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USDA

United States
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# Evaluation of Food Retailer Compliance Management Demonstrations in EBT-Ready States and Related Initiatives

## Study of State Law Enforcement Agreements

September 1996

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## STUDY OF STATE LAW ENFORCEMENT AGREEMENTS

September 1996

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This study was conducted under Contract No. 53-3198-4-021 with the Food and Consumer Service, United States Department of Agriculture, under the authority of the Food Stamp Act of 1977, as amended. Points of view or opinions stated in this report do not necessarily represent the official position of the Food and Consumer Service.

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# ACKNOWLEDGEMENTS

The authors wish to acknowledge the many individuals who contributed to this study and to the preparation of this report. We gratefully acknowledge the valuable guidance and support of Ken Offerman, the project officer within FCS' Office of Analysis and Evaluation. Also at FCS, Bruce Clutter and Lindy Haffey of the Compliance Branch provided a wealth of information, contacts and helpful comments. Additional thanks go to Ted Macaluso of the FCS Office of Analysis and Evaluation; to Jordan Benderly, Suzanne Fecteau, Lynn Jordan, and Preston Mears of the FCS Benefit Redemption Division; and to Russ Gardiner of the FCS WIC program staff.

The study also benefitted from the input of a number of USDA OIG personnel. At OIG headquarters, Brian Haaser, and Tom Martin provided valuable perspectives and coordinated communications with the Regional Inspectors General, whom we also thank for their time and willingness to share their experiences.

The state SLEB agreement coordinators who participated in interviews are too numerous to mention here, but the study would not have been possible without their willing participation. We extend special thanks to our accommodating hosts for the six case study visits: Richard Tibbetts, California DSS and the staff of the three trafficking projects; Christo Tolia, Florida Department of Law Enforcement; Richard O'Herron, Michigan Department of Social Services; Brett Woods, New Mexico Human Services Department; Paul Rapp, Ohio Department of Human Services; and Gordan Hardy, Texas Department of Human Services.

Finally, the authors want to thank the people at Abt Associates who aided the study. John Kirlin was a valuable resource as the technical advisor. We are most grateful to Susan Byers, who managed the production of this report and other project documents, with significant contributions from Jan Nicholson and Stefanie Falzone. Lastly, Stan Frerking of Systems Planning Associates deserves credit for his management support.

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# EXECUTIVE SUMMARY

## Background

State Law Enforcement Bureau (SLEB) agreements are the mechanisms by which USDA's Food and Consumer Service (FCS) provides states with food stamp coupons to use in conducting investigations of the illegal selling, buying, and redemption of food stamp coupons in the underground economy. These associated criminal acts are collectively known as trafficking.

FCS created the SLEB agreement mechanism in 1989, in response to two key factors: the termination, in 1986, of the issuance of food stamp coupons to the states for investigative purposes by the USDA Office of Inspector General (OIG); and the government's realization that the federal capacity to deal with trafficking was limited, given the scope of the problem. State and local law enforcement agencies represented a huge potential resource to enlist in the effort to enforce the laws governing the use of food stamp coupons in the marketplace.

The SLEB agreement requires FCS approval for proposed trafficking investigations to be conducted with food stamp coupons. States must also follow specified procedures for coupon accountability and reporting of investigative activity.

## The Purpose of the Study

Because the SLEB agreements were presented to the states as an option, and because some states have been reluctant to get involved in trafficking investigations, the SLEB agreement initiative has produced mixed results. At the time of the study, 32 states had signed agreements, but only 10 states had conducted sustained campaigns against food stamp coupon trafficking.

FCS included the SLEB agreements in the evaluation of the Retailer Management Demonstrations because they are the primary example of state activity in the area of retailer management. FCS wanted to determine what has been accomplished under the terms of the SLEB agreements, why there is broad variation among the states in their use of the agreements, and what can be done to improve the SLEB agreement process.

The SLEB agreement evaluation design included two major tasks. The first task completed was the presentation to FCS of case studies on six states, selected because of their

noteworthy level of SLEB agreement-generated activity. The case studies are included in this report as Appendix C.

This report presents the findings from the study's second task, a telephone survey of all states with SLEB agreements. It also contains the study's overall conclusions regarding the SLEB agreement process.

## Highlights of the Survey Findings

The 32 states with SLEB agreements fall into five categories, indicating their levels of investigative activity and their roles in the study, as shown in Exhibit 1. (The states with the most extensive SLEB activity were included in both the case studies and the survey.) The major findings from the survey are:

**Exhibit 1**

**STATES WITH SLEB AGREEMENTS IN JUNE 1995, GROUPED BY LEVEL OF SLEB ACTIVITY**

| | | |
|---|---|---|
| ***Category I: Inactive states*** *(no SLEB activity ever)* | | |
| District of Columbia | North Dakota | Virginia |
| Minnesota | Utah | West Virginia |
| Nebraska | | |
| ***Category II: States with no recent SLEB activity*** *(in FY94 or FY95)* | | |
| Alabama | Missouri | |
| Georgia | Wyoming | |
| ***Category III: States with periodic SLEB activity*** | | |
| Colorado | Kansas | Montana |
| Illinois | Louisiana | South Carolina |
| Indiana | Massachusetts | Washington |
| Iowa | Mississippi | |
| ***Category IV: States with regular SLEB activity*** | | |
| Arkansas | Oklahoma | |
| New York | Wisconsin | |
| ***Category V: Case study states*** *(selected because of extensive SLEB activity)* | | |
| California | Michigan | Ohio |
| Florida | New Mexico | Texas |

- Most states with SLEB agreements have recently conducted investigations, but the SLEB initiative has produced substantial results only in the 10 most active states (Categories IV and V).

- Six of the ten most active states (Categories IV and V) are also among the top ten states ranked by caseload size.

- Six of the ten most active states (Categories IV and V) exert direct control over trafficking investigations; in the remaining four states the control is in the hands of local law enforcement agencies.

- Food Stamp Program agencies manage the SLEB agreement in 25 states; in the other seven states, the managing agency is generally the Department of Public Safety or the Attorney General's office.

- Law enforcement agencies are the most common source of intelligence about food stamp coupon trafficking.

- The most frequent targets of SLEB agreement investigations are food retailers and individuals who buy food stamp coupons. Only California makes recipients a primary target of trafficking investigations.

- FCS Regional Office staff received positive ratings from the states for their helpfulness in SLEB agreement-related matters.

- Interest from the states' law enforcement communities in the SLEB agreement process was varied, as were the states' efforts to elicit that interest.

- In SLEB agreement-related matters, states rated their relationship with the USDA OIG from poor to very good. The four active states that rated their relationships as poor want to see those relationships improve.

- The SLEB agreement approval process and accounting procedures were generally rated favorably. Nonetheless, state and local agencies considered the accounting requirements burdensome.

**Results of the Analysis of the Findings**

Taken together, the survey and case study results lead to the following major findings:

- In most states, FCS Regional Office staff were key to the implementation of the SLEB agreements.

- Strong leadership and commitment on the part of the SLEB agreement administrators were common elements among the ten most active states.

- The most critical reasons for states having a less than fully active SLEB agreement were insufficient resources and lack of interest in the law enforcement community.

- Commitment of state resources to the SLEB agreement in some of the active states was considerable, including the assignment of full-time state staff to trafficking investigations. Some states may have diverted resources from investigating eligibility fraud to SLEB agreement activity.

- USDA's Regional Inspectors General have the autonomy to form relationships with states investigating food stamp coupon trafficking under the terms of the SLEB agreements. Where resources allow and when working relationships with state agencies contribute to meeting OIG goals, dynamic federal/state relationships have developed.

- Several states have lowered the felony level in their trafficking statutes. Felony charges are useful when cases are to be plea-bargained, and felony convictions carry built-in sanctions even if defendants are not sent to jail.

- There is a surprising degree of randomness in where, how, and by whom trafficking investigations are conducted in states where SLEB agreement-generated investigations are not centrally controlled. Many investigations are not producing results.

- In some states and FCS Regional Offices there is little assessment of targets submitted for approval by state and local law enforcement agencies. Some investigations have been conducted outside the spirit, if not the letter, of the SLEB agreement, including sting operations that do not target retailers or known traffickers.

- SLEB agreement investigations varied in scope from short-term investigations, e.g., "buy/bust," to long-term investigations of major complex trafficking operations.

- Data on investigation outcomes in many states were often incomplete or unavailable, often because of inconsistent reporting from local agencies. Data gathering and reporting requirements were considered burdensome by some states.

- Submission of data from states to initiate disqualification processes against retailers is inconsistent. Relatively few retailers have been disqualified as the result of SLEB investigations.

- SLEB agreement reporting requirements are not providing FCS with timely or accurate information on food stamp coupons used in SLEB investigations.

- The relationship between food stamp coupon and drug trafficking has created a gray area as to approval of targets for SLEB agreement investigations. Some state and FCS Regional Offices have approved investigations that appear to have been focused on drug law enforcement.

- Food Stamp Program staff are usually not involved in the states' SLEB agreement processes. States have not implemented mechanisms to refer recipients involved in trafficking to the Food Stamp Program disqualification process.

- There is often conflict between federal and state staff as to how penalties should be applied to individuals and firms found to have been involved in food stamp coupon trafficking as a result of SLEB agreement investigations.

- Texas and New Mexico are working jointly with the USDA OIG on EBT trafficking investigations. Traffickers have applied their illegal craft to the new EBT systems with surprising speed, but state and federal staff are making good progress in adjusting their investigative routines to the new technology.

**Noteworthy Practices of the Most Effective States**

The following practices have contributed to the effectiveness of SLEB agreement operations in the most active states. Because the SLEB agreement process must fit unique state circumstances, some of these practices may not be appropriate for individual states. Nevertheless, the practices listed below are worthy of consideration by any state interested in effective trafficking investigations.

- Dedicating state positions to trafficking units (in California, Michigan, New Mexico, Oklahoma, Ohio and Missouri);

- Involving all welfare fraud investigators in trafficking investigations on at least a part-time basis (the "Texas model");

- Working directly to assist the USDA OIG on trafficking cases, as an alternative to the SLEB agreement process (the "Missouri model");

- Providing special funding for trafficking projects (in California);

- Maintaining strong relationships with prosecutors (in Michigan, Ohio, California and New York);

- Developing a standard case format (in Texas);

- Working with other agencies within the state, such as liquor control and lottery boards, to apply penalties to food retailers engaged in trafficking (in Michigan, Ohio, and Florida);

- Generating publicity about trafficking cases (in Michigan, New Mexico, Ohio, and Texas);

- Transferring SLEB agreement monitoring to the FCS Field Offices (in the Southeast Region);
- Investigating trafficking in EBT systems (in Texas and New Mexico); and
- Conducting trafficking workshops and regional conferences, and providing state-to-state technical assistance.

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# CHAPTER ONE
# INTRODUCTION

The illegal trafficking in food stamp coupons has tarnished the image of the Food Stamp Program. Public awareness of this problem has increased in recent years. This is due, in part, to exposé-type features on trafficking aired by the major television "news magazine" programs.

Food stamp coupon trafficking has become more sophisticated and complex, extending far beyond casual exchanges among individuals. Street traffickers aggressively solicit recipients, acting as brokers between recipients and retailers. Investigators in the midwest and southwest have found that some retailers work in trafficking networks, at times even moving food stamp coupons to states where trafficking may be easier or illegal profits higher.

***Where electronic benefit transfer (EBT) has replaced food stamp coupons, traffickers have learned how to apply their craft to the new systems with amazing speed.*** In the very first pilot EBT site (Reading, Pennsylvania), hundreds of recipients were found to be trafficking with their EBT cards at one sandwich shop. Federal investigators have documented EBT trafficking in Maryland, New Mexico and other states as well.

The federal resources to address the problem of food stamp coupon trafficking are limited. The USDA OIG devotes a significant portion of its 250 investigators' time to trafficking, but these investigators are still spread nationwide and focus on major cases that will be acceptable for prosecution by the US Attorney's Office. FCS' Compliance Branch monitors authorized retailers for trafficking, as well as selling ineligible items for food stamp coupons. There are fewer than 50 compliance investigators for the entire country. The Secret Service has an interagency agreement with the USDA OIG to investigate trafficking by unauthorized retailers, but the Service is not active in all states. Other federal agencies (such as the Federal Bureau of Investigation and the Postal Service inspectors) play only a minor role in investigating food stamp coupon trafficking. One aspect of food stamp coupon trafficking, in particular, has been beyond the scope of federal investigations: trafficking around food stamp coupon issuance sites has been conducted in the open and with impunity.

In 1986, the USDA Office of General Counsel determined that the OIG could no longer issue food stamp coupons to states for use in independently-conducted trafficking investigations. The process of providing states with food stamp coupons would have to be assumed by FCS if

it were to continue. In 1989, FCS undertook the SLEB agreement initiative. Via the FCS Regional Offices, the states were provided with the opportunity to obtain food stamp coupons for trafficking investigations. The SLEB agreement was clearly viewed by both FCS and the states as a state option.

A total of 32 states have signed SLEB agreements, but the follow-through to these agreements has been mixed. A few states have used the agreement to sustain ongoing campaigns against food stamp coupon trafficking. In other states, there has been only periodic activity generated by the agreement. Finally, some states have not produced any investigations since signing the agreement.

The SLEB agreement process establishes strict accounting requirements for the food stamp coupons issued to state agencies. It also requires that investigations be approved by the FCS Regional Offices.

In most states, food stamp coupon trafficking is a violation of state law. States therefore have the authority and broad discretion to conduct trafficking investigations on their own, largely as they see fit. They need FCS approval to use food stamp coupons in these investigations, however, and this constraint is a potential source of conflict.

FCS commissioned a study of the SLEB agreements as part of a broader evaluation that also includes a study of the Food Retailer Compliance Management Demonstration in EBT-Ready States. The SLEB agreement study was included in the evaluation because SLEB agreements are the primary example of state activity in the area of retailer management.

The first task completed in the SLEB agreement study was the case studies of six states that had noteworthy SLEB agreement operations. The two primary objectives in the site visit component were: first, to describe in detail all aspects of the SLEB agreements in the states selected into the study; and second, to evaluate the selected state SLEB agreement initiatives, to the extent that extant data and information gathered during the visits would support such an evaluation.

This report presents the findings from the SLEB agreement study's second task, a survey of all states that have a SLEB agreement with FCS. It also presents the final SLEB agreement study conclusions, based on the results of the case studies and the survey.

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## Evaluation Objectives

The primary objectives of this report are to describe and analyze the 32 SLEB agreements that FCS had signed with states between 1989, when FCS began the initiative, and June 1995. The analysis aims to assess the causes for the variations in the levels of performance, which range from states that have generated no SLEB agreement activity to states that regularly conduct SLEB agreement investigations in an organized campaign against trafficking. Conclusions are drawn from the analysis of the survey results and the six case studies.

## Organization of the Report

In Chapter Two, the study design and procedures employed to collect data are described. The utility of the study questionnaire is assessed.

Chapter Three presents the results of the survey in summary fashion. Data from the

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# CHAPTER TWO
# STUDY DESIGN AND PROCEDURES

The overall SLEB agreement study design relied on the use of a questionnaire (see Appendix A) to gather consistent data from all states with a SLEB agreement. The primary sources of data in the survey were contacts identified by the FCS Regional Offices for each state with an agreement. These individuals were sent the questionnaire along with a cover letter that briefly described the SLEB agreement study. The questionnaire was pre-tested in the six states visited for the case studies. To test the questionnaire in states other than those fully engaged in the SLEB agreement process, interviews were also conducted with state staff in Washington, selected from the states conducting periodic investigations, and in West Virginia, selected from those states that had generated no activity.

The remaining 24 telephone interviews were conducted between June 22, 1995 and July 10, 1995. The interviews ranged in length from 15 minutes to 105 minutes, and averaged 50 minutes. In five states, secondary contacts were made to obtain information not available to the primary contact. State staff were occasionally recontacted as the summary reports were being written in order to clarify certain items.

It can be said without reservation that all state staff contacted throughout the entire SLEB agreement study were cooperative and provided information and opinions in an open and forthright manner. In some states the historical perspective on the agreement was somewhat weak, because the SLEB agreement administrators had not held their positions throughout the life of the agreement.

Sufficient information was gathered through the survey to bring the national status of the SLEB agreement initiative into clear focus and answer most of the research questions. As was true in the six case studies, however, information on case dispositions and operational costs was difficult to obtain. This meant that there were insufficient data for analysis in the area of comparing costs to effectiveness.

The designated SLEB agreement contacts in the FCS Regional Offices provided valuable background information prior to contacts with the states. In the FCS Southeastern Region, monitoring responsibility for the SLEB agreements has been transferred to the Field Office staff. The officers-in-charge were contacted regarding the SLEB agreement operations in Alabama,

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Georgia, Mississippi, and South Carolina. The officer-in-charge of the Florida Field Office was interviewed in person during the Florida site visit.

The seven USDA Regional Inspectors General and OIG Headquarters staff in Washington, DC were interviewed about the SLEB agreement initiative and to discuss issues and problems that arise when state and federal agents are working on trafficking cases in the same area.

Headquarters staff in the FCS Compliance Branch provided valuable information and assistance throughout the entire study.

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# CHAPTER THREE

# RESULTS OF THE SURVEY OF STATES WITH SLEB AGREEMENTS

This chapter includes the presentation and analysis of elements from the survey of all states with SLEB agreements. Data are displayed in chart fashion where appropriate.

State-specific summaries of the results of the survey in each state with a SLEB agreement, with the exception of the six states visited during the study, are presented in Appendix B.[1] The state summaries are arranged in categories determined by their SLEB agreement-generated activity. In Appendix B and Exhibits 2 and 3, the states are listed alphabetically in the inactive and not-currently-active groups (Categories I and II). The states conducting periodic and regular trafficking investigations (Categories III, IV, and V) are arranged, approximately, from least active to most active. The order was determined by overall levels of activity and the relative maturity of the states' operations. ***The rankings do not represent judgements as to the relative quality or effectiveness of investigations conducted under the SLEB agreements.***

As shown in Exhibit 2, most states with SLEB agreements have recently conducted investigations (21 of the 32), but only 10 have shown regular, sustained patterns of activity. States with large food stamp caseloads generally were the more active SLEB agreement states. States with smaller caseloads tended not to be as active, whereas activity levels among mid-sized states were mixed.

