMENDATIONS.**”

II. BACKGROUND:

The Department of Social Services is comprised of five (5) divisions: Division of Finance; Division of Legal Affairs; Division of Children; Division of Youth and Families; Division of Public Health Insurance; and the Division of Economic Self-Sufficiency. SID is contained within the Division of Legal Affairs and investigates consumer welfare fraud complaints and prepares fraud packages for the District Attorney and State Welfare fraud prosecutors. SID is comprised of four distinct sections that include Collections, Investigations, Front-End Detection, and Resources. This unit, comprised of 72 positions in 2009, also recoups excess amounts paid out to clients (“over-grants”) and maximizes collections on all accounts established by fraud,

over-grant or assistance repayment requirements. A listing of the number of positions for the last four (4) years is shown below:

Comparison of SID Budgeted Positions for 2008 - 2011				
Year	Budgeted Positions	Filled Positions	PT/RPT Positions (1)	County Share Positions (2)
2008	68	59	0	0
2009	72	66	1	0
2010*	75	71	6	63
2011*	68	68	7	62

* Not in our scope period.

(1) These positions are included in the budgeted and filled totals.

PT – Part time works less than 20 hours a week and earns partial leave time.

RPT – Regular part time works from 20 to 39 hours and earns partial leave time.

(2) Represents positions in which the county shares the cost. In the vast majority of these, the County's share is 24.75% of the total cost of the position.

The investigations performed by the SID Unit are a result of tips received from a variety of sources. These include external sources such as friends or neighbors, internal sources such as county employees, and Front-End Detection. Front-End Detection occurs prior to a grant case being opened and when the case information fits certain indicators that are established by New York State. In each of these instances the Front-End Detection Unit or the Investigations Unit will investigate some or all of the information given by the client when applying for aid.

The investigations can be both very lengthy and involved. It can include visits to the client's home to see if there is anyone sharing their living quarters, inquiries with neighbors to determine if the client has roommates or a job, or surveillance. If it is determined that someone lives with the applicant/client, SID needs to know if the co-habitant has a job and how much they make. This also must be determined for the client if he or she has a job that wasn't reported.

Once all investigations are finished, SID must resolve whether the false information was given intentionally or unintentionally. If intentional, a case is built with the intention to prosecute criminally through the District Attorney. If unintentional, a case is made to (1) prosecute civilly through the courts; (2) proceed through an administrative adjudication, which is similar to civil prosecution but done within SID and includes the same time consuming work as a civil prosecution; or (3) have the client sign a Confession of Judgment which is also handled in SID.

There are a number of ways that SID can recover funds. If the information was found to be false before the case was opened, no recovery of funds is necessary. If the client was receiving aid based on false information and the case is still open, then a recoupment of funds is done where the amount of aid received by the client is reduced monthly until the over-grant is paid. If the case is no longer active, a monthly bill is sent to the client until the over-grant amount is paid off. If the client does not pay the bills, there are still options available for collection of the debt. SID can attempt to garnish the client's wages through application to the Sheriff's Office. If the client is not earning wages, a lien can be placed on any property, tax refund, or insurance receipt, etc.

the client may receive. If none of that is available, the reduction will be taken on any future aid requested by the client.

III. AUDIT RESULTS AND RECOMMENDATIONS:

1. Internal Control

The Collections Unit maintains approximately 10,000 client case notes on 8 ½ x 11 inch cards. As part of our audit testing, we attempted to obtain a listing of all client cases as identified by the cards. It was determined by the audit staff and SID personnel that such a list could not be produced. Cases are received from different areas of DSS and the data supporting these cases is stored on different computer systems. Cases were not entered into a database as received. These differences made the ability to reconcile the cases held in the Collections Unit virtually impossible.²

As such, we were unable to ascertain the number and dollar amount of outstanding cases, even with the help of DSS Accounting and DSS Technical Support.

After making numerous inquiries of management and appropriate line staff regarding accounting controls, we requested accounts receivable balances, collection totals, and write-off amounts for both 2008 and 2009 for the Food Stamp (“FS”), Medical Assistance (“MA”) and Public Assistance (“PA”) programs. SID was able to provide only the receivable balances and collection totals for FS. Write-off amounts could not be provided for any program, even though the state Office of Temporary Disability Assistance (“OTDA”) noted that all written-off claims for the period should be on file in the local district (Erie County Department of Social Services).

Additionally, there is no reconciliation of client cases and little accountability over individual account balances. We were unable to determine the exact amount of uncollected over-grants, but several million dollars is at risk.

WE RECOMMEND that SID continue with the development of a computer database for the collection and storage of all information related to SID clients, which database should be open and reviewable to all SID personnel.³ Such a new system would render the card case files obsolete.