An interesting finding in this exhibit is the varying relationship between SLEB agreement activity and Intentional Program Violation (IPV) statistics.[2] Food Stamp Program caseloads and IPV statistics provide some context for the overall anti-fraud environment in which the SLEB agreement process is managed. That is, a rudimentary assessment of a state's performance in the area of dealing with food stamp eligibility fraud can be made by comparing a state's caseload ranking with its IPV ranking. Michigan and Georgia, for example, have IPV

1. The in-depth case study reports on California, Florida, Michigan, New Mexico, Ohio, and Texas are included in Appendix C.

2. IPV statistics are generated from court and administrative action taken against recipients who violate eligibility rules, for example, not reporting income. IPVs are reported by states on the Claims Against Household Report (FCS-209), which is monitored at the FCS regional and headquarters levels.

**Exhibit 2**

**STATES WITH SLEB AGREEMENTS: BACKGROUND AND ORGANIZATIONAL CHARACTERISTICS BY ACTIVITY CATEGORY**

| State | Average Food Stamp Caseload (FY94) | Food Stamp Caseload Rank (FY94) | IPVs Established (FY94) | IPV Rank (FY94) | Agency Administering SLEB Agreement | Agencies Conducting Investigations under SLEB Agreement |
|---|---|---|---|---|---|---|
| ***I. Inactive States*** *(listed alphabetically)* | | | | | | |
| District of Columbia | 41,408 | 41 | 192 | 40 | FS Agency | none |
| Minnesota | 132,557 | 26 | 789 | 23 | FS Agency | none |
| Nebraska | 44,830 | 39 | 279 | 36 | FS Agency | none |
| North Dakota | 17,990 | 49 | 378 | 34 | Attorney General | none |
| Utah | 46,340 | 38 | 432 | 30 | FS Agency | none |
| Virginia | 232,172 | 14 | 500 | 28 | FS Agency | none |
| West Virginia | 126,025 | 28 | 475 | 29 | FS Agency | none |
| ***II. States with No Recent Activity (in FY94 or FY95)*** *(listed alphabetically)* | | | | | | |
| Alabama | 212,995 | 16 | 3,516 | 7 | FS Agency | Local police |
| Georgia | 329,114 | 9 | 7,424 | 2 | Dept. of Public Safety | State police |
| Missouri[a] | 239,670 | 13 | 4,369 | 4 | FS Agency | State welfare fraud inv. |
| Wyoming | 12,723 | 51 | 263 | 38 | Attorney General's Office | Attorney General inv. |
| ***III. States with Periodic Activity*** *(from least to most active)*[b] | | | | | | |
| Massachusetts | 190,610 | 21 | 673 | 25 | FS Agency | State/local police |
| Montana | 27,821 | 45 | 100 | 50 | Dept. of Public Safety | State police |
| Mississippi | 193,597 | 20 | 4,181 | 5 | Dept. of Public Safety | State/local police |
| Colorado | 106,880 | 31 | 1,462 | 16 | FS Agency | Local police |
| Indiana | 194,061 | 19 | 125 | 49 | FS Agency | Local police |
| Kansas | 75,996 | 35 | 399 | 33 | FS Agency | State/local police |
| Iowa | 78,650 | 34 | 221 | 39 | State OIG | Local police |
| Louisiana | 278,020 | 11 | 1,246 | 19 | FS Agency | State/local police |
| Washington | 196,417 | 17 | 863 | 22 | FS Agency | State/local police |

**Exhibit 2 (cont.)**

| State | Average Food Stamp Caseload (FY94) | Food Stamp Caseload Rank (FY94) | IPVs Established (FY94) | IPV Rank (FY94) | Agency Administering SLEB Agreement | Agencies Conducting Investigations under SLEB Agreement |
|---|---|---|---|---|---|---|
| Illinois | 499,445 | 7 | 2,235 | 11 | FS Agency | State/local police |
| South Carolina | 145,535 | 25 | 171 | 43 | FS Agency | State welfare fraud inv. Local police |
| ***IV. States with Regular Activity, Survey Only*** *(from least to most active)*[b] | | | | | | |
| New York | 1,003,565 | 2 | 2,225 | 12 | FS Agency | District attorneys State/local police |
| Arkansas | 107,864 | 30 | 600 | 27 | FS Agency | State welfare fraud inv. |
| Oklahoma | 150,396 | 24 | 419 | 31 | FS Agency | State welfare fraud inv. Local police |
| Wisconsin | 121,809 | 29 | 405 | 21 | FS Agency | Local police |
| ***V. Case Study States*** *(from least to most active)*[b] | | | | | | |
| New Mexico | 86,416 | 33 | 78 | 51 | FS Agency | State welfare fraud inv. State/local police |
| Florida | 606,939 | 4 | 1,421 | 17 | State Auditor General | State/local police |
| California | 1,179,193 | 1 | 3,884 | 6 | FS Agency | State welfare fraud inv. |
| Michigan | 434,143 | 8 | 8,765 | 1 | FS Agency | State police |
| Ohio | 531,497 | 5 | 3,345 | 8 | FS Agency | State dedicated unit |
| Texas | 1,001,558 | 3 | 7,161 | 3 | FS Agency | State welfare fraud inv. Local police |

*NOTE:* IPV = Intentional Program Violation.

[a] Since 1992, Missouri has conducted non-SLEB trafficking investigations in cooperation with USDA OIG.
[b] Rankings reflect the overall activity and maturity of operations.

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rankings much higher than their caseload rankings, suggesting a strong anti-fraud environment. Such an environment might tend to promote activity under the SLEB agreements, but whereas Michigan is also active in conducting trafficking investigations, Georgia had no SLEB activity in either FY94 or FY95. In general, the patterns of IPV and SLEB activity lead to the observation that there is no direct link between the two areas of anti-fraud activity.

At the other end of the distribution, New Mexico's and South Carolina's IPV rankings are well below their caseload rankings, but South Carolina has had a relatively high level of periodic activity and New Mexico has been one of the most active SLEB states. ***In states where SLEB activity is unaccompanied by commensurate IPV activity, state resources may have been diverted from eligibility fraud investigations to trafficking investigations.***

In 25 of the 32 states with SLEB agreements, the state's Food Stamp Program agency administers the agreement. Management of the agreement by an agency other than the food stamp agency is unlikely to produce high productivity levels. Of the most active states (Categories IV and V), only Florida has situated the management of the agreement outside of the welfare department.

It is interesting to note that there is an association between the level of SLEB agreement activity and more centralized control of the SLEB agreement process. The 22 non-active or less-active states (Categories I, II, and III) exhibit very little central control of the SLEB process. On the other hand, six of the ten most active states control the food stamp coupons and, to a very great extent, the actual investigations. These states are Arkansas, New Mexico, California, Michigan, Ohio, and Texas. Several of these states felt strongly that centralized control was essential for a successful SLEB agreement operation. This issue is further discussed in Chapter Four.

As Exhibit 3 indicates, all but two of the 25 states that had some SLEB agreement activity gave multiple responses to the survey question about their sources of tips and complaints about food stamp coupon trafficking. "Law enforcement agents" (including state and local police) were mentioned most frequently, appearing 19 times as either the primary or secondary source. A closely-related category is "informants." The information provided by informants is usually obtained by law enforcement agents or state welfare fraud investigators. "Informants" appears as a primary or secondary source ten times. Seven states indicated that the fraud hotlines they operate provide valuable tips about trafficking.

**Exhibit 3**

**SUMMARY OF SLEB AGREEMENT ACTIVITY BY STATE**
**(all states with some SLEB activity—excludes category I)**

| State | Sources of Intelligence | Targets of Investigations | No. of Investigations[a] | Cumulative Food Stamp Coupons Used[a] | Convictions[b] | Stores Referred to FCS |
|---|---|---|---|---|---|---|
| ***II. States with No Recent Activity (FY94 or FY95)*** *(listed alphabetically)* | | | | | | |
| Alabama | Informants<br>Law enforcement agents | Retailers | 3 | $2,500 | N/A | 1 |
| Georgia | Law enforcement agents | Retailers | 3 | 6,190 | 1 | 3 |
| Missouri[c] | Community<br>Law enforcement agents | Retailers<br>Buyers | 4 | 1,200 | 4 | 0 |
| Wyoming | Community | Buyers | 2 | <500 | N/A | 0 |
| ***III. States with Periodic Activity*** *(from least to most active)*[d] | | | | | | |
| Massachusetts | Law enforcement agents | Buyers<br>Drug dealers | 3 | 715 | N/A | 0 |
| Montana | Local offices<br>Law enforcement agents | Buyers<br>Retailers | N/A | 2,000 (est.) | N/A | 0 |
| Mississippi | Law enforcement agents<br>Informants | Buyers<br>Sellers | 4 | 4,500 | 1 | 0 |
| Colorado | Community<br>Informants | Drug dealers<br>Retailers | 2 | 10,000 | N/A | 0 |
| Indiana | Local offices<br>Community | Retailers | 7 | 55,000 (est.) | N/A | 0 |
| Kansas | Law enforcement agents<br>Hotline | Buyers<br>Drug dealers | 6 | 33,000 (est.) | 1 | 0 |
| Iowa | Law enforcement agents<br>Local offices | Buyers<br>Retailers | 24 | 13,300 | 5 | 0 |
| Louisiana | Law enforcement agents<br>Hotline | Retailers<br>Buyers | 27 | 13,740 | 1 | 0 |
| Washington | Law enforcement agents<br>Informants | Buyers<br>Drug dealers | 35 | 45,000 | N/A | 0 |
| Illinois | Law enforcement agents<br>Hotline | Retailers<br>Buyers | 119 | 19,675 | 3[e] | 0 |
| South Carolina | Law enforcement agents<br>Community | Retailer<br>Buyers | 72 | 39,000 (est.) | 4[e] | 1 |

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**Exhibit 3 (cont.)**

| State | Sources of Intelligence | Targets of Investigations | No. of Investigations[a] | Cumulative Food Stamp Coupons Used[a] | Convictions[b] | Stores Referred to FCS |
|---|---|---|---|---|---|---|
| ***IV. States with Regular Activity, Survey Only*** *(from least to most active)*[d] | | | | | | |
| New York | Informants<br>Law enforcement agents | Retailers<br>Buyers | 60 | 135,750 | N/A | 0 |
| Arkansas | Informants<br>Law enforcement agents | Retailers<br>Buyers | 69 | 6,280 (est.) | 8 | 4 |
| Oklahoma | Community<br>Law enforcement agents | Retailers<br>Drug dealers | 181 | 9,276 | 14 | 3 |
| Wisconsin | Community<br>Informants | Retailers<br>Wholesalers | N/A | 354,190 | 40[e] | 41[f] |
| ***V. Case Study States*** *(from least to most active)*[d] | | | | | | |
| New Mexico | Hotline<br>Informants | Drug dealers<br>Buyers | 45 | 135,710 | N/A | 0 |
| Florida | Law enforcement agents<br>Informants | Retailers<br>Buyers | 187 | 85,000 | 24[e] | 25 |
| California | Informants<br>Hotline | Runners<br>Recipients | 239 | 30,000 | 17 | 5 |
| Michigan | Law enforcement agents<br>Hotline | Retailers<br>Buyers | 182 | 54,670 | 68 | 12 |
| Ohio | Law enforcement agents<br>Hotline | Retailers<br>Buyers | 207 | 298,328 | 141 | N/A |
| Texas | FSC<br>Law enforcement agents | Retailers<br>Buyers | 330 | 47,500 | 64[e] | N/A |

N/A = not available

*NOTES:*

[a] Data are for FY92-FY94 for all case study states except California. California data are for October 1994-March 1995, and were obtained in reviews of records during site visits. For all other states, data are cumulative for life of SLEB agreement through June 1995, as reported in telephone interviews.

[b] Conviction counts do not include cases pending from FY94 or prior years, and may understate the actual total number of convictions due to incomplete data.

[c] Since 1992, Missouri has conducted non-SLEB trafficking investigations in cooperation with USDA OIG.

[d] Rankings reflect the overall activity and maturity of operations.

[e] These states had conviction data only for some investigations.

[f] Wisconsin had data on retailer referrals only for some investigations.

Food retailers who engage in trafficking and individuals who buy food stamp coupons were the most frequent targets of investigations, each appearing 18 times as either the primary or secondary target. States typically cited authorized food retailers as being targeted more frequently than unauthorized stores, even though one objective of the SLEB agreements was to encourage investigation of non-authorized stores. Interestingly, six states mentioned drug dealers as primary or secondary targets. The issue of the relationship of drug investigations to SLEB agreement trafficking investigations is dealt with in more detail in Chapter Four of this report.

Only California lists recipients as one of its top two targets of SLEB agreement-generated investigations. As mentioned in the case study report on California,[3] the state's three trafficking projects were designed to target "runners" and recipients who conduct their business around food stamp coupon issuance sites. Runners are individuals who buy food stamp coupons on the street and resell them, with their "mark-up," to retailers who are usually engaged in major trafficking enterprises.

Several states mentioned during the course of the study that they were considering expanding the scope of their investigations to include the targeting of recipients. At this point, however, none of the states had data on recipients who were disqualified from the Food Stamp Program as a result of a trafficking investigation. Neither were there mechanisms in any of the states to provide state or local Food Stamp Program staff with information gathered from trafficking investigations; there was no perceived need to do so.

The numbers of convictions and stores referred to FCS, as shown in Exhibit 3, reveal considerable differences in the results of the SLEB initiative between the ten most active states (those in Categories IV and V) and the rest. Although the ten most active states collectively reported 376 convictions and 90 retailers referred to FCS, the other 15 states (those with no recent or only periodic activity report) reported only 13 convictions and one retailer referral. One must take care, however, in interpreting the conviction and retailer referral data, because the data are often incomplete. Tracking cases through the courts is difficult and resource-intensive, and considerable time may elapse between arrest and conviction. As discussed in Chapter Four, states do not always track retailer referrals, and referrals do not always lead to disqualification or other sanction by FCS.

3. See Appendix C.

Although several of the states with periodic activity reported substantial numbers of investigations, these figures are not truly comparable across states. There is no consistent definition of what constitutes an investigation, nor are there consistent procedures for counting investigations. For example, some states may use a narrow definition of investigation by counting each individual or store targeted. Other states may count as a single investigation an operation confined to a specific area, which could include many individuals or stores. The dollar volume of coupons used in investigations is also of limited use in measuring activity, because states use and account for the coupons in different ways.

Despite the limitations of the quantitative data, ***the available evidence clearly shows that the SLEB initiative has produced few results outside of the ten most active states***. Those ten states have mounted sustained campaigns against trafficking, and several others show signs of potentially sustainable initiatives, but the levels of activity and results in the rest of the states have been modest at best.

**State Laws Making Food Stamp Coupon Trafficking a Crime**

Three states with SLEB agreements do not have state laws covering food stamp coupon trafficking. They are the District of Columbia, West Virginia, and Massachusetts. The District of Columbia and West Virginia staff indicated that the lack of a trafficking statute was the primary reason for not activating their SLEB agreements. Both state agencies signed agreements in anticipation of applying for the trafficking demonstration projects that FCS planned but later canceled. Massachusetts state staff indicated that the lack of a statute contributes to law enforcement agency and prosecutors' reluctance to get involved in trafficking cases.

***Several states indicated that they have amended their trafficking statutes over the years,*** usually to lower the dollar value of the illegally-transacted food stamp coupons necessary to charge a suspect with a felony. There is a wide range in the states' felony levels for trafficking. For example, in Ohio the level is $1, but in South Carolina it is $1,000. Felony levels above approximately $400 make it difficult for undercover agents posing as recipients to make felony transactions, because large amounts of food stamp coupons offered for sale raise suspicion on the part of the traffickers. ***Felony charges are a very important element in plea bargain negotiations once trafficking cases reach court***, because they can lead to more severe

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**Exhibit 4**

**ROLE OF FCS REGIONAL OFFICE IN DECISION TO SIGN AGREEMENT**

| | Percent of All SLEB States |
|---|---|
| *Level of Activity* | |
| Not active | 10% |
| Somewhat active | 6 |
| Moderately active | 0 |
| Active | 42 |
| Very active | 42 |
| *Degree of Helpfulness* | |
| Not helpful | 6% |
| Somewhat helpful | 6 |
| Moderately helpful | 0 |
| Helpful | 39 |
| Very helpful | 48 |

Number of respondents = 31. Totals do not sum to 100 because of rounding.

**Exhibit 5**

**LEVEL OF INTEREST OF LAW ENFORCEMENT COMMUNITY IN WHAT AGREEMENT HAD TO OFFER**

| | Percent of All SLEB States |
|---|---|
| Not interested | 28% |
| Somewhat interested | 19 |
| Moderately interested | 13 |
| Interested | 9 |
| Very interested | 6 |
| No contact made by signatory agency | 25 |

*NOTE:* Number of respondents = 32

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grew out of new emphasis being placed on overall retailer management and a realization that SLEB agreement investigations could be a key feature of FCS and state efforts to protect the integrity of emerging EBT systems.

**Law Enforcement Status of States' Welfare Fraud Investigators**

When designing the SLEB agreement study, it was thought that states in which welfare fraud investigators have "peace officer" status (i.e., are armed and have arrest powers) might have more interest in trafficking investigations than would other states. This is apparently not the case. In only six of the states with a SLEB agreement do welfare fraud investigators have peace officer status. In three of these states—North Dakota, Montana, and South Carolina—there is a less-than-fully-active SLEB agreement. In California, sworn officers in three of the state's jurisdictions are participating in trafficking investigations under a special funding arrangement. Until this special funding was made available, only two California counties had conducted a few SLEB agreement investigations. New Mexico and Oklahoma are the only other states in the peace officer category that regularly conduct investigations under the terms of the SLEB agreement. (New Mexico's welfare fraud investigators do not have state-conferred peace officer status, but have been deputized by local police departments during trafficking investigations.)

**Ratings of States' Relationships with the USDA OIG**

As indicated in Exhibit 6, the majority (52 percent) of states with SLEB agreements rated their relationships with the USDA OIG as good or very good. Some states indicated that they had dynamic working relationships with OIG staff and regularly exchanged information about trafficking, even though they had registered little or no SLEB agreement-generated activity.