² While outside of our scope period, in 2010 SID began creating a database that contains various information on all new over-grant claims created. Although we did not evaluate this database, we did receive screen prints of the database fields and believe that if additional fields were added to enable the creation of accounts receivable aging reports, this database would greatly increase efficiencies at SID.

³ See Footnote 2 for recent steps taken to address this recommendation.

WE ALSO RECOMMEND that this new database be accessible to Audit during the course of our audits.

WE ALSO RECOMMEND that write-off detail be retained and that written-off amounts be recorded on the individual client account balances on the newly created database.

SID Exit Comment – At the conference, representatives of SID stated whether client cards are not current, or missing, there is no risk to receivables because all client over-grant case information is on the CAMS system.

Comptroller Response – Our opinion remains that internal controls are weak. Due to the lack of sufficient reports and reconciliations, we were unable to test the reliability of the CAMS database.

2. Over-grant Repayment Collections

Our testing of the client cards consisted of tracing 46 collection cases (which consisted of 74 separate claims) to the client payments posted on the New York State Cash Management System (“CAMS”), which is the primary case and payment history for DSS. This testing found that the majority of the client cards do not recite up-to-date information, and do not match payments shown CAMS. Of the 44 payment records examined, only eight (8) could be traced back to client cards. Some of the claims established in CAMS are not noted on client cards. Examination of the CAMS account summaries provided to us, revealed six (6) additional claims not noted on the corresponding client cards.

In addition to the lack of information on the client cards, we also found that for the cases tested, seventy-seven percent (77% or 57 of the 74 claims) did not have payments made on the outstanding amounts due to the County. We do realize that SID utilizes CAMS as the primary claim and payment record and the client cards are only a guide to be updated from CAMS. However, this disconnect is indicative of the inherent inefficiency and lack of reconciliation in the system. CAMS can only show how far behind on payments a client is on an individual basis, it cannot provide a listing, for example, of all clients that are six (6) months late on their payments. If SID had access to this type of information, they would be able to better focus on the claims that need the most attention.

As a result, neither CAMS nor SID can produce a report showing all clients behind in their payments.

WE RECOMMEND that the Collections Unit continues recording all new cases in their new database and that additional database summary reports should be created to show all outstanding cases and an aging of the receivables at any point in time.

SID Exit Comment – SID noted Audit only audited their client cards and not the entire system collectively. SID’s representatives stated the cards are nothing more than a tickler file to serve as a reminder for their collection process.

Comptroller Response – At the commencement of this audit our office requested certain reports to use as a starting point in which to pick a sample to test the system. We were told that the reports could not be provided. In the absence of those reports, we had no choice but to use the client cards to select our sample to test the system. While we understand that CAMS is the primary claim and payment record and the client cards are only a guide to be updated from CAMS, SID provided no detail that would alter our conclusions and recommendation.

3. Investigations

Testing was performed to determine the success of the cases that were prosecuted. This included both criminal and civil cases and measuring their outcomes. According to SID's Quarterly Fraud Reports for the two (2) year scope period, 402 cases were referred for prosecution. The reports show that there were no negative outcomes⁴ to the County for these cases; however, there were a large number of cases referred where no outcomes are shown on the reports. In this case even though there were 402 cases referred, there were only 183 outcomes, all positive. When we questioned SID why there are so many more referrals than outcomes we were told that cases take a while to prosecute. While this may be true, over time referrals and outcomes should balance out.

Testing showed that there were 126 cases referred to the Office of the District Attorney ("DA") for criminal prosecution, but there were only eleven (11) outcomes, or nine percent (9%) of the total, during that same two (2) year time frame. SID could not provide us with a definitive reason why these cases were not prosecuted. We believe that part of the reason the DA is rejecting many of the case referrals is the dollar amount of the individual over-grant may not be worth the expense of recovery. It may also be there is a lack of sufficient evidence to prosecute.

WE RECOMMEND that SID develop a system which will allow SID staff to determine the current status of all cases submitted to the DA for review.

WE ALSO RECOMMEND that SID and the DA develop a set of protocols to be used by SID as a baseline measurement for whether a particular case should be forwarded to the DA for prosecution.

SID Exit Comment – Prior to the start of this audit, SID realized that some cases were not being reviewed by the DA for various reasons and took it upon themselves to help correct the situation. This was accomplished by meeting with representatives of the DA at which time a better set of criteria to base their referrals to the DA was established.

⁴ Negative outcome is the term used in the quarterly fraud report and means that the case went through the prosecution process and the county lost, thereby losing possible recoupment of the over-grant amount. Positive outcome is a case that the county won and was able to legally bind the client with an over-grant amount to pay back to the county.

4. Other Tests Not Performed

Additional testing could not be performed since requested reports were not, or could not be produced by SID. These tests include the following:

- a) Requested NYS report showing write-offs – Existing over-grant cases that were written-off could not be traced to determine whether these cases had liens or garnishments placed on them.
- b) No log of cases was maintained showing what was sent to the Collections Unit – We could not test whether cases that were referred to the Collections Unit from the Investigations Unit were either missing, still held in the Collections Unit, or otherwise satisfactorily concluded.
- c) No report of aged accounts receivables – We could not determine whether cases where payments were not being made, were in fact still being billed.

SID Exit Comment – They stated that some of this information is available and can be provided.

Comptroller Response - We disagree with the SID comment. The response by the Commissioner of DSS to our IAM (Interim Audit Memoranda) on this matter supports our comments as previously stated. Even if this were true, it doesn't change the fact that it wasn't provided to us at the time of our fieldwork and did, in fact, prevent us from performing the above tests. As of today's date, more than two weeks since the exit conference, no information has been provided to our office that disputes our findings.

5. Recoveries

For 2008 and 2009, pursuant to the County's financial statements for each year, DSS collectively obtained actual gross repayments of \$25,300,000 and \$19,800,000, respectively. These repayments appear to be reasonable when compared to the budgeted estimates for each year. However, while we commend DSS for their efforts in obtaining repayments, we were unable to ascertain what of that amount was attributable to the recovery efforts of SID because of the absence of relevant account documentation.

Once again, **WE RECOMMEND** that SID take the appropriate steps necessary to account for all the activity associated with their client cases so that budgeted estimates for recoveries/repayments would be identifiable, more realistic and attainable.

IV. AUDITOR COMMENTS:

1. Client Case Tracking

Our Office researched different case management software programs to determine whether a better alternative could be used by the Collections Unit to track cases electronically rather than manually. We located four (4) such software or database programs that may have the potential for providing the needed assistance to SID. Because of the complexities within the systems and databases used by SID we did not evaluate the pros and cons of each program, but provide them for your consideration. They are as follows:

1. Cutting Edge Care Management Solutions @www.casetrakker.com
2. ClientTrack for Case Management (Social Services Solutions)
@www.clienttrack.com
3. Foothold Technology – The Cutting Edge of Human Services Management
@footholdtechnology.com
4. Client Service Tracker @www.socialworksoftware.com

We acknowledge that since cases are coming from several areas within DSS and contained different information in a variety of formats, it may be difficult to fit this into a single commercial software program. Further, as noted in Footnote 2, in late 2010, the Collections Unit started creating and using a database that records all new over-grant cases referred to them. The database has the ability to track all cases in the Collections Unit at any one time up to and including their eventual disposition, provided all related account activity is posted. Although we did not analyze this new system, we did receive screen prints of the database fields and believe that if our recommendations identified herein are followed, this database can greatly enhance the efficiency of the office.

2. Delays

We have to note that completion of the audit was not without unusual delays in both scheduling meetings and obtaining requested information. During the course of our audit, for whatever reason or reasons, requests for meetings, documentation or information were met with substantial delays. These delays have impeded us in completing our audit field work and final report in an expeditious manner. In addition, this extensive delay coupled with fact that some requested documents were not, or could not be provided, prevented us from being able to complete all our testing. The following is a list of the documents that were requested but not provided:

- NYS listing of cases that were deemed uncollectible and therefore written-off the NYS Cash Management System.

- Report showing cases that were referred to the Collections Unit from the Investigations Unit.
- Report showing all cases that are actively worked by the Collections Unit.
- Lists of account balances, collections, and write-off amounts.

As a result, we lost 77 man-days waiting for SID responses. Aside from trying to locate reports that they did not have, other delays were due to “the need” to have certain management staff members present at every meeting even when that particular meeting was with line staff.

V. RESULTS OF EXIT CONFERENCE:

An exit conference was held on March 4, 2011 with the Commissioner of Social Services and members of her staff. The contents of this report were discussed. As noted above, based on the discussion during the exit meeting and information provided thereafter, some changes have been made to the final report. In areas of the report where changes that were suggested SID were not made, their comments are included.

In accordance with the County’s Audit Response System and Procedures, we request that the Commissioner prepare a written response to our office and the County Executive concerning the findings and recommendations. The final written response should be submitted to our office and the County Executive by April 22, 2011.

We also request that the Commissioner forward copies of the response to the Erie County Legislature and Erie County Fiscal Stability Authority by April 22, 2011.

ERIE COUNTY COMPTROLLER’S OFFICE

cc: Hon. Christopher C. Collins, County Executive
Carol M. Dankert, Commissioner of Social Services
Gregory G. Gach, Director of Budget and Management
Erie County Fiscal Stability Authority
Hon. Frank A. Sedita III, District Attorney