Of the ten most active states (Categories IV and V), three states—California, Oklahoma, and Texas—rated their relationship with OIG as very good. These states have conducted joint investigations with OIG staff. As further evidence of the strength of the relationship in Texas, the State Inspector General and the Houston Police Department have joined forces with USDA OIG staff to investigate trafficking cases that are emerging in the state's new EBT system. In

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**Exhibit 6**

**RELATIONSHIP WITH USDA OFFICE OF INSPECTOR GENERAL**

| | Percent of All Active SLEB States | Percent of Most Active SLEB States |
|---|---|---|
| Poor | 16% | 40% |
| Fair | 12 | 0 |
| Good | 20 | 20 |
| Very good | 36 | 30 |
| No contact | 16 | 10 |
| (Number of respondents) | (25) | (10) |

*NOTE:* "Most active" states include categories IV and V in Exhibit 2.

California, OIG provided technical assistance and training as the three trafficking projects were just getting off the ground. In Oklahoma, an OIG agent works almost full-time with state staff.

Four of the ten most active states, however, indicated that their relationships with the USDA OIG were poor. In three of these states, what had been good relationships, in the opinion of state staff, have deteriorated. State staff said that OIG had disengaged from federal/ state task forces and joint investigations, and that OIG had become reluctant to share intelligence about trafficking. The fourth state reported that OIG had problems with the timing of the local SLEB investigations, and that this had stood in the way of developing a better working relationship between state and federal staff. (The OIG perspective on its relationship with the states with SLEB agreements is presented in Chapter Four.)

**Ratings of the States' Relationships with the FCS Compliance Branch**

Because the FCS Compliance Branch is a much smaller agency, the states generally have a less dynamic relationship with it than they do with the USDA OIG. As indicated in Exhibit 7, 40 percent of the active survey respondents said that they had no contact with the Compliance Branch. Four of the most active states rated their relationship with the Compliance Branch as very good. Only one state rated its relationship with the Compliance Branch as poor, citing the withdrawal of the Compliance Branch from joint investigations.

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**Exhibit 7**

**RELATIONSHIP WITH FCS COMPLIANCE BRANCH**

| | Percent of All Active SLEB States | Percent of Most Active SLEB States |
|---|---|---|
| Poor | 4% | 10% |
| Fair | 20 | 20 |
| Good | 16 | 20 |
| Very good | 20 | 40 |
| No contact | 40 | 10 |
| (Number of respondents) | (25) | (10) |

*NOTE:* "Most active" states include categories IV and V in Exhibit 2.

## Other Federal Agencies Involved in SLEB Agreement-Related Matters

Thirteen of the states with SLEB agreements indicated that they had worked with or exchanged information with federal agencies outside of USDA. Six states said that they had some, but infrequent, contact with the FBI related to trafficking investigations. Nine states said that their contacts with the Secret Service were generally more frequent and more dynamic than those with the FBI, owing to the Secret Service's agreement with the USDA OIG to engage in trafficking investigations not involving authorized retailers.

## Ratings of the SLEB Agreement Approval Process

The SLEB agreement requires FCS regional office approval of all investigations. Generally, this approval process was rated as clear, reasonable, and adequate (see Exhibit 8). Some knowledge of the states' approach to dealing with this requirement, however, is necessary to understand the high ratings. Several states have worked with their FCS Regional Offices to streamline the approval process, usually by making direct contact with the USDA OIG and the Compliance Branch to make sure that neither is already investigating the state target. In most states, the approval process is seen essentially as a simple clearance procedure with OIG and the Compliance Branch, and there is no assessment of the merits of the proposed investigations that could cause delay and denials.

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**Exhibit 8**

**RATING OF INVESTIGATION APPROVAL PROCESS**

| | Percent of All Active SLEB States |
|---|---|
| *Clarity of Procedures* | |
| Unclear | 4% |
| Somewhat clear | 0 |
| Moderately clear | 28 |
| Clear | 68 |
| *Reasonableness of Procedures* | |
| Unreasonable | 4% |
| Somewhat reasonable | 8 |
| Moderately reasonable | 16 |
| Reasonable | 72 |
| *Adequacy of Procedures* | |
| Inadequate | 12% |
| Somewhat adequate | 4 |
| Moderately adequate | 16 |
| Adequate | 68 |

*NOTE:* Number of respondents = 25.

The FCS Southeast Regional Office has transferred the responsibility for monitoring the SLEB agreement process to its Field Office staff. The states in the region think that this allows for a much better approval process and much better interagency communication.

As mentioned previously, the investigation approval process has occasionally been a problem. One state indicated that the process took too long in some cases. Two other states indicated that there was the potential for FCS to impede state investigations by asking states for more information than is available in the targeting phase of an investigation.

**Ratings of the SLEB Agreement Food Stamp Coupon Accounting Requirements**

The ratings of the accounting requirements in the SLEB agreement process were generally very positive (Exhibit 9). Most states viewed these requirements as clear, reasonable, and adequate. This result is interesting, for two reasons. First, the requirements were seen as

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burdensome by states and, especially, local agencies. Elaborative comment made during the rating of the accounting requirements left the impression that the states see them as difficult and burdensome, but necessary. Second, the Food Stamp Accountability Report (FCS-250), which is the principal mechanism for reporting SLEB agreement activity, is not providing FCS with accurate, sufficiently detailed, or timely data on food stamp coupons used in trafficking investigations. A review of the data available at FCS Headquarters showed that, as late as June 1995, some states had not reported for FY94. Also, the data that were posted to the accounting system did not show sufficient detail to monitor the states' use of food stamp coupons in trafficking investigations conducted under the terms of the SLEB agreements.

**Exhibit 9**

**RATING OF ACCOUNTING REQUIREMENTS**

| | Percent of All Active SLEB States |
|---|---|
| *Clarity of Procedures* | |
| Unclear | 4% |
| Somewhat clear | 4 |
| Moderately clear | 12 |
| Clear | 80 |
| *Reasonableness of Procedures* | |
| Unreasonable | 4% |
| Somewhat reasonable | 8 |
| Moderately reasonable | 16 |
| Reasonable | 72 |
| *Adequacy of Procedures* | |
| Inadequate | 12% |
| Somewhat adequate | 4 |
| Moderately adequate | 16 |
| Adequate | 68 |

*NOTE:* Number of respondents = 25.

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# CHAPTER FOUR

# ANALYSIS OF FINDINGS FROM THE SLEB AGREEMENT SURVEY AND CASE STUDIES

The SLEB agreement study was designed to gather data via both the survey of all states with agreements and the case studies, in order to answer the research questions posed by FCS and draw conclusions about the SLEB agreement process. The research questions, as they originally appeared in the RFP, have been rearranged and modified slightly to combine certain similar items and add issues that emerged during the study. The final set of research questions is listed in Exhibit 10. This chapter addresses each research question in turn.

**Exhibit 10**

**RESEARCH QUESTIONS FOR THE SLEB AGREEMENT STUDY**

- What process led to the implementation of the SLEB agreements?
- What obstacles were encountered in states' efforts to develop fully active SLEB agreement processes?
- What state and local resources have been devoted to the SLEB agreement process?
- What is the level of cooperation and coordination among state, local, and federal agencies in SLEB agreement-related matters?
- How do states develop intelligence about food stamp coupon trafficking and choose targets for investigation?
- What are the characteristics of SLEB agreement-generated investigations?
- Are states following SLEB agreement procedures and reporting and accounting requirements?
- What is the relationship between SLEB agreement-generated investigations and drug investigations?
- What is the relationship between trafficking investigations and the Food Stamp program eligibility determination process?
- What penalties have been applied to individuals and food retailers as a result of SLEB agreement-generated investigations?
- What is the relationship between the investigation of trafficking in EBT benefits and the SLEB agreements?
- What are the noteworthy practices of the states with the most effective SLEB agreements?

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## *What process led to the implementation of the SLEB agreements?*

The FCS Regional Offices were key to the implementation of the SLEB agreements. Although regional office staff received high ratings as to their helpfulness in the agreement-signing process, there was a perception by some state staff that the agreements were not an FCS priority.

After the SLEB agreements had been signed, regional office staff continued to work with the states in their implementation efforts. Several states mentioned FCS help in designing intra-state agreements and in streamlining the investigation approval process.

The decision to sign the SLEB agreement was usually made by the SLEB agreement-administering agency, with little outside influence and few obstacles to overcome. Higher-level welfare department executives and, in a few cases, governors' offices, were generally supportive of the administering agency's decision to undertake the SLEB agreement initiative.

The states' decisions to sign the agreement were strongly influenced by the following factors:

- Trafficking was seen as a significant problem. States often cited media reports of trafficking being rampant, especially in large cities;
- States had usually had some contact with federal investigators with regard to trafficking; in some states staff had participated in joint investigations with federal agents;
- State agencies believed that it was within their mandate for protecting the integrity of the Food Stamp Program to conduct trafficking investigations;
- Undercover trafficking investigations were different than investigating eligibility fraud, and would bring a new dimension to the states' anti-fraud operations; and
- Strong leadership and commitment on the part of the SLEB agreement administrators, especially in the ten most active states, were the keys to the implementation of the agreements.

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***What obstacles were encountered in the states' efforts to develop an active SLEB agreement process?***

Exhibit 11 displays the reasons given by the 22 states that were inactive, had no recent activity, or conducted periodic investigations (categories I, II, and III) for having a less-than-fully-activated SLEB agreement.

**Exhibit 11**

**REASONS FOR HAVING A LESS-THAN-FULLY-ACTIVATED SLEB AGREEMENT**

| Reason | Times Mentioned |
|---|---|
| Inadequate state and/or local resources | 10 |
| Little or no interest in the state and/or local law enforcement community | 10 |
| Requirements too burdensome | 3 |
| No state trafficking law | 3 |
| Trafficking not a priority for the state | 3 |
| Agreement did not appear to be a priority for FCS | 2 |
| Prohibition on using food stamp coupons in drug investigations | 2 |
| Trafficking not a significant problem in state | 2 |
| Local department of social services reluctant to participate | 1 |
| No perceived need with EBT on the horizon | 1 |
| Better to refer case to USDA's OIG | 1 |
| Better to bypass agreement and work with OIG | 1 |
| Trafficking is a federal problem | 1 |
| Process too new to be producing results | 1 |
| Court reluctant to impose significant sentences | 1 |
| Undercover investigators not available for trafficking investigations | 1 |

Responses are from all 22 states with SLEB agreements that do not regularly conduct investigations (Categories I, II and III).
Number giving more than one reason: 13.

The inadequacy of resources was one of the two most cited reasons for states not moving forward with their SLEB agreement initiative. All states struggle to maintain an adequate response to the problem of eligibility fraud in the Food Stamp Program. Several states

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mentioned that new emphasis on "front-end" fraud prevention had severely taxed their administrative and investigative resources. Similar problems with meeting work load demands were encountered both at the state and local levels of the law enforcement community.

A lack of interest on the part of law enforcement agencies was mentioned just as often as inadequate resources. As mentioned in the preceding chapter, the states' approach to the law enforcement community must certainly have influenced agencies' reaction to the SLEB agreement process. States that did not make focused efforts to enlist law enforcement rarely generated much interest. Especially in high crime areas, many police departments were very reluctant to merge food stamp coupon trafficking onto their law enforcement agenda.

Some of the reasons that appear less frequently in Exhibit 11 than resources and lack of interest were no less decisive in those states that cited them. For example, two of the states without a specific trafficking statute, the District of Columbia and West Virginia, will not implement a SLEB agreement process until such a law is on the books. Montana and Wyoming are also unlikely to devote attention to the SLEB agreement process, because trafficking is perceived not to be a significant problem in those states. Under prevailing conditions, approximately half of the states with a less-than-fully-activated SLEB agreement indicated that there was some potential for trafficking investigations to begin or increase. The balance of the states saw little potential for different results unless the process were changed, such as by making more federal funds available.

***What state and local resources have been devoted to SLEB agreement process?***

Of the 32 states with SLEB agreements, 13 are devoting little if any staff time to their SLEB agreement process. These include all of the inactive states (Category I); Alabama, Georgia, and Wyoming in the no recent activity category (Category II); and Massachusetts, Montana, and Mississippi in the periodic category (Category III). The balance of the 11 states with periodic activity are devoting varying levels of administrative attention to the agreements. The administration of the agreement is typically a part-time responsibility of the agreement administrators.

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No precise estimate can be made of the resources contributed to trafficking investigations by state and local agencies in states with periodic activity. Little information of any kind was usually available on the investigations conducted in the states in this category. In addition, there was no consistent level of staff devoted to SLEB agreement investigations. None of the investigative agencies in states with periodic activity has made a commitment to conduct trafficking investigations on a regular basis. The investigations that were discussed with state staff could best be categorized as short-term investigations on targets of opportunity that often did not result in arrests or convictions.

In the ten most active states, the contributions from state and local agencies, although difficult to quantify, were significant. This was also the case in Missouri, which falls in the no recent activity category but is active in trafficking investigations outside of the SLEB agreement process. In seven of the states—Arkansas, Oklahoma, New Mexico, California, Michigan, Ohio, and Missouri—state positions have been assigned to the SLEB agreement process. Except in California, these dedicated staff are supported, within the states' cost allocation processes, with a combination of FCS and state funds. The California trafficking projects are funded by FCS under a special two-year agreement.

In Texas, the entire staff of welfare fraud investigators in the Office of the Inspector General is engaged on a part-time basis in the generation of trafficking investigations. These investigators are also supported by the federal/state funding mix.

In Florida, New York, and Wisconsin, local staff in certain areas are heavily involved in the SLEB agreement-generated investigations. In Florida, both state and local law enforcement agencies have conducted trafficking investigations. In New York, it is district attorney's offices that are most active in the early stages of the SLEB agreement initiative. In Wisconsin, only the Milwaukee Police Department has recently been active.

In New York and Florida, FCS matching funds have not yet been used for SLEB agreement-generated investigations, but access to these funds is an emerging issue. In New York, the agency most active in trafficking investigations is the Manhattan District Attorney's Office. That office is intent on establishing a fee-per-investigation reimbursement schedule for the work that it does under the terms of the state's SLEB agreement. In Florida and the less active states in the FCS Southeast Region, mechanisms to provide matching funds to state and local agencies are being discussed.

***What is the level of cooperation and coordination among state, local and federal agencies in SLEB agreement-related matters?***

The level of cooperation and coordination among state, local, and federal agencies in SLEB agreement-related matters varies widely. Examples of problems between agencies are as prevalent as the exemplary state/federal working relationships that have developed in some states.

**State/FCS Regional Office Interactions.** At the administrative level, few serious problems surfaced in the relationships between state staff and FCS Regional Offices. The notable exception here was the relationship between FCS and one state's staff, where the SLEB agreement investigations conducted by a local police department have created a good deal of friction. At the center of this difficult situation is a disagreement over the definition of the role of the SLEB administering agency, and how much supervision state staff should have over operations carried out by local law enforcement agencies.

In the Southeast Region, FCS has designated its field offices as the SLEB agreement coordinators. This approach appears quite successful at fostering two-way communication with the states.

**State/FCS Compliance Branch Interactions.** States' relationships with the FCS Compliance Branch centered on the SLEB investigation approval process and the exchange of intelligence about trafficking. Not all states have the opportunity or need to develop relationships with the Compliance Branch, however, because the Branch has limited presence in some areas. In addition, the Compliance Branch is limited in the extent to which it can establish relationships with state and local law enforcement agencies by OIG policy, as specified in the Statement of Determinations that governs the Compliance Branch's anti-trafficking activities.

Information from the Compliance Branch can be of immense help to states in targeting their SLEB agreement investigations. Six states made particular mention of their strong working relationships with the Compliance Branch.

**State/USDA OIG Interactions.** The USDA OIG is responsible for investigating trafficking in food stamp coupons. For this reason, the most critical state-federal relationship

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for states with SLEB agreements is with the USDA OIG. Without coordination and cooperation between the states and OIG, problems of "turf" and inadvertent interference with existing investigations can certainly arise.

According to OIG headquarters staff, the agency's seven regional offices have a total of approximately 250 investigators who spend roughly half of their time investigating trafficking in food stamp coupons. OIG maintains a presence in all states, but concentrates its resources in areas where high volumes of food stamp coupons are circulating in the marketplace.

Because of its limited resources and a desire to have the greatest impact on trafficking, OIG generally concentrates on "big cases" involving high volumes of food stamp coupons and/or trafficking networks of authorized retailers and/or wholesalers.

The U.S. Attorney's Offices exert strong influence on the types of investigations undertaken by OIG. Again because of resource and impact issues, the federal prosecutors will accept for prosecution only cases that reach a certain minimum dollar amount in trafficked food stamp coupons, upward of $50,000 in some areas.

The OIG Headquarters endorses the FCS effort to sign SLEB agreements with state governments. State agencies are viewed by OIG as a very valuable resource in the overall effort to combat trafficking. The seven Regional Inspectors General (RIGs) also support the SLEB agreement concept. Several RIGs observed, however, that the SLEB agreement initiative has not produced results commensurate with the amount of energy that FCS and state staff have expended on getting the agreements signed and investigative processes implemented.

The RIGs have the autonomy to develop relationships with state and local agencies when they see potential for those relationships to be helpful in attaining agency goals. In matters not related to SLEB agreement-generated trafficking investigations, such as assisting states in investigations of employees, OIG has uniformly good relationships with state Food Stamp

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retailers for investigation under the terms of the state's SLEB agreement. OIG believed that it was absolutely the wrong time for these state investigations to take place.

Second, in most states, OIG investigators' time is fully committed to the agency's agenda. Staff usually cannot be diverted to participate on state/federal task forces. This resource issue, according to OIG, was a major contributing factor to OIG breaking off its once close working relationships with investigators in two states.

Third, OIG will only follow the lead of state or local investigators if the investigations that they are conducting are fully compatible with the agency's mission and standards for conducting investigations. Conflict with this principle was the reason that OIG terminated its role in one local trafficking investigation, which OIG felt was too aggressive.

In three of the ten most active states—California, Oklahoma, and Texas—and also in Missouri, OIG staff agreed with state staff that strong dynamic working relationships exist. There are several levels of cooperation in these relationships. Intelligence sharing and communication at both the administrative and operational levels take place on a frequent basis. Joint investigations have been undertaken when it has made sense from a strategic point of view for OIG to share staff and equipment resources. State staff can also facilitate the participation of local law enforcement agencies in investigations. A good example of this type of relationship is in Texas, where USDA OIG, the state OIG, and the Houston Police Department are working together on EBT trafficking cases.

Finally, a strong relationship can result in the maximization of resources by having the state and OIG investigators focus on different targets. This is the situation in California, where OIG has been helpful in setting up the three trafficking projects. As the state units became operational, they started investigating trafficking at issuance sites, a type of target that OIG did not have the resources to cover.

For the last several years the OIG has been investigating trafficking in states with EBT systems. In Texas and New Mexico, both states with active SLEB agreements, OIG is working EBT investigations jointly with state staff. In the other EBT states OIG operates more independently, and these states' investigators are not actively involved in conducting EBT trafficking investigations.

OIG staff agreed that in states with large food stamp caseloads, trafficking is so prevalent that there is plenty of work for federal, state, and local investigators. At a minimum,

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coordination between OIG and state staff is necessary for the safety of investigators. It will take additional effort in some states, on the part of both state and federal staff, to make sure that communication takes place at levels beyond the required investigation approval process.

***How do states develop intelligence about food stamp coupon trafficking and choose targets for investigation?***

There is a surprising degree of randomness in how states target their SLEB agreement operations. In many states, including Wisconsin and Florida among the ten most active, there is no central control over investigations. Targets are generated by local agencies from their own sources. The targets are routinely passed through the approval process only to make sure that federal agents are not already conducting an investigation.

In some states the few law enforcement agencies that have conducted investigations have done so because of local interest or the temporary availability of staff, not because of any strategic decision to target known centers of trafficking. SLEB agreement-generated investigations are often conducted in rural areas, but not in major cities. States can document few outcomes of these investigations, though the assumption can be made that many *ad hoc* local investigations do not even result in arrests.

This random "targeting" process may continue to be the norm in states where the SLEB agreement administering agency is basically "just the bank for the food stamp coupons." In Florida, the Florida Department of Law Enforcement is considering assuming the role of coordinating investigations and fostering more interest in the SLEB agreement process among local agencies.

The other eight most active states do take a more methodical approach to managing intelligence about trafficking, developing targets, and initiating investigations. Both Michigan and Ohio keep active files, by county, of tips and complaints about trafficking. The supervisors of the trafficking units decide when a new area is to be targeted. The file of tips and complaints is used, in conjunction with other sources of intelligence, to start the process of selecting specific targets and deciding on the overall scope of investigations. During investigations, investigators

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are always looking for leads that could expand the investigations to more traffickers in the targeted area.

Of all the states with SLEB agreements, California's investigative efforts are most restricted to specific targets. By design, the three projects are focused on the trafficking that takes place around coupon issuance sites. Food retailers are investigated as secondary targets when they are identified by leads developed during the investigations at the issuance sites.

## *What are the characteristics of SLEB agreement-generated investigations?*

From an operational perspective, there are two components common to all SLEB-generated trafficking investigations. These components are the use of controlled food stamp coupons and an undercover operative. Investigations also usually include the use of surveillance and recording technology and back-up officers. The quantity of food stamp coupons used in investigations ranges from small (well under $100 in "introductory" transactions with targeted traffickers) to very large, especially at the peak of an investigation (for example, a $10,000 transaction at the end of the investigation observed in Ironton, Ohio).[4]

States have relied on both dedicated trafficking unit staff and "borrowed" undercover operatives for their investigations. The "borrowed" staff are often officers whose primary function is to work undercover in drug investigations.

Sophisticated video and audio surveillance equipment is often deployed in trafficking investigations. It is standard practice for undercover officers making food stamp transactions to be "wired" for sound, both for their protection and to produce evidence for subsequent use in court.[5]

Most active SLEB agreement states use armed undercover law enforcement officers in their undercover trafficking investigations. Four states, however, have allowed unarmed welfare fraud investigators to conduct investigations: Arkansas, Missouri, New York, and Texas.

4. See the Ohio case study in Appendix C.

5. It is interesting to note that, although the Michigan State Police follow the practice of "wiring" undercover officers, they do not use audio tapes in court. The State Police believe that testimony of state troopers is credible enough evidence in trafficking cases.

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Although some states felt strongly that unarmed investigators should not conduct undercover investigations, it is worth noting that FCS Compliance Branch investigators are unarmed and do not have back-up when they conduct their routine undercover compliance investigations.

The scope of investigations conducted under the terms of the SLEB agreements varied greatly. In most states with periodic activity (Category III), the investigations tended to be short-term and directed at specific targets, such as food stores or bars. Also mentioned were more exploratory investigations in which an officer or detective in a small town or county would see what kind of trafficking could be uncovered if transactions were attempted on an almost random basis.

In contrast, some of the most active states (Categories IV and V) conducted long-term complex probes into major trafficking operations. These investigations often were joint operations with federal, state, and local agencies. Arrests often attracted significant press coverage, and occasionally resulted in jail time for the convicted offenders.

The most active states' strategies in deciding the scope of their trafficking investigations did vary, however. Texas conducted short-term investigations with a high volume of arrests, whereas Ohio took the longer-term approach of following leads in investigations until major cases could be developed.

***Are states following SLEB agreement procedures and reporting and accounting requirements?***

The SLEB agreements emphasize requirements for state and local agencies to maintain control over and account for the use of all food stamp coupons used in trafficking investigations. As mentioned, active state and local agencies generally accept these requirements, but nonetheless see them as burdensome.

At the state level, the SLEB agreement administrators had adequate control over the processes of drawing coupons from inventory and issuing and accounting for them. In states with decentralized systems, however, there were often problems in getting local police departments to report on the status of the food stamp coupons under their control. With some updating and calculation, the administrators could give an accounting of their running inventory

of SLEB agreement coupons. The year-end reporting system, however, utilizing the FCS-250 Food Coupon Accountability Report, is not providing FCS with accurate or timely data. As late as June 1995, several states had not submitted data for FY94.

As to the other, less-specific requirements in the SLEB agreements, compliance is more difficult to assess. Two sets of requirements, in particular, raise issues: the investigation approval process, and state reporting on investigation outcomes.

***In many states, the investigation approval process is a simple clearance process, both at the state and federal levels.*** Denials of requests are rarely, if ever, made on any other basis than a conflict with USDA OIG or Compliance Branch investigations. This lack of scrutiny has led to several situations in which investigations have been conducted outside of the spirit, if not the letter, of the SLEB agreement.

***In particular, investigations have been approved in which food stamp coupons are used in a pre-existing underground economy that does not involve food retailers, or in sting operations in which state and local agencies create a focal point for illegal transactions.*** In some situations these types of operations, although they may produce arrests, do little to reduce food stamp trafficking; some states and regional offices are approving investigations that are not demonstrably tied to a Food Stamp Program problem.

Continuing with the issue of the investigation approval process, ***many investigations conducted under the terms of the SLEB agreement are simply not producing results.*** This lack of results raises questions about the targeting and execution of these investigations. In addition, some explicitly untargeted investigations have been conducted; these have also produced little in the way of results.[6] The existence of dubious and unproductive investigations creates some question about the effectiveness of the investigation approval process.

Finally, ***states are not consistently reporting on the results of investigations, as required in the SLEB agreement.*** Reporting of results is weakest in states with decentralized systems, where the state SLEB agreement agency has no control over the investigations. Several states even indicated that they were not attempting to gather outcome data from local agencies conducting SLEB agreement investigations, and would find it a significant burden to do so.

6. Such investigations are often referred to as "trolling expeditions," and have occurred in rural areas where only casual or infrequent low-level trafficking takes place.

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***What is the relationship between SLEB agreement-generated investigations and drug investigations?***

Six states indicated that they are generating SLEB agreement trafficking investigations via drug task forces active at the state or local levels. These states included drug dealers as targets of their investigations. Several states mentioned that food stamp coupons, provided via the SLEB agreement, have been used as "buy money" in drug investigations.

Although the states' SLEB agreement administrators know that FCS does not want to provide food stamp coupons for drug-focused investigations, the exercise of their discretion in this area varies widely. Some states have put the strict prohibition against drug investigations up front in their negotiations with law enforcement agencies over the terms of intra-state SLEB agreements. Other states have more or less assumed that there is usually a connection between drugs and food stamp trafficking in their targeting and investigations.

In the underground economy, food stamp coupons can often be used to purchase drugs, and the same individuals can be involved in both drug and food stamp coupon trafficking. Within the context of the SLEB agreement, this overlap creates a gray area. Should a SLEB agreement investigation be initiated because law enforcement agents believe that a drug dealer ***will*** accept food stamp coupons for drugs? Or, instead, should there first be an indication that the drug dealer ***does*** a significant portion of his business in food stamp coupons? Clearly, some states are not asking these kinds of questions. Furthermore, some state staff would argue that they do not have the responsibility to exert control over investigations conducted by agencies engaged in the enforcement of state laws, as long as the agencies have a clear understanding of the terms of the SLEB agreement.

***What is the relationship between SLEB agreement-generated investigations and the Food Stamp Program's eligibility determination process?***

There is very little connection between trafficking investigations conducted under the terms of the SLEB agreements and the states' Food Stamp Program operations, including the

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investigation of eligibility fraud. States uniformly did not have any statistics on recipients disqualified as a result of trafficking investigations. In states that primarily target retailers or trafficking brokers, recipients are often not involved at all in investigations.

At the time of the study, California was the only state targeting recipients by design. In the early stage of the California projects' development they had some arrest and conviction data on recipients, but they could not yet provide any data on whether involved recipients had been disqualified from participation in the Food Stamp Program.

Trafficking investigations take place in the realm of law enforcement, and it was not uncommon for Food Stamp Program administrators to have little knowledge or involvement with state management of the SLEB agreement.

***What penalties have been applied to individuals and retailers as a result of SLEB agreement-generated investigations?***

Generally, state and local agencies engaged in the SLEB agreement process have relied on the courts to impose criminal penalties on those involved in food stamp coupon trafficking. As mentioned, there was no evidence to indicate that recipients were being administratively disqualified from the Food Stamp Program as a result of trafficking investigations.

As to having SLEB agreement investigations result in the disqualification of offending retailers, some of the active states overestimated the impact they were having in this area. During the course of this study, the Compliance Branch conducted an informal survey of FCS field offices to determine the number of retailers disqualified as a result of SLEB agreement investigations. It found that, in eight states, a total of 59 retailers had been disqualified, 34 of which were in Wisconsin. Further investigation into this issue indicated that ***states were not always submitting data on retailers to FCS after investigations were concluded, that information was not always passed from the FCS Regional Offices to the Field Offices in a timely fashion, and that the Field Offices often found state data inadequate to support retailer disqualification efforts.***

Even in states with overall good communication and coordination with FCS, the application of penalties was an area where more top level administrative attention would be

beneficial. Some state and local law enforcement agencies questioned the effectiveness of the federal administrative penalties. Federal staff, on the other hand, questioned whether sufficient results were produced by the significant time and effort that states were devoting to seeking criminal penalties via the court system, where long delays are typical, and sentences that include jail time and large fines are rare.

***What is the relationship between the investigation of trafficking in EBT benefits and the SLEB agreements?***

At the time of the study, of the eight states with EBT systems,[7] only Texas and New Mexico had state or county staff investigating trafficking in the new electronic environment. The states' SLEB agreements have not been amended to include provisions governing the use of EBT cards and benefits in trafficking investigations, but FCS has given these states provisional approval for state investigators to use EBT benefits in conducting investigations.

In both Texas and New Mexico, investigators began their EBT trafficking investigations well after the systems began issuing benefits. Understandably, the states focused on implementation issues, not fraud investigations, during the developmental stages of the EBT systems. State staff are doing a good job of adjusting their investigative routines to the new technology.

In Texas and New Mexico, state staff are working with OIG in joint EBT trafficking investigations. The key issues that have arisen in the early phases of these investigations are: access and use of the transaction history data available from the EBT system, both to develop intelligence about trafficking and to document cases; the issuance of EBT cards to investigators; the issuance and replenishment of benefits to investigators' EBT cards; the tracking and reconciliation of benefits used in EBT investigations; and enlisting local law enforcement agencies in EBT investigations.

7. States with EBT systems in place at the time of the study included Texas, New Mexico, New Jersey, Minnesota, Ohio, Maryland, Pennsylvania, and South Carolina.

***What are the noteworthy practices of the states with the most effective SLEB agreements?***

This section highlights the noteworthy practices of the states that have made the most effective use of the SLEB agreement. For similar practices that existed in two or more states, the most notable examples are listed in parentheses. The lists of states are not meant to be all-inclusive; other states may be engaged in the practice to a lesser degree. Because the SLEB agreement process must fit unique state circumstances, some of these practices may not be appropriate for individual states. Nevertheless, the practices listed below are worthy of consideration by any state interested in effective trafficking investigation.

***Dedicated trafficking units*** (California, Michigan, New Mexico, Oklahoma, and Ohio). These states have created units dedicated to investigating trafficking, thereby making an extraordinary commitment to capitalize on the SLEB agreement process. Centralized control of investigations is a key component to an organized campaign against trafficking. The states mentioned have been successful in enlisting the assistance of local law enforcement agencies to provide back-up and assist in arrests, and to provide investigative resources in larger cases.

***The "Texas Model".*** The integration of SLEB agreement investigations with the workload of all of the state's welfare fraud investigators gives Texas the capacity to conduct a truly statewide anti-trafficking campaign. The supervisors of the Regional Inspector General's Offices are expected to develop working relationships with federal and state agencies and produce results. The central office has been flexible as to how individual investigators can meet their quotas for initiating trafficking investigations.

***The "Missouri Model".*** Missouri has dedicated state staff members to conduct trafficking investigations, but has bypassed the need to use the SLEB agreement. State investigators participate in investigations run by the USDA OIG. The relationship is perceived by both parties as having been successful in maximizing resources and producing results.

***Funding for the California projects.*** FCS and state staff worked together to develop an innovative funding arrangement, setting aside FCS' share of fraud control funds for the three trafficking projects in California. FCS might encounter other situations where similar arrangements to use funds already set aside for fraud control could be explored.

***Analysis of trafficking intelligence*** (Michigan and Ohio). In both centralized and decentralized systems, a process for managing tips and complaints about trafficking is essential for selecting good targets for investigations. Organization of a trafficking

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intelligence database at the state level will facilitate strategic planning and deployment of staff.

***Strong relationship with prosecutors*** (Michigan, Ohio, California, and New York). Much time and effort can be wasted in conducting trafficking investigations if state or local prosecutors are not interested in accepting the cases. In the states mentioned, three approaches have been used to ensure strong relationships with prosecutors. First, in New York and in the Los Angeles project, SLEB agreement investigations are being conducted by investigative staff of the District Attorney's office. Second, in Michigan and the other two California projects, prosecutors are supported with Food Stamp Program funds to handle the cases produced by the trafficking units. Third, in Ohio, state staff made a special effort to engage local prosecutors early in trafficking investigations. The high rate of convictions in Ohio's trafficking cases attests to the state's success in this effort.

***Standard investigation report format*** (Texas). State staff in Texas have developed a standardized concise case file reporting format for their trafficking cases. This format saves time for investigators, ensures that prosecutors get consistent information about cases, and also aids in gathering statewide data.

***Working with other agencies within the state to apply penalties to retailers*** (Michigan, Ohio, and Florida). Investigators in these states have been successful in working with other state agencies to apply penalties to food retailers found to be trafficking food stamp coupons. Liquor control and lottery agencies have been particularly helpful and effective in closing businesses that engage in trafficking and related illegal activities.

***Generating publicity about trafficking cases*** (Michigan, New Mexico, Ohio, and Texas). These states routinely generate publicity about their successful trafficking investigations. Michigan in particular has tried to capitalize on the deterrent effect of having statewide media coverage of trafficking arrests and convictions. The Governor, Attorney General, Director of the State Police, and Secretary of the Department of Social Services have participated in press conferences to announce the results of major investigations.

***Transfer of SLEB monitoring activity to FCS Field Offices.*** The FCS Southeast Regional Office has transferred the responsibility for monitoring states' SLEB agreement activities, along with other retailer compliance functions, to its Field Offices. The SLEB agreement states in the region believe that this transfer has enhanced critical interagency cooperation and communication. In Florida, the only state in the region regularly conducting trafficking investigations, the relationship between state staff and the Field Office has improved the sharing of intelligence about trafficking and the flow of information necessary to initiate disqualification action against authorized retailers found to be trafficking.

***Investigation of trafficking in EBT systems*** (Texas and New Mexico). State staff in these two states are making good progress in adjusting their investigative routines to the states' new EBT systems. In both states, successful EBT investigations have been

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conducted. State staff have learned very quickly how to search for the data in the EBT system that they need to target traffickers.

***Trafficking workshops and regional conferences.*** Many states commented on the usefulness of the occasional workshops and regional conferences that have been conducted concerning food stamp coupon trafficking. There is a small but growing number of experts—investigators, supervisors, and administrators—that have a wealth of experience and knowledge that they are willing to share. In addition to workshops and conference participation, these individuals are often willing to provide technical assistance on a state-to-state basis. FCS has provided state exchange funds for state staff to attend these conferences and workshops.

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# APPENDIX A

# SLEB AGREEMENT QUESTIONNAIRE

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Approval Expires 1/1/96

# STATE LAW ENFORCEMENT BUREAU (SLEB) AGREEMENT QUESTIONNAIRE

State:

Respondent's Name:

Title:

Administrative Unit:

Phone Number:

Date of Interview: Start Time: End:

Public reporting burden for this collection of information is estimated to average 2.29 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, Room 404-W, Washington, D.C. 20250.

***INSTRUCTIONS***

*Please review the questions in this guide and collect the information you will need to answer them. Some questions in this survey ask for very detailed information going back to the beginning of the SLEB agreement. You should only gather these data if they are readily available. We will discuss data that would be difficult to retrieve during the interview.*

*In some states the SLEB agreement has never been activated or has become inactive. Many of the survey questions are not applicable to states in this situation.*

***A SLEB investigation is an investigation that uses food coupons issued to the law enforcement agency under the terms and conditions of the SLEB agreement and not from any other source, such as OIG.***

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## BACKGROUND, HISTORY AND STATUS OF AGREEMENT SECTION

1. *(INTERVIEWER: RECORD ANSWERS TO 1 AND 1A IN ADVANCE IF AVAILABLE)* Does the state have specific criminal statutes covering food stamp related crimes, including trafficking? _____ *(YES (Y) / NO (N) / DON'T KNOW (DK))* ***(IF NO OR DON'T KNOW, SKIP TO 2)***

   a. If yes, in what year did the state enact food stamp crime statutes? _____

   b. Was there a specific reason (or reasons) that these statutes were enacted, such as media attention, legislative investigations, law enforcement agency interest or concern, FCS regional office priority, etc.? _____ *(Y/N/DK)*

   c. What were these reasons? _____

   _____

   _____

   _____

   d. Who advocated for enacting the statutes? _____

   _____

2. Who signed the current SLEB agreement? _____
   When? _____ Were there earlier signed agreements that were replaced by the current agreement? _____ *(Y/N)* ***(IF NO, SKIP TO 3)***

   a. If yes, explain. _____

   _____

   _____

3. Was any state agency investigating food stamp trafficking before the agreement was available? _____ *(Y/N/DK)* ***(IF NO OR DON'T KNOW, SKIP TO 4)***

   a. If yes, explain how, when, where, and by whom these investigations were conducted.

   _____

   _____

   _____

   b. Was there a way to obtain food stamp coupons for these investigations? _____ *(Y/N)*
   Explain. _____

   _____

   _____

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4. What, if any, obstacles had to be overcome in order to get the agreement signed?

_____

_____

_____

5. Can you identify individuals or agencies that either strongly supported or strongly opposed the agreement? _____ *(Y/N)* ***(IF NO, SKIP TO 6)***

   a. Please explain who was involved and what positions they took.

   _____

   _____

   _____

6. Rate the role of the FCS Regional Office in the state's decision to sign the agreement (mark ***one*** response in ***each*** column):

| | |
|---|---|
| ____ Not active | ____ Not helpful |
| ____ Somewhat active | ____ Somewhat helpful |
| ____ Moderately active | ____ Moderately helpful |
| ____ Active | ____ Helpful |
| ____ Very active | ____ Very helpful |

   a. Additional comments about FCS's role in getting the SLEB agreement signed.

   _____

   _____

   _____

7. How and by whom was the law enforcement community made aware of the agreement?

_____

_____

_____

8. Rate the level of interest the law enforcement community had in what the agreement had to offer them at the time it was signed.

| | |
|---|---|
| ____ Not interested | ____ Interested |
| ____ Somewhat interested | ____ Very interested |
| ____ Moderately interested | |

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***NOTE:** QUESTIONS 9-12 CONCERN THE CURRENT STATUS OF WELFARE FRAUD INVESTIGATIONS IN YOUR STATE, INCLUDING ELIGIBILITY FRAUD AND OTHER PROGRAM ABUSES.*

9. Rate the welfare department's current overall resources to handle the welfare fraud workload (include food stamp, AFDC, and other public assistance cases):

   ____ Never able to meet the demand

   ____ Occasionally able to meet the demand

   ____ Moderately able to meet the demand

   ____ Usually able to meet the demand

   ____ Fully capable of meeting the demand

10. Where are welfare fraud investigations handled: at the state level _____ or at the local level _____? *(CHECK ALL THAT APPLY)*

    a. If both, explain the roles of the state and local units. _____

    _____

    _____

    _____

11. Which of the following categories best describes how the state's welfare fraud investigators operate: *(CHECK ONE)*

    ____ Law enforcement officers (guns, arrest powers, etc.)

    ____ Field investigators (unarmed)

    ____ Case file reviewers

    ____ Some other model (explain) _____

    _____

    _____

12. Rate the general level of success that the state welfare investigators now have with getting cases prosecuted.

    ____ No success

    ____ Little success

    ____ Moderate success

    ____ Good success

    ____ Very good success

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a. If no or little success, please explain. _____

_____

_____

b. Has the level of success changed since the SLEB agreement was signed? _____ *(Y/N)* ***(IF NO, SKIP TO 13)***

c. If yes, please explain. _____

_____

_____

13. Has the state ever drawn down coupons under the SLEB agreement? _____ *(Y/N)*

a. If yes, when was the last draw-down? _____ ***(SKIP TO 15)***

b. If no draw-down has been made, is there a request pending? _____ *(Y/N)* ***(IF YES, SKIP TO 15)***

14. If there has been no draw-down of coupons in 1994 and/or if the SLEB will not participate in investigations, explain the reasons for the agreement being inactive.

_____

_____

_____

_____

_____

_____

_____

_____

_____

***IF THE SLEB AGREEMENT HAS NEVER BEEN ACTIVATED BY REQUESTING OR DRAWING DOWN COUPONS, SKIP TO THE COMMENTS SECTION (QUESTIONS 28-41).***

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## ORGANIZATION AND OBJECTIVES OF INVESTIGATIONS UNDER SLEB AGREEMENT

*(SKIP TO 28 IF SLEB AGREEMENT HAS NEVER BEEN ACTIVATED)*

15. Describe the roles of each state and local agency that is involved in SLEB agreement activities and how its role has changed over the life of the agreement.

_____

_____

_____

16. Describe the roles of federal, state and local prosecutors in SLEB agreement activity, in particular at the investigation phase, and how these roles have changed over the life of the agreement.

Federal _____

_____

_____

State _____

_____

_____

Local _____

_____

_____

17. Describe the role, if any, of the Compliance Branch in SLEB agreement activities, and how this role has changed over the life of the agreement.

_____

_____

_____

18. Describe the role, if any, USDA's Office of Inspector General (OIG) has had in SLEB investigations or related activities to date, and how this role has changed over the life of the agreement.

_____

_____

_____

a. Have any other federal agencies been involved in SLEB investigations or related activities, such as the Secret Service, Postal Service, FBI, or IRS? _____ *(Y/N)* ***(IF NO, SKIP TO 19)***

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b. Describe the roles of any such agencies in SLEB agreement activities to date, and how this role has changed over time.

_____

_____

_____

19. What are the sources of tips and complaints that generate SLEB agreement investigations? ***(CHECK THOSE APPROPRIATE)***

_____ the community at large

_____ the retail community

_____ informants

_____ the law enforcement community

_____ FCS

_____ hotline(s)

_____ local welfare offices

_____ others (specify) _____

a. What is the most common source? _____

20. What are the targets of SLEB agreement investigations? ***(CHECK THOSE APPROPRIATE)***

_____ individuals buying food stamps

_____ individuals selling food stamps

_____ trafficking "runners"

_____ retailers authorized to accept food stamps

_____ wholesalers authorized to accept food stamps

_____ firms not authorized to accept food stamps

_____ recipients

_____ drug dealers

_____ others (specify) _____

a. Which are the most frequent targets? _____

b. Which are the highest priority targets? _____

21. Have SLEB agreement investigations been ***(CHOOSE ONE)*** _____ part of a sustained campaign against food stamp trafficking _____ part of a sustained campaign against other crimes _____ reactions to tips or other opportunities?

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a. If SLEB agreement investigations have been part of a sustained campaign, over what period?

_____

b. Describe this campaign against trafficking or other crimes _____

_____

_____

_____

_____

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## SLEB AGREEMENT ACTIVITIES

*(SKIP TO 28 IF SLEB AGREEMENT HAS NEVER BEEN ACTIVATED)*

22. By federal fiscal year, how many transfers of food stamps were made under the SLEB agreement? What was the value of food coupons transferred to the SLEB?

| | Value of Coupons Transferred |
|---|---|
| 90 | _____ |
| 91 | _____ |
| 92 | _____ |
| 93 | _____ |
| 94 | _____ |

23. Describe how SLEB agreement investigations are defined and counted. _____

_____

_____

_____

24. How many investigations were initiated in each fiscal year?

| | Investigations Initiated |
|---|---|
| FY 89 | _____ |
| 90 | _____ |
| 91 | _____ |
| 92 | _____ |
| 93 | _____ |
| 94 | _____ |

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25. Identify each separate law enforcement agency that has used SLEB agreement-issued food stamps. Indicate the number of investigations they conducted and the fiscal years in which they were active. If an agency was active in more than one year, report each year's number of investigations separately.

| Agency | Number of Investigations | Fiscal Year |
|---|---|---|
| _____ | ____ | ____ |
| _____ | ____ | ____ |
| _____ | ____ | ____ |
| _____ | ____ | ____ |
| _____ | ____ | ____ |

26. How many SLEB agreement-initiated cases have been processed through the court system (include plea-bargained cases) by Fiscal Year? How many individuals and stores were involved? How many individuals were convicted? What is the dollar amount of criminal fines imposed?

| | No. Cases | No. of Individuals | No. of Stores | No. Convicted | Amt. of Fines |
|---|---|---|---|---|---|
| FY 89 | _____ | _____ | _____ | _____ | _____ |
| 90 | _____ | _____ | _____ | _____ | _____ |
| 91 | _____ | _____ | _____ | _____ | _____ |
| 92 | _____ | _____ | _____ | _____ | _____ |
| 93 | _____ | _____ | _____ | _____ | _____ |
| 94 | _____ | _____ | _____ | _____ | _____ |

27. How many SLEB agreement-initiated ***retailer*** cases have been referred to FCS for sanction action?

| | No. Cases |
|---|---|
| FY 89 | _____ |
| 90 | _____ |
| 91 | _____ |
| 92 | _____ |
| 93 | _____ |
| 94 | _____ |

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**COMMENT SECTION** ***(FOR ALL STATES)***

28. Rate the level of cooperation between state and FCS staff in SLEB agreement-related matters:

    ____ No cooperation
    ____ Little cooperation
    ____ Moderate cooperation
    ____ Good cooperation
    ____ Very good cooperation

    a. Describe successes and problems in working with FCS staff on SLEB-related matters.

    _____
    _____
    _____

    b. What training or technical assistance from FCS would be helpful in SLEB agreement-related matters?

    _____
    _____
    _____

***NOTE FOR 29 AND 30: "REASONABLE" PROCEDURES CAN BE FOLLOWED WITHOUT UNDUE EFFORT. "ADEQUATE" PROCEDURES PROVIDE CONSISTENT, VALID INFORMATION TO FCS.***

29. Concerning the procedures for getting approval from FCS to undertake SLEB investigations, they are: ***(MARK ONE RESPONSE IN EACH COLUMN)***

| | | |
|---|---|---|
| ____ Not clear | ____ Not reasonable | ____ Not adequate |
| ____ Somewhat clear | ____ Somewhat reasonable | ____ Somewhat adequate |
| ____ Moderately clear | ____ Moderately reasonable | ____ Moderately adequate |
| ____ Clear | ____ Reasonable | ____ Adequate |

    a. Comments. _____
    _____
    _____

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30. Concerning the procedures for the draw-down and accounting for food stamps used in SLEB investigations, they are: ***(MARK ONE RESPONSE IN EACH COLUMN)***

| | | |
|---|---|---|
| ____ Not clear | ____ Not reasonable | ____ Not adequate |
| ____ Somewhat clear | ____ Somewhat reasonable | ____ Somewhat adequate |
| ____ Moderately clear | ____ Moderately reasonable | ____ Moderately adequate |
| ____ Clear | ____ Reasonable | ____ Adequate |

a. Comments. _____

_____

_____

31. Is there a better way to report on SLEB activity than the current year-end reporting process established by FCS? _____ *(Y/N)* ***(IF NO, SKIP TO 32)***

a. If yes, explain. _____

_____

_____

32. How many requests from your state to undertake SLEB investigations have been denied by FCS? _____ ***(IF NONE, SKIP TO 33)***

a. On what basis? _____

_____

_____

b. How could state and FCS staff work together to improve the rate of approval?

_____

_____

_____

33. Has the SLEB agreement prohibition against transferring food stamps, issued under the agreement, from the receiving agency to another agency been an issue in your state? _____ *(Y/N/DK)* ***(IF NO OR DON'T KNOW, SKIP TO 34)***

a. If yes, explain. _____

_____

_____

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34. Has the loss of 75 percent FSP funding for fraud control affected SLEB agreement activity in your state? _____ *(Y/N/DK)* ***(IF NO OR DON'T KNOW, SKIP TO 35)***

    a. If yes, how much and in what ways? _____

    _____

    _____

    _____

35. As an incentive, if FCS were to propose that states be allowed to keep non-SLEB food stamps confiscated during investigations, how would this policy affect SLEB activity in your state?

    _____

    _____

    _____

36. Are there other incentives or features that could be built into the SLEB agreements to increase the number of investigations and their quality and success?

    _____

    _____

    _____

37. How could the SLEB agreement process with FCS and its procedures be improved?

    _____

    _____

    _____

38. Do you wish to make any other comments about the SLEB agreement process or related matters?

    _____

    _____

    _____

    _____

    _____

    _____

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**EBT QUESTIONS *(FOR ALL STATES)***

39. USDA has announced a plan to replace food stamp coupons with electronic benefit transfer (EBT) systems. Are you familiar with how this technology works? _____ *(Y/N)* ***(IF NO, EXPLAIN TO RESPONDENT)***

40. Do you think EBT would help or hinder SLEB agreement investigations in your state? ***(CHECK ONE)*** _____ Help _____ Hinder _____ Both _____ No effect _____ Don't Know ***(IF DON'T KNOW, SKIP TO 41)***

    a. In what ways would EBT affect investigative targets, methods and results?

    _____

    _____

    _____

    b. How would EBT affect the number or size of SLEB agreement investigations in your state?

    _____

    _____

    _____

41. EBT systems allow investigators to identify both recipients and retailers involved in fraudulent transactions. This capability means that large numbers of recipients may be referred for administrative or criminal action.

    a. How much capacity does your state have to process additional administrative disqualification cases against recipients arising from SLEB investigations? ***(CHECK ONE)***

    _____ None

    _____ Can handle small increase

    _____ Can handle moderate increase

    _____ Can handle major increase

    _____ Unlimited capacity

    _____ Don't know ***(IF DON'T KNOW, TERMINATE INTERVIEW)***

    b. What are the challenges or problems of obtaining disqualifications resulting from SLEB investigations under EBT? What are the advantages or opportunities?

    _____

    _____

    _____

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c. How much capacity does your state have to process additional recipient fraud prosecutions arising from SLEB investigations? ***(CHECK ONE)***

_____ None

_____ Can handle small increase

_____ Can handle moderate increase

_____ Can handle major increase

_____ Unlimited capacity

d. What are the challenges or problems of prosecuting recipient fraud cases resulting from SLEB investigations under EBT? What are the advantages or opportunities?

_____

_____

_____

***THANK YOU FOR PARTICIPATING IN THIS IMPORTANT SURVEY***

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*TEXT FOR SLEB SURVEY COVER LETTER*

In 1989, USDA's Food and Consumer Service (FCS) created State Law Enforcement Bureau (SLEB) agreements as a mechanism for enlisting the resources of state and local law enforcement agencies in the investigation of food stamp fraud. Some states have pursued this option quite aggressively, whereas others have not. FCS has hired Abt Associates and its subcontractor, Systems Planning Associates (SPA), to evaluate the SLEB agreement initiative and to describe the differences between levels and types of SLEB agreement activity in the states.

Your name was provided by FCS staff as the contact regarding the SLEB agreement in your state. I would like to schedule a telephone interview with you to answer the questions in the attached survey. If you think someone else is better suited to answer the interview questions, please call me at (410) 628-7642 to identify the appropriate contact.

The survey is not meant to require an exhaustive search for historical data. Any problems in collecting data could be discussed before or during the interview.

I will call you in a few days to schedule a time to complete the enclosed questionnaire. If your state has been active in utilizing the SLEB agreement, the interview process (including preparation) will take 2.5 to 3 hours; otherwise, the interview process will take about 1.25 hours.

This study is funded by the USDA under Contract No. 53-3198-4021. The FCS Contracting Officer's Representative, Ken Offerman, can be reached at (703) 305-2115.

Thank you for your cooperation and assistance.

Yours truly,

Leo M. Allman

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# APPENDIX B

# SUMMARY REPORTS ON SLEB AGREEMENT HISTORY

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## CATEGORY I: INACTIVE STATES (in alphabetical order)

### District of Columbia

Date of Interview: 6/28/95 (30 minutes)

Respondent: Wilber Dunn, Chief, Examination Division, Office of Investigation and Compliance, District of Columbia Department of Human Resources

The District of Columbia signed a SLEB agreement in 1993. At that time, the District was preparing a proposal in response to FCS' solicitation for demonstrations of trafficking investigations. The District has not activated the agreement because it does not have a statute making food stamp coupon trafficking a crime. Such a statute is currently pending before the District's City Council, but is not a priority item. Mr. Dunn could not estimate the likelihood of passage.

In anticipation of having a trafficking law on the books, the Office of Investigation and Compliance has had preliminary planning meetings with the Narcotics Unit of the Metropolitan Police Department and the Corporation Counsel (the District's equivalent of a District Attorney's Office). In addition to these meetings, Mr. Dunn has started to gather intelligence about street trafficking by observing locations in the District where trafficking takes place in the open. He stated that the police are particularly anxious to pursue the connection between trafficking in food stamp coupons and drug trafficking. The resources that any agency in the District will have to devote to the SLEB agreement process will certainly be affected by the District's current fiscal crisis.

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**Minnesota**

Dates of Interviews: 6/28/95 (90 minutes); 7/7/95 (15 minutes)

Respondents:

- Daniel Haley, Fraud Analyst, Program Integrity, Assistance Payment Division, Minnesota Department of Human Services
- Brian Shields, Senior Investigator, Program Integrity

- Margaret Philben, EBT Project, Ramsey County

Minnesota signed a SLEB agreement in 1992. The motivation to do so came in part from press coverage of rampant trafficking in Minneapolis, about which the local police said they could do nothing. In spite of considerable effort on its part, the Department has not been able to activate the agreement. One of the obstacles has been the strong county management of the state's food stamp and cash assistance programs. The Department has not been able to enlist the county social service departments as partners in a SLEB agreement initiative, and it is reluctant to deal directly with local law enforcement agencies.

The state staff have met with USDA's OIG in an effort to initiate a food stamp coupon trafficking task force. According to Mr. Haley and Mr. Shields, the effort failed because "key players were absent." The meeting got as far as some discussion of funding issues, but no strategic decisions were made. Mr. Shields, a former USDA OIG agent, recognized that both state and federal staff were frustrated at not accomplishing more at the meeting. Now, as the state gets closer to statewide implementation of its EBT system, there is some thought that it would not be worthwhile to initiate an effort to address the problem of trafficking in food stamp coupons.

Ms. Philben was contacted to discuss whether there had been an effort to investigate trafficking in the EBT system. She indicated that ten EBT cards had been issued to USDA's OIG for use in investigations. She did not know how many investigations had been conducted, nor whether any trafficking had been substantiated. No EBT cards are in use by state or local staff for the purpose of investigations of any kind.

Ramsey County has hired a contractor to develop fraud-prone profile programs and apply them to the EBT database. The programs produce reports on the location of ATMs used by recipients to access their cash benefits, to determine if they were living in another jurisdiction while receiving benefits from Ramsey County; cases with balance accumulations; cases that had

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received multiple replacement cards; recipients who were accessing all of their cash at once; and whole dollar food stamp purchases. All but the last of these programs target eligibility fraud.

The county staff are still analyzing the reports to determine their usefulness. Staff found that it was difficult to interpret the food stamp sales data because there were many legitimate whole dollar transactions on the report. Ms. Philben thought that more refinement to the program would be needed before it could be used to target retailers suspected of trafficking.

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**Nebraska**

Date of Interview: 7/10/95 (20 minutes)

Respondent: Mike Harris, Administrator, Food Programs, Nebraska Department of Social Services

Nebraska signed a SLEB agreement in 1989. According to Mr. Harris, the state has not activated the SLEB agreement "purely because of the resource issue," which became apparent after staff had determined what would be required to set up a viable process. There are only four welfare fraud investigators for the entire state, and they would have little time for the additional duties that trafficking investigations would entail, even if they were only performing administrative functions. There has been no effort to inform the greater Nebraska law enforcement community of the SLEB agreement, again because of the lack of staff resources at the state level. Mr. Harris believes that the accounting requirements in the SLEB agreement alone would be very burdensome.

It is interesting to note that the Department of Social Services recently proposed a welfare reform package that included the "cash-out" of the Food Stamp Program. The laws that would have enacted the reform were not passed by the state legislature. Mr. Harris indicated that the climate for implementing the SLEB agreement was not good, as the Department was working to cash out the Food Stamp Program.

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**North Dakota**

Dates of Interviews: 7/10/95 (45 minutes); 7/12/95 (15 minutes)

Respondents:

- William Broer, Director, Bureau of Criminal Investigation, North Dakota Attorney General's Office
- Darleen Daly, Assistant Director, Food Stamp Program, North Dakota Department of Human Services

North Dakota signed a SLEB agreement in 1993. Coincidentally, during the period that the agreement has been in effect, the state has been trying to reorganize its entire welfare fraud operation. An effort to transfer all of the responsibility for investigation of fraud from the Attorney General's Office to the Department of Human Services became "very political" and ultimately failed in the state legislature. Activating the SLEB agreement was not a priority for the Bureau of Criminal Investigation during this period.

The Bureau of Criminal Investigation has shared intelligence about food stamp coupon trafficking with USDA's OIG and has had "two or three false starts" at initiating investigation at bars suspected of trafficking. No food stamp coupons have been drawn down into a SLEB agreement inventory, however.

According to Mr. Broer, the splitting of responsibility for investigating welfare fraud between the Attorney General's Office and the Department of Human Services created a less-than-ideal situation. Taking this into consideration, in addition to the state's concentration on the implementation of an EBT system, he thought that renewed interest in the SLEB agreement was unlikely in the foreseeable future.

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**Utah**

Date of Interview: 6/29/95 (30 minutes)

Respondent: Brenda Hofer, Associate Director, Office of Recovery Services, Utah Department of Human Services

Utah signed a SLEB agreement in 1993, in preparation for applying for one of the Trafficking Investigation Demonstration Projects that FCS had advised the states would be available. When the funding for the projects did not materialize, the state quickly abandoned its interest in the SLEB agreement. Ms. Hofer made it very clear that the Department would not undertake any aspect of investigating food stamp coupon trafficking unless the effort were fully funded by FCS. The state has no fiscal or staff resources to devote to optional Food Stamp Program activity.

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**Virginia**

Date of Interview: 7/7/95 (30 minutes)

Respondent: George Sheer, Chief, Bureau of Fraud and Special Investigations, Virginia Department of Social Services

Virginia signed a SLEB agreement in 1993 and enacted a food stamp coupon trafficking law in 1994. The Bureau of Fraud and Special Investigations' role in the SLEB agreement process is to make food stamp coupons available to local law enforcement agencies. To this end, with assistance from the FCS Mid-Atlantic Regional Office, the Bureau developed an intrastate SLEB agreement for agencies that wish to investigate coupon trafficking. In areas of the state where trafficking is known to occur, selected law enforcement agencies were notified by letter of the SLEB agreement.

In November of 1994, Lancaster County, a rural county on the Chesapeake Bay, was issued $1,000 in food stamp coupons for an undercover trafficking investigation. No investigation was conducted, however, and the food stamp coupons were returned to the state. Other than this single episode, Mr. Sheer said that there has been a distinct lack of interest in the SLEB agreement process from the law enforcement community. He attributes this attitude in part to the accounting and reporting requirements set forth in the intrastate agreement, and to the FCS prohibition against using food stamp coupons in investigations that focus on the violation of drug laws.

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**West Virginia**

Date of Interview: 1/23/95 (35 minutes)

Respondent: Sharon O'Dell, Chief Investigator, Office of the Inspector General (OIG), West Virginia Department of Health and Human Resources

[Ms. O'Dell was interviewed during the pretest of the SLEB agreement study interview guide.]

West Virginia signed a SLEB agreement in 1992. The state, however, has not enacted a statute making trafficking in food stamp coupons a crime. Although OIG managers would like to have such a law on the books, they have not been able to put it on the Department's legislative agenda. There has been some interest on the part of the greater West Virginia law enforcement community in conducting trafficking investigations in conjunction with investigations of narcotic violations. Ms. O'Dell attended the Food Stamp Coupon Trafficking Workshop, jointly sponsored by FCS and the state of Michigan, in July 1992. She was impressed with what other states had been able to accomplish with their SLEB agreements.

The OIG has no plans to attempt to activate the SLEB agreement until a trafficking statute is enacted. When that happens, it will have to face the issue of the severe lack of fiscal and staff resources, which will restrict its capacity to undertake the additional duties involved in implementing the agreement.

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## CATEGORY II: STATES THAT HAVE CONDUCTED SLEB AGREEMENT INVESTIGATIONS BUT SHOW NO ACTIVITY FOR 1994 OR 1995 (in alphabetical order)

### Alabama

Date of Interview: 7/5/95 (45 minutes)

Respondent: Joseph Sutton, Director, Program Integrity Division, Alabama Department of Human Resources

Alabama signed a SLEB agreement in 1989. Only three investigations have been conducted by local law enforcement agencies: two in 1992 and one in 1993. One of the cases was settled out of court, but the store involved in the trafficking was disqualified; one of the cases was dropped by the local prosecutor; and one case is still pending court action.

There are several factors that have contributed to the lack of SLEB agreement activity in Alabama. There are no resources at the Department of Human Resources to devote to food stamp coupon trafficking investigations. The Program Integrity Division has only three welfare fraud investigators for the entire state. Mr. Sutton indicated that a recent attempt by the Department to create an Inspector General's Office failed. Since then there has been little administration support for his unit. Mr. Sutton said that the extent of his office's involvement in food stamp coupon trafficking investigations is to share intelligence periodically with the FCS Field Office and USDA OIG agents working in the state.

The greater Alabama law enforcement community has shown little interest in conducting food stamp coupon trafficking investigations. Police departments have occasionally inquired about using food stamp coupons in drug investigations. Mr. Sutton informs them that such use is not allowed under the terms of the SLEB agreement.

Mr. Sutton was critical of the role that the FCS Southeast Regional Office has played in the SLEB agreement process. He concluded, based on the Regional Office's initial presentation of the SLEB agreement to the state, that it was a very low priority item for FCS. He also believes that, at the time the state was trying to activate the agreement, the investigation approval process was unnecessarily bureaucratic and unclear, particularly regarding how much detail FCS needed to approve an investigation. He believes that the recent transfer of the SLEB agreement monitoring activity to the FCS Alabama Field Office could improve the process, although this is rather a moot point, given the state's lack of activity.

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**Georgia**

Date of Interviews: 6/27/95 (50 and 15 minutes)

Respondents:

- Steve Edwards, Special Agent, Financial Investigation Division, Georgia Bureau of Investigation (GBI)
- John Hunsucker, Director, Office of Fraud and Abuse, Georgia Department of Human Resources

Georgia signed a SLEB agreement in 1990. The Georgia Bureau of Investigation (GBI) conducted three investigations in 1992. One of the cases was submitted to the U.S. Attorney's Office, and another resulted in the conviction of one individual and the disqualification of three stores. No outcome data were available on the third case nor the case submitted to the federal prosecutor.

According to Agent Edwards, there has been little inclination in GBI or local law enforcement agencies to activate a SLEB agreement process. Of the 15 GBI Regional Offices, he pointed only to the one in Perry as having developed an interest in trafficking. (Perry is a small town south of Macon.) As to local agencies, he believes that "they were chased away" by the accounting and reporting conditions in the intrastate SLEB agreement that GBI developed.

A final reason for the lack of state SLEB activity is GBI's tendency to refer trafficking tips and complaints to the FCS Compliance Branch and USDA's OIG rather than initiate action on its own. To some extent, the willingness of the federal agencies to accept this type of referral has had the effect of limiting the evolution of a more active investigative role for the Bureau.

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**Missouri**

Date of Interview: 6/26/95 (80 minutes)

Respondent: Larry Dickerson, Deputy Director, Investigation Section, Division of Legal Services, Missouri Department of Social Services

Missouri signed a SLEB agreement in 1989. The Division of Legal Services has made no broad-based approach to the greater Missouri law enforcement community. The Division is reluctant to relinquish control of the food stamp coupons and pass them along to local agencies. The Division has established a special unit of five welfare fraud investigators to investigate trafficking. The investigators are unarmed and have no power of arrest.

In its approach to the SLEB agreement and coupon trafficking, Missouri is unique and could be in a category by itself. After conducting two investigations in 1991 and two in 1992 under the terms of the SLEB agreement, state staff found the process to be unreasonable and very burdensome. From that point on, the state's intention was to stay active in investigating trafficking, but to "work around the SLEB agreement" by joining forces with USDA's OIG.

The state's relationship with USDA's OIG got off to a very rough start. In 1991, the state wanted to investigate a major trafficking operation in St. Louis. USDA's OIG and FCS would not approve the investigation via the SLEB agreement process, believing that the state did not have the capability to investigate a major case. The state was persistent in pursuit of the investigation, and started to work with Secret Service agents on the case. Ultimately, USDA's OIG saw that the state was making inroads in penetrating the trafficking network and joined a federal/state task force that successfully concluded the investigation. From this uneasy start, the state has developed a strong working relationship with USDA's OIG.

The state used only $1,200 in food stamp coupons in the four investigations conducted in 1991 and 1992 under the terms of the SLEB agreement. As a result of those investigations four individuals were convicted.

Mr. Dickerson had no data on the investigations that state staff have been working on with USDA's OIG. (See Chapter Four for OIG's perspective on Missouri's role.) Because the SLEB agreement has in effect been rendered moot, the state has little need to communicate with FCS on matters related to trafficking.

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**Wyoming**

Date of Interview: 7/10/95 (15 minutes)

Respondent: Steve Miller, Deputy Director, Division of Criminal Investigation, Wyoming Attorney General's Office

Wyoming signed a SLEB agreement in 1989. The agreement has not been active since shortly after it was signed. It took several telephone calls to the Division of Criminal Investigation and the Department of Family Services to locate someone to respond to the survey. The data provided were sketchy, and there was little conceptual discussion of the SLEB agreement process.

Shortly after the SLEB agreement was signed, the Division of Investigation conducted two trafficking investigations, using "less than $500" in food stamp coupons. No arrests were made. The Division sees no need to reactivate the SLEB agreement process at this time, because food stamp coupon trafficking is not seen as a significant problem in Wyoming.

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## CATEGORY III: STATES THAT HAVE CONDUCTED PERIODIC SLEB AGREEMENT INVESTIGATIONS, SOME OF WHICH OCCURRED IN 1994 AND/OR 1995 (in order from least to most active)

### Massachusetts

Date of Interview: 6/28/95 (35 minutes)

Respondent: Al Fuoroli, Director, Food Stamp Management, Department of Public Welfare (DPW)

Massachusetts signed a SLEB agreement in 1989. Three trafficking investigations have been conducted during the life of the agreement. Two investigations, in 1989 and 1992, were aborted without arrests. The Massachusetts State Police conducted an investigation in 1995, the outcome of which is pending.

For several compelling reasons DPW has taken a very passive approach to the SLEB agreement. There is no trafficking provision in the state's criminal code. Prosecutors would have to use the larcenous scheme statute to take a trafficking case to court, apparently with an added degree of difficulty because of the lack of a specific reference to food stamp coupons in the statute. Also, according to Mr. Fuoroli, local law enforcement agencies see the SLEB agreement accounting requirement as burdensome and something to be avoided if possible. Finally, the state clearly sees investigating food stamp coupon trafficking as a federal responsibility. DPW has no staff or fiscal resources to devote to this optional activity. Under the terms of the current SLEB agreement, it seems that state and local agencies in Massachusetts will continue to be reluctant to engage in trafficking investigations. According to Mr. Fuoroli, there must be some perceived benefit to the state in undertaking such activity before this attitude will change.

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**Montana**

Dates of Interviews: 7/7/95 (35 minutes); 7/13/95 (15 minutes)

Respondents:

- Robert Fairchild, Chief, Bureau of Investigation, Montana Department of Justice
- Bert Freeman, Supervisor, Fraud, Recovery and Statistical Unit, Montana Department of Public Health and Human Services

Montana signed a SLEB agreement in 1993. The Department of Public Health and Human Services contracts with the Department of Justice for the investigation of all felony-level welfare and Food Stamp Program fraud, including trafficking.

The information provided by Mr. Fairchild about the trafficking investigations conducted by the Bureau of Investigation was not precise. He indicated that the Bureau has had only $2,000 in food stamp coupons in the SLEB agreement inventory since 1993. He did not know how many investigations had been conducted, indicating that they were mingled in the statistics on all fraud investigations. He was uncertain whether there had been any arrests or convictions in investigations conducted under the terms of the SLEB agreement. He said that the typical trafficking arrest occurs in a bar after a bartender has been observed accepting food stamp coupons. In such cases SLEB agreement coupons are unlikely to be involved. Mr. Fairchild said that food stamp coupons are illegally sold for $.30 to $.50 to the dollar in Montana. This rate is very low, and probably indicates a lack of competition for food stamp coupons that are available for sale.

Mr. Freeman said he is very pleased with the investigative services provided by the Department of Justice. He does not expect there ever to be a significant volume of trafficking investigations in Montana, given the priority the Department has placed on the aggressive investigation and prosecution of eligibility fraud in all of the programs it administers.

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**Mississippi**

Date of Interview: 6/26/95 (40 minutes)

Respondent: Lieutenant Joseph Nix, Investigator, Criminal Investigation Bureau, Mississippi Department of Public Safety

Mississippi signed a SLEB agreement in 1991. Soon thereafter the Department of Public Safety sent a letter to 82 sheriff's departments in the state, advising them of the availability of food stamp coupons for trafficking investigations. The letter generated very little interest.

During the life of the agreement four investigations have been conducted: two by investigators in the state's Attorney General's Office (1992 and 1993); one by the Mississippi Highway Patrol (1995); and one by the District Attorney's Office in Marriette County (1992). Lt. Nix indicated that there had been a conviction in only one of the cases. He also indicated that USDA's OIG had assisted in one of the cases by tracing marked food stamp coupons to the Federal Reserve.

Lt. Nix believes that the lack of resources at both the state and local levels has restricted the expansion of the SLEB agreement process. He stated, however, that the Department is willing to find new ways to work with FCS on trafficking cases. He specifically mentioned developing a solid working relationship with the FCS Mississippi Field Office, which is now responsible for monitoring SLEB agreement activity, and exploring the provision of matching funds to state and local investigators.

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**Colorado**

Date of Interview: 6/29/95 (40 minutes)

Respondent: Ron Rice, Policy and Fraud Coordinator, Food Assistance Division, Colorado Office of Self Sufficiency

Colorado did not sign a SLEB agreement until August 1994. Mr. Rice attributed the delay to the time it took for the state to decide which agency should sign the agreement. Ultimately, the Colorado Bureau of Investigation declined to accept the responsibility, and the Office of Self Sufficiency was designated the administering agency.

The Office has enlisted the support of local Departments of Social Services to initiate the SLEB agreement process. Welfare and Food Stamp Program fraud are handled at the local level in Colorado.

Mr. Rice indicated that it is too early to tell how active the state will be in the use of the SLEB agreement. To date only two investigations have been initiated, neither of which has yet been completed: one in the Denver area, conducted by the Jefferson County District Attorney's Office; and one in the southeastern part of the state, involving the Crowley Police Department.

Mr. Rice is pleased with the relationship that is developing with USDA's OIG. He indicated that the USDA OIG agents there are enthused about the state's joining them in the investigation and prosecution of food stamp coupon trafficking.

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**Indiana**

Date of Interview: 7/6/95 (45 minutes)

Respondent: Jerry Coyle, Chief, Investigation Unit, Indiana Family and Social Services Administration

Indiana signed a SLEB agreement in 1994. The state delayed signing an agreement because it did not believe it had the personnel to implement the processes necessary to undertake investigations of food stamp coupon trafficking. Also, Mr. Coyle said his office did not feel pressured by the FCS Midwest Regional Office to sign the agreement. After some deliberation, the state finally decided to make some effort to begin a SLEB agreement initiative.

Mr. Coyle has made presentations to local police departments and prosecutors about the SLEB agreement. He has generally found a lack of interest in the investigation of food stamp coupon trafficking. He indicated that the law enforcement agencies do not have the resources to devote to trafficking investigations and "do not see the availability of the 50 percent FCS funding as a good deal."

During the life of the Indiana SLEB agreement, six police departments in the state's larger cities have conducted seven trafficking investigations. Four of the investigations were closed without arrests, and the other three are still pending.

In spite of the lack of interest he has encountered, Mr. Coyle believes that there is potential for the SLEB agreement process to grow in Indiana. Once basic routines are developed by his office and participating law enforcement agencies, the number of investigations should increase. Mr. Coyle also had a unique suggestion as to how the federal government could help the state do more trafficking investigations. The state's welfare fraud investigators do not have state-conferred peace officer status. If these investigators could be granted "Federal Marshall powers" for the purpose of investigating trafficking, the state would be more willing to make them available. Finally, Mr. Coyle, in unison with other SLEB agreement administrators, suggested that enhanced funding be available for SLEB agreement-generated investigations, including 100 percent federal grants, not only for investigations, but also for the purchase of equipment.

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**Kansas**

Date of Interview: 7/6/95 (50 minutes)

Respondent: Ed Aldrine, Chief, Investigation Unit, Office of General Counsel, Kansas Department of Social and Rehabilitative Services

Kansas signed a SLEB agreement in 1989. On a selected basis, local law enforcement agencies have been informed of the availability of food stamp coupons for trafficking investigations under the terms of the agreement. This contact is initiated when complaints of trafficking in a town or county are received at the state level. Generally, local police departments and sheriffs' offices have not been interested in conducting trafficking investigations. Mr. Aldrine specifically mentioned the problem that the agencies had in "not having anyone to do the undercover work in the food stores."

The data available on investigations and their outcomes were rather sketchy. Mr. Aldrine indicated that three sheriffs' offices and the Kansas Liquor Control Board have conducted a total of six investigations during the six-year life of the SLEB agreement. There was one arrest and conviction in 1990. There was no indication that any store had been

Mr. Aldrine indicated that his office has a very good relationship with both the FCS Compliance Branch and USDA's OIG. He shares intelligence on trafficking with the federal agencies on a regular basis.

The Office of General Counsel is making an effort to get law enforcement status for its welfare fraud investigators. Mr. Aldrine believes that if such status is granted, more resources would be available to conduct food stamp coupon trafficking investigations. He suggested that

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**Iowa**

Date of Interview: 7/7/95 (55 minutes)

Respondent: Robert Woods, Chief, Economic Assistance Fraud Bureau, Iowa Department of Inspections and Appeals

Iowa signed a SLEB agreement in 1989. The administering agency for the agreement is the Department of Inspections and Appeals, which functions much like the independent inspectors general seen in other states. The Department has a contract with the Department of Human Services to investigate Food Stamp Program and welfare fraud. The local law enforcement community has been informed of the SLEB agreement process by the field staff of the Economic Assistance Fraud Bureau. There has been a relatively high degree of interest in food stamp coupon trafficking, especially because of its relationship to other crimes, such as the illegal sale of drugs and weapons.

During the six-year life of the SLEB agreement, nine police departments have conducted a total of 24 investigations. Only five of the investigations resulted in arrests; of the ten individuals accused of trafficking, five were convicted. There have been no state trafficking investigations associated with the state's voluntary EBT Project.

Mr. Woods related an anecdote that illustrates the difficulty often encountered when taking food stamp coupon trafficking cases to court. In one investigation, a restaurant that was not authorized to accept food stamp coupons was found to be trafficking regularly. The owner of the restaurant was arrested and subsequently found guilty. The sentence was for him to pay $50.00 in restitution because the judge "did not see the activity as a clear violation of the law." This message is clearly a deterrent to police departments continuing their interest in this type of case.

Because of a lack of resources at both the state and local levels, Mr. Woods indicated that the SLEB agreement has resulted only in periodic investigations to address specific complaints of trafficking. To have more than this type of reactive approach, in addition to more resources, the state would need better intelligence on trafficking, a strategic approach to targeting, and more technology. He suggested that FCS should consider helping the state meet these needs.

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**Louisiana**

Date of Interview: 7/6/95 (50 minutes)

Respondents:
- Christine Comeaux, Director, Fraud and Recovery Section, Division of Support Services, Louisiana Department of Social Services
- Raymond Pease, Assistant Director

Louisiana signed a SLEB agreement in 1993. There was some delay, as the Louisiana State Police exercised its right of first refusal to be the administering agency for the agreement. The agreement was finally signed after state staff attended a SLEB agreement conference at the FCS Southwest Regional Office in Dallas.

A letter about the SLEB agreement has been sent to the Louisiana law enforcement community. In addition, the state's welfare fraud investigators are expected to contact local law enforcement officials when they are aware that trafficking is a problem in a particular area. Mr. Pease said that local police are interested in trafficking "because they see it so often."

During the life of the SLEB agreement, 27 investigations have been conducted. (An investigation is defined as being focused on a single individual.) Nine of the investigations have been conducted by the State Police in various parts of the state. The balance have been conducted by local law enforcement agencies: ten in the Shreveport area, five in the Baton Rouge area, and three in the south central part of the state. A total of 13 stores were involved in the 27 investigations.

The prosecution phase of the process has produced few results to date. State staff had information on only one individual who was arrested and convicted. They had no indication that any stores had been disqualified.

Mr. Pease indicated that the state has very good long-term working relationships with both the FCS Compliance Branch and USDA's OIG. State law enforcement agencies have participated in OIG investigations outside of the terms of the SLEB agreement, and the Compliance Branch has provided the state with trafficking tips and complaints.

Ms. Comeaux indicated that the loss of the FCS enhanced funding has definitely restricted the state's capacity to be more active in the SLEB agreement process. When the funding was still available, there was even some discussion of forming a dedicated trafficking unit. Ms. Comeaux does not think it unreasonable to suggest that FCS pay 100 percent of the cost of investigations conducted under the terms of the SLEB agreement.

**Washington**

Date of Interview: 1/24/95 (80 minutes)

Respondent: Denny Sawdon, Manager, Office of Special Investigations, Washington Department of Social and Health Services

[Mr. Sawdon's interview was conducted during the pretest of the SLEB agreement study interview guide.]

Washington signed a SLEB agreement in 1992. Mr. Sawdon indicated that the state did not sign the agreement earlier because it did not seem to be a priority for the FCS Regional Office. Once the agreement was signed, the Office of Special Investigations sent a letter to the police departments in the state advising them of the SLEB agreement process. There was little interest generated by the letter until the information about the availability of food stamp coupons for trafficking investigations filtered down to the investigator level. Many of the investigations conducted under the terms of the agreement have been initiated by the anti-narcotics task forces working in the state.

Through 1994, seven police departments had conducted a total of 35 trafficking investigations: 16 investigations were conducted in Seattle; the balance were in smaller towns and cities. In some of these investigations the Washington State Police and the state's welfare fraud investigators have played minor supportive roles.

The data available at the state level on the outcomes of the investigations were very sparse. Mr. Sawdon believed that six cases had reached the disposition stage, and that four individuals had been convicted of trafficking. There was no indication that any stores had been disqualified as a result of SLEB agreement investigations. Mr. Sawdon thought that it would be burdensome for the state to get disposition data from the law enforcement agencies conducting investigations under the terms of the agreements.

Mr. Sawdon stated that his office enjoys a very good working relationship with USDA's OIG. OIG is supportive of the SLEB process, and has worked with state and local staff on trafficking cases in Seattle both under the terms of the SLEB agreement and in federally-initiated investigations.

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**Illinois**

Date of Interview: 6/29/95 (45 minutes)

Respondent: Sally Ferguson, Chief, Bureau of Investigations, Illinois Inspector General's Office

Illinois signed a SLEB agreement in 1990. Because of a lack of resources, managing the SLEB agreement process is not a state priority. The Office of the Inspector General has notified some of the state's law enforcement agencies of the availability of food stamp coupons for trafficking investigations, but Ms. Ferguson categorized the effort as "nothing formal or very energetic." The reaction from the law enforcement community has been one of periodic interest in *ad hoc* opportunities to investigate food stamp coupon trafficking. Of all the agencies that have participated in the SLEB agreement process, none has made a long-term commitment to investigate trafficking in their jurisdictions.

During the life of the SLEB agreement, seven Illinois law enforcement agencies have conducted a total of 119 trafficking investigations. Eighty-five were conducted by the State Police; the balance were conducted by local police departments in small cities and towns.

Disposition data on the investigations were incomplete. Ms. Ferguson indicated that, to her knowledge, all of the investigations were narrowly-focused and many did not result in arrests. In 1992 and 1993 a mere $5,330 supported 61 of these short-term investigations. Records for the last three years show that five individuals were arrested and three were convicted. Ms. Ferguson believes that three stores were disqualified as a result of the SLEB agreement-generated investigation.

The state has only limited contact with USDA's OIG related to trafficking, and no contact with the FCS Compliance Branch. Ms. Ferguson said that the relationship with the FCS Midwestern Regional Office in SLEB agreement related matters was good. She did see a need for improvement in the investigation approval process, which tended "to drag on" in some cases.

Ms. Ferguson said that the state would need more funding from FCS to become more active with its SLEB agreement. Under the current fiscal arrangement the state will have to continue its passive approach to investigating food stamp coupon trafficking.

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**South Carolina**

Date of Interview: 6/27/95 (50 minutes)

Respondent: Glen Patton, Special Agent Supervisor, Division of Investigation, Office of General Counsel, South Carolina Department of Social Services

South Carolina signed a SLEB agreement in 1992. The Division of Investigation has notified the state's law enforcement community of the availability of food stamp coupons for trafficking investigations by letter and through personal contact. According to Mr. Patton, however, the Department of Social Services does not have the resources to make the SLEB agreement a priority.

Mr. Patton indicated that, during the life of the SLEB agreement, approximately 20 law enforcement agencies have requested food stamp coupons, most for a single isolated trafficking investigation. Of the total of 72 investigations, he attributed nine to his office. He said that the Johnston Police Department conducted 24 investigations under the terms of the SLEB agreement "because they had a federally-funded detective that needed something to do." These investigations resulted in two individuals receiving pre-trial intervention dispositions. One of the individuals was a store clerk who was trafficking on her own. The other individual was buying food stamp coupons, but would not say if she was re-selling them to an authorized retailer. (Johnston is a town of approximately 10,000 in the west central part of the state.)

The data at the state level on the disposition of investigations were incomplete and sketchy. Mr. Patton indicated that four individuals have been convicted as the result of SLEB agreement-related investigations, and that four had received pre-trial intervention dispositions. He did not know the number of food stores that were referred to FCS for disqualification, but said it would have been every one that was found to have been involved in trafficking. (According to the FCS Columbia Field Office, only one retailer has actually been disqualified on the basis of a SLEB agreement-generated investigation.)

Mr. Patton said the there is very little communication with USDA's OIG related to food stamp coupon trafficking. Interestingly, he indicated that the Division of Investigation has a very dynamic relationship with the Secret Service. The two agencies share intelligence about trafficking and have cooperated in investigations, to the point that one of the state investigators works in a special liaison capacity with the Secret Service staff.

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The Bureau of Investigation is not yet conducting trafficking investigations in the state's new EBT system. Mr. Patton indicated that three or four EBT cards have been issued to USDA OIG investigators, and that only $200 or $300 had been posted to the accounts accessed by those cards. Mr. Patton has worked with the state's EBT retailer management staff on the development of an interactive fraud-prone profile for targeting trafficking investigations.

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## CATEGORY IV: STATES THAT REGULARLY CONDUCT SLEB AGREEMENT INVESTIGATIONS (in order from least to most active)

### New York

Date of Interview: 7/10/95 (60 minutes)

Respondent: Bill Donnally, Management Specialist, Case Integrity Unit, Bureau of Program Integrity, New York Department of Social Services

**Implementation History**. New York signed a SLEB agreement in 1993, after the Department of Social Services deliberated for several years about undertaking trafficking investigations. The Bureau of Program Integrity has designed an intrastate SLEB agreement. The Bureau sent a letter to the state's local district attorneys, advising them of the availability of food stamp coupons for conducting trafficking investigations. Personal contact was made with staff in the major metropolitan counties and the boroughs of New York City. Mr. Donnally indicated that generally there was only modest interest in the agreement. The requirement for detailed accounting for the food stamp coupons used in investigations was seen as a definite disincentive. Nevertheless, 11 district attorneys' offices have signed the intrastate SLEB agreement.

**Role of the SLEB Agreement Administering Agency**. The Bureau of Program Integrity is responsible for monitoring and reporting on SLEB agreement activity, controlling the investigation approval process, and issuing food stamp coupons to participating agencies. The Bureau will encourage more participation from other agencies as experience is gained in the jurisdictions where investigations are currently being conducted.

The Bureau has a staff of ten investigators whose primary function is to carry out undercover investigations in the state's Medicaid Program. These investigators have assisted the Manhattan District Attorney's Office in its trafficking investigations by making undercover food stamp coupon transactions with targeted retailers.

**SLEB Agreement Operations**. The SLEB agreement process became active in New York in October 1994. Of the 11 agencies that have signed intrastate SLEB agreements, four have received approval to conduct a total of 60 investigations, and two others are actively developing targets for investigations. The active jurisdictions are Manhattan, which has initiated 25 investigations; Westchester County, with 23 investigations; Suffolk County, with ten

investigations; and Tompkins County, with two investigations. Monroe and Nassau Counties are developing targets but have not yet submitted any to FCS for approval. The other counties and three city boroughs with signed agreements have told Mr. Donnally that they will wait to see what kind of success the six active jurisdictions have before undertaking any investigations.

The investigations in Manhattan have targeted retailers. As an indication of the competition for food stamp coupons available for sale, investigators found the exchange rate to be between $.60 to $.80 to the dollar. Mr. Donnally indicated that the FCS Compliance Branch has been very helpful in providing food stamp coupon redemption reports for the purpose of targeting investigations. Although the reports have proven useful, analysis is difficult because of a high level of inaccuracy in the data, especially reported food sales.

In late June 1995, the Manhattan District Attorney's Office arrested 25 individuals as a result of its trafficking investigations. Although the DA issued a press release about the investigations and arrests, there was no coverage by the New York City media. This was a disappointment, because the District Attorney's Office wanted to capitalize on the deterrent effect of publicizing the arrests. Mr. Donnally had no other arrest or disposition data at this early stage of the SLEB agreement process.

Mr. Donnally indicates that the Manhattan District Attorney's Office plans to evaluated its role in the first round of trafficking investigations it has conducted before deciding whether to remain active in the SLEB agreement process. According to Mr. Donnally, access to FCS matching funds will play a critical part in the decision. It is likely that the office will attempt to establish a set fee per investigation to simplify the accounting process.

The SLEB agreement requirement that trafficking investigations be approved by FCS has caused some friction in Manhattan. As the SLEB agreement process was getting underway, FCS denied requests to investigate 13 stores that the District Attorney's Office had targeted, because the stores either were or could have been targeted by USDA's OIG. The basis of the denial seemed to the state and District Attorney's Office to be unreasonable. The parties involved have developed a better understanding of the target selection issue, and have worked out an acceptable routine whereby approval or denial of a target is rendered to the state in three to five days. Mr. Donnally indicated that, other than the formal approval process, there is now little communication with OIG regarding trafficking in Manhattan.

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The fiscal impact of undertaking food stamp coupon trafficking investigations will influence the extent to which local law enforcement agencies in New York participate in the SLEB agreement process. To lessen the local cost, Mr. Donnally suggests that investigative agencies be allowed "to keep all fruits of SLEB investigations" and abolish the requirement to use confiscated cash and food stamp coupons to balance against coupons not recovered in investigations.

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**Arkansas**

Date of Interview: 9/29/95 (45 minutes)

Respondent: Hank Whitington, Investigator II, Fraud Investigation Unit, Office of Chief Counsel, Arkansas Department of Human Services

**Implementation History**. Arkansas signed a SLEB agreement in 1991. Mr. Whitington said that the FCS Southwestern Regional Office was very helpful in introducing the SLEB agreement concept to the state. The Fraud Investigation Unit sent a letter to the Arkansas Sheriffs' Association advising its membership of the terms of the agreement. In addition there has been other informal communication with the greater Arkansas law enforcement community. Generally, the agencies contacted have not been interested in conducting food stamp coupon trafficking investigations. It therefore fell to the Fraud Investigation Unit to implement the SLEB investigation process.

**Role of the SLEB Agreement Administering Agency**. Almost the entire SLEB agreement process in Arkansas is carried out by Mr. Whitington. He controls the food stamp coupons and the trafficking investigations. He has relied on the State Police and numerous local law enforcement agencies to provide whatever assistance he needs in conducting investigations. Mr. Whitington, as a state welfare fraud investigator, is unarmed and does not have powers of arrest. He does not devote all of his time to trafficking investigation, for he also has responsibility for investigating eligibility fraud.

In matters related to trafficking, Mr. Whitington has cultivated strong working relationships with the FCS Compliance Branch, USDA's OIG, and the Secret Service. When the state initiated its SLEB process, Mr. Whitington was allowed to purchase some very good surveillance equipment, which he has used in joint investigations with the federal agencies.

**SLEB Agreement Operations**. During the life of the SLEB agreement 69 investigations have been conducted, most targeted at retailers. The total number of arrests was not available. Seven cases, involving ten individuals, have gone to court to date. Eight of the individuals were convicted and four authorized food retailers disqualified. Some cases are pending court action. Mr. Whitington did not classify any of the investigations as "big cases." He further said that he is working on a backlog of approximately 40 solid referrals.

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**Oklahoma**

Date of Interview: 6/27/95 (45 minutes)

Respondent: William Long, Supervisor of Investigations, Office of the Inspector General, Oklahoma Department of Human Services

**Implementation History**. Oklahoma signed a SLEB agreement in 1993 because the Department of Human Services was interested in the Trafficking Investigation Demonstration Projects that FCS had announced. During the same year the state Legislature enacted a food stamp coupon trafficking statute, which set the felony level at $100.

When the funding for the demonstration projects did not materialize, the Department decide to implement a SLEB agreement initiative at the prevailing 50 percent matching rate. The Department OIG made personal contact with the state's district attorneys, both individually and through their association. Interest in the agreement has increased as the district attorneys have seen the results of some of the trafficking investigations and the publicity that followed. They have also been enticed by the link between food stamp coupon trafficking and the illegal drug trade. Four district attorneys' offices and three police departments have signed intrastate SLEB agreements with the Department's OIG.

**Role of the SLEB Administering Agency**. In addition to the attempt to recruit participating law enforcement agencies into the SLEB process, the Department OIG has dedicated three of its welfare fraud investigators and half of the time of a supervisor to trafficking investigations. These investigators are armed and have peace officer status. The Department's OIG has also developed very dynamic relationships with the federal agencies that have an interest in food stamp coupon trafficking. Mr. Long stated that his agency regularly shares tips and investigative leads with the FCS Compliance Branch and has worked with the FBI and postal inspectors on trafficking cases. The Department's OIG has a special relationship with USDA's OIG. Mr. Long indicates that a USDA OIG investigator spends approximately 90 percent of his time working with state staff on trafficking cases.

**SLEB Agreement Operations**. The usual method of operations in conducting SLEB agreement investigations in Oklahoma is to "sweep" a targeted area with the team of three state investigators and the investigator from USDA's OIG. This team approach was responsible for approximately 80 percent of the 181 investigations conducted in 1993 and 1994. Mr. Long

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indicated that nearly 50 percent of the investigations do not result in arrests or administrative action against authorized food retailers.

As to dispositions of the trafficking investigations, Mr. Long said that 16 individuals have gone to court, 14 have been convicted, and three stores have been disqualified. He also mentioned a pending case involving 38 suspects in McCurtain, a small town in the east-central part of the state. Property seized in that case included $123,000 in cash, $16,000 in food stamp coupons, 16 cars, 80 guns, and drugs.

Mr. Long suggested that FCS should consider enhanced funding for state-conducted trafficking investigations at the 75 percent level, and also that states be allowed to keep all property seized in SLEB agreement investigations. Finally, he said that it would be very helpful to the states if FCS sponsored a trafficking conference in each of its regions, similar to the one held in Livonia, Michigan in 1992.

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**Wisconsin**

Date of Interview: 6/22/95 (105 minutes)

Respondent: Charles Billings, Fraud Analyst, Office of the Inspector General (OIG), Division of Economic Support, Wisconsin Department of Health and Social Services (DHHS)

**Implementation History**. The SLEB agreement with Wisconsin was signed in 1991. The state needed little encouragement from FCS to sign the agreement, recognizing its potential value. SLEB agreement administrative matters are handled fairly independently by the DHHS OIG, without much intervention from the top DHHS management. The DHHS OIG worked through the state's local departments of social services to introduce the Wisconsin law enforcement community to the SLEB agreement concept.

**Role of the SLEB Agreement Administering Agency**. Wisconsin has a strong system of local welfare program administration. Welfare and food stamp fraud are handled at the local level via contracts with law enforcement agencies and, in a few cases, with private security firms. The DHHS OIG defines its function in the SLEB agreement as being a conduit for food stamp coupons to the participating law enforcement agencies. It sees no role for the state in directing or controlling the investigations undertaken by independent police departments. Even if the DHHS OIG saw a need for such state oversight, it does not believe that it has the authority exercise it. OIG maintains the accounting for the food stamp coupons that it issues under the terms of the SLEB agreement, but it does not require regular reporting from the participating law enforcement agencies on investigations or their outcomes.

**SLEB Agreement Operations**. A series of investigations was conducted in Racine County in 1992 and 1993 using approximately $10,000 in food stamp coupons. According to the state, there have been no recent investigations in Racine County because the detective who was conducting them was no longer available.

Seven other Wisconsin counties conducted periodic trafficking investigations in 1992 and 1993, using a total of $7,285 in food stamp coupons. Aside from the value of the coupons, no other data were available on these investigations.

In 1994, the Milwaukee Police Department (MPD) drew down $87,000 in food stamp coupons to conduct trafficking investigations. The MPD's interest in obtaining food stamp

coupons arose from an investigation of the transportation of stolen merchandise. The suspects in that case let it be known that they would deal in food stamp coupons and WIC vouchers.

From the beginning, the operation in Milwaukee was a major investigation. Two hundred stores were targeted, and stolen merchandise was traced to Kansas City and Detroit. As the investigation got underway, the FBI, Secret Service, U.S. Attorney's Office and USDA's OIG participated in a task force with the MPD.

As the scope of the investigation broadened, the MPD requested another $250,000 in SLEB agreement coupons. The request was denied, apparently because FCS and USDA's OIG thought that the police were being too aggressive in their escalation of the investigation. According to the state, there was also disagreement at the federal level as to how the investigation should proceed, including how the interstate aspects should be handled. The federal agencies disengaged from the investigation. After discussion with FCS, a subsequent request for $250,000 in food stamp coupons was approved.

The first phase of the Milwaukee investigation resulted in the arrest of 48 individuals, 40 of whom were convicted, and the disqualification of 28 stores. In the second phase of the investigation, three individuals were arrested and 13 stores were disqualified; there are no conviction data yet. The final phase of the Milwaukee investigations is currently winding down.

The Federal/State Task Force in Milwaukee has dissolved. The FCS Midwest Regional Office has issued a report critical of the SLEB agreement process, citing for example the lack of state supervision of the investigations conducted under the agreement, and irregularities in the MPD's handling of food stamp coupons under its control. The state believes that most of the findings in the report are inappropriate because they assign more responsibility to the state than is in the SLEB agreement.

The MPD continues to target the illegal underground economy. For example, it has opened a bogus undercover store from which to conduct "sting" operations in continuation of the stolen goods investigation. This operation is certain to come into contact with those who traffick in food stamp coupons. According to the state, because the MPD is concerned about the liability that it has incurred for the food stamp coupons that it controls, and because of the rift its tactics have caused with the federal agencies, the MPD is not sure if it will continue to conduct investigations under the terms of the SLEB agreement.

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# APPENDIX C

# CASE STUDY SUMMARIES AND STATE COMMENTS

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*Note:* The information in these case studies was current at the time of the case study visits. Some events described in the future tense may or may not have transpired since these reports were written.

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# SLEB AGREEMENT STUDY: CALIFORNIA VISIT REPORT

| | |
|---|---|
| **State:** | California |
| **Dates of Visit:** | April 10-12, 1995 |
| **Sites Visited:** | • Food & Consumer Service (FCS), Western Regional Office, San Francisco<br>• USDA Regional Inspector General's Office, San Francisco<br>• Bay Area Food Stamp Trafficking office, District Attorney's Office, San Francisco<br>• Food Stamp Trafficking Unit, Department of Human Assistance, Sacramento<br>• California Department of Social Services (DSS), Fraud Investigation Unit, Sacramento<br>• Food Stamp Trafficking Unit, District Attorney's Office, Los Angeles |
| **Individuals interviewed:** | • Paul Pasel, FCS Regional Office<br>• Dennis Stewart, Food Stamp Program Director, FCS Regional Office<br>• David Dickson, USDA Regional Inspector General<br>• Richard Austring, Supervisor, Bay Area Project<br>• Duane Hadley, Investigator, Bay Area Project<br>• Bunyon Johnson, Investigator, Bay Area Project<br>• James Ross, Supervisor, Sacramento Project<br>• Richard Tibbetts, California DSS, Fraud Investigation Unit<br>• Robert Hauskins, Supervisor, Los Angeles Project<br>• Mary Gonzales, Investigator, Los Angeles Project<br>• Dirk Roth, Investigator, Los Angeles Project<br>• Greg Davis, Investigator, Los Angeles Project<br>• Benjamin Antonello, Investigator, Los Angeles Project<br>• Robert Takuna, Lieutenant, Bureau of Investigations, Los Angeles District Attorney's Office |
| **Highlights** | • Visit focused on three specially-funded projects in the San Francisco Bay Area, Sacramento, and Los Angeles<br>• Projects were built from the ground up, beginning in June 1994<br>• The Bay Area and Sacramento projects fund a prosecutor<br>• Primary targets are recipients and traffickers who conduct their business around food stamp coupon issuance sites<br>• Future of state and local involvement in trafficking investigations, beyond the two-year funding period, is uncertain |

For SLEB agreement statistics, see Exhibit C-1 on p. C-8.

## Introduction

The SLEB agreement study state visit to California was arranged by Paul Pasel, the FCS Western Regional Office-designated SLEB agreement contact, and the three supervisors of

the Food Stamp Trafficking Projects. The first day of the visit began with a meeting with Mr. Pasel and Mr. Stewart. A brief meeting was also held with the USDA Regional Inspector General, Mr. Dickson, in his office. The final meeting on the first day was with the staff of the Bay Area project.

The second day of the visit was taken up with a trip to Sacramento. Mr. Ross, the supervisor of the Sacramento project, was interviewed in his office. The Sacramento trip also included an interview with Mr. Tibbetts in his office at the state DSS.

The third day of the visit was spent with the staff of the Los Angles project in their office.

**SLEB Agreement Implementation History**

California is different!! Unlike any other SLEB agreement state operation, the three projects in California are limited to two years and are supported by a unique funding arrangement. (DSS signed the SLEB agreement in 1993, in response to encouragement by FCS. Prior to the implementation of the three projects reported on here, food stamp coupons had been issued under the terms of the agreement on only two occasions. Most counties were unaware of the SLEB agreement, or viewed trafficking as a federal problem.)

As was the case in several other states, the California DSS prepared a proposal in response to FCS' solicitation of SLEB agreement-based trafficking demonstration projects in 1993. County welfare fraud officials in Los Angeles helped DSS develop this proposal, and were designated to carry out the planned demonstration. The plan was to target street trafficking, using surveillance and SLEB-provided food stamp coupons. When the funding for these projects did not materialize, both FCS and DSS still wanted to capitalize on the local interest that the initiative had generated. Coincidentally, at that time, FCS and DSS were trying to settle a dispute over the federal funding for the state's food stamp fraud investigation activity. FCS had determined that the state was not producing results commensurate with the level of funding it was receiving. As a result, the enhanced funds for food stamp fraud investigations were capped. This created the situation in which the state's expenditures, above the FCS imposed cap, were in dispute.

The dispute was resolved when FCS agreed to restore the funds it was withholding, under the condition that they would be used to support an anti-trafficking initiative. The amount

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to be made available was $4.8 million in federal/state dollars. DSS and FCS agreed that the initiative would be modeled on the Los Angeles demonstration proposal.

Local jurisdictions in California normally contribute 15 percent to the costs of administering welfare programs, but the counties did not appear willing to provide local funds for the trafficking projects. DSS therefore proposed a special budget amendment, which was passed by the state legislature, that allowed the full costs of the projects to be borne by the federal and state governments.

The agreement between FCS and DSS made sufficient funding available to support the Los Angeles project and two others. The Bay Area project would include San Francisco, Santa Clara County and Contra Costa County. (In the early stages of the Bay Area project's development, Alameda County, which includes Oakland, considered participating. The county dropped out, apparently because it saw food stamp trafficking as ultimately a USDA/FCS responsibility.) The third project was to be in Sacramento.

The project implementation process began in June of 1994, with Los Angeles taking the lead. Although all three projects began planning at the same time, DSS decided to have Los Angeles develop their budget first, and then use it as a framework for the Bay Area and Sacramento projects. The budgets for the three two-year projects are as follows: Los Angeles, $1.753 million; the Bay Area, $1.587 million; and Sacramento, $1.583 million.

The projects are housed in the county-level agencies that are responsible for the investigation of welfare fraud. In Los Angeles and the Bay Area, the district attorneys contract with the county welfare agencies to provide this service. In Sacramento, the welfare fraud investigators are employed by the welfare agency, the Department of Human Assistance. Welfare investigators in California are armed and have arrest powers.

The staffing configuration in Los Angeles consists of a supervisor, a clerk, and five investigators. In Sacramento, the staff includes a supervisor, a clerk, and three investigators; the project funding also supports a county district attorney to handle the trafficking cases. The Bay Area project has a supervisor, a clerk, four investigators, and a part-time prosecutor. (Funding for a prosecutor was not deemed necessary in Los Angeles because of the close working relationships between the investigators and their colleagues in the District Attorney's Office.)

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The trafficking units have been built from the ground up. Office space was rented, new equipment was purchased or leased, and staff were hired via prevailing merit system practices.

All three of the project leaders indicated that they seriously underestimated the time and effort it would take to bring their units up to operational status. Operations began first in Los Angeles, in August 1994. The Bay Area project was next to go "live," in November 1994. The Sacramento project began its investigations in January 1995.

Obtaining equipment through county procurement systems proved to be particularly difficult. Both the San Francisco and Sacramento projects had problems in leasing, then equipping, surveillance vans. The vendor hired by both units to outfit the vans did the jobs so poorly that the work had to be redone.

The staff in all three of the projects are experienced welfare fraud or district attorney's office investigators. In addition to the experience they brought to the projects, they have also worked with USDA OIG investigators during the start-up phase to become familiar with the fundamentals of food stamp trafficking investigative work. One of the investigators in the Sacramento unit was working for the USDA OIG as an investigator when he was hired by the county.

**Activity Generated Under the SLEB Agreement**

The California SLEB agreement projects were designed specifically to target street trafficking in food stamps. In all three of the participating jurisdictions, trafficking around food stamp issuance sites had become an increasingly visible problem. In Los Angeles, trafficking became rampant after the recent earthquake, when emergency food stamp coupons were issued. In San Francisco, particularly at an issuance site in the Tenderloin section of the city, street trafficking had become very aggressive. It was reported that, in some cases, if recipients refused to sell their food stamp coupons, the traffickers would rob them of the coupons. In Sacramento, most of the trafficking was occurring at one particular high-volume issuance site. Recipients from throughout the county were drawn to this site, often bypassing more convenient sites, apparently to have access to the traffickers.

Mr. Tibbetts issues food stamp coupons to the trafficking units for their investigations. The food stamp coupon inventories at the project level are under the control of the project leaders. They are issued to investigators on an as-needed basis.

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The Los Angeles project has the most experience with the management of the inventory of SLEB agreement food stamp coupons. In its first nine months of operation, the unit has received three shipments of food stamp coupons from DSS, totaling $10,000. Mr. Hauskins indicates that approximately $8,500 of this amount has been used in investigations, and the food stamp coupons have either been converted into cash during undercover transactions, or have been recovered and are being held in the unit's evidence locker. He said that he will recycle these food stamp coupons back into the unit's working inventory once they are no longer needed by the court. He thinks that the $10,000 issued to his unit will sustain their investigations for the foreseeable future.

The trafficking units liken the trafficking in food stamp coupons to the illegal trade in drugs at the street level. Their approach to dealing with trafficking is to use most of the techniques employed by narcotics investigators. Their investigations rely heavily on surveillance, undercover work, and the use of informants.

During the start-up phases of the projects, most of the investigations have concentrated on the issuance sites where trafficking has been most visible. Some secondary targets have developed, for example an apartment complex in San Francisco where traffickers had set up shop.

FCS has raised the issue as to whether the Los Angeles project was drifting away from targeting recipients and street traffickers, in favor of more concentration on retailers. Mr. Hauskins indicated that this situation arose because of his belief that the trafficking investigations are fluid and often develop into situations where street traffickers lead the investigators to retailers. In such cases, his practice is to contact USDA OIG to determine if the retailers in question are targets of current investigations; if not, his unit will initiate an investigation. He stated that he is committed to following the model established for the California projects, and will continue to target recipients who sell their food stamp coupons and the traffickers who buy them. In fact, he has received approval from Mr. Tibbetts to use budgeted funds to provide "buy money" to his investigators to initiate investigations in which they will attempt undercover purchases of food stamp coupons from recipients.

All three projects are finding that trafficking at issuance sites often involves "runners" or "facilitators" who work for the individuals who actually have the cash for the trafficking purchases. These "runners" will approach the recipients, set up the terms for the illegal

transaction, and then take them to the buyer. The "runners" are usually paid a flat fee for each recipient that they produce.

The felony level for trafficking in food stamp coupons in California is $400. There was a hearing in the state legislature in March of 1995 to consider lowering the limit; Mr. Hauskins testified in support of this proposal. The committee reviewing the bill decided not to change the limit. All three of the project leaders indicated that street traffickers are aware of the felony limit, and are very cautious of offers from individuals who have more than $400 in food stamp coupons to sell. The law does allow the value of the food stamp coupons in separate trafficking incidences to be aggregated, so that the felony level can be reached through multiple transactions.

In San Francisco and Sacramento, when arrests are made in cases in which the transaction was under $400, the arresting investigator issues a citation on the scene, much like the process of issuing a traffic ticket. The citation orders the suspect to appear in court approximately 30 days from the date of the arrest. Bench warrants are issued if the suspects do not appear in court so that the suspects will be jailed until trial if arrested again. This practice cuts down significantly on the time it would take to process the suspect at the local jail.

Mr. Ross indicated that approximately half of the arrests of street traffickers and recipients in Sacramento have been handled via the citation process. About half of the suspects fail to appear on their court dates, and warrants are issued in these cases. The Bay Area project has just begun using the citation process.

Because all three of the projects are focused on food stamp issuance sites, their field investigations are concentrated in the beginning of each month, during the food stamp issuance cycle. This leaves the balance of the month for paperwork, court appearances, and setting up the investigations for the following month.

The USDA Regional Office of the Inspector General is supportive of the trafficking projects. OIG investigators have assisted the fledgling units in developing effective investigative techniques and intelligence about trafficking. OIG, FCS's Compliance Branch, and the FCS Field Offices have mounted a campaign against food wholesalers and retailers in California whose primary reason for existence seems to be "ripping-off" the Food Stamp Program. The effective targeting of street traffickers, however, had been beyond the purview of USDA's

enforcement efforts. The projects, therefore, add a new dimension to the overall effort to combat trafficking.

In a round-table discussion with four of the Los Angeles project investigators, they indicated that they normally work as a team when they target an issuance site. One of the investigators, usually the African-American male or Hispanic female, will be undercover trying to sell food stamp coupons. The other investigators will be monitoring the investigation from the surveillance van and the unit's other vehicles. Both video and audio equipment are deployed in the investigations.

The investigators spoke very highly of the USDA OIG investigators and the assistance they provided as the unit was getting off the ground.

Even with the requirement to track the food stamp coupons they use in their investigations, the investigators said that the paperwork involved in trafficking cases was no worse than in other criminal investigations. Morale in the unit seemed to be high, and the investigators saw the trafficking unit as a good assignment within the District Attorney's Office.

The impact that the start-up problems mentioned above have had on producing results in the trafficking projects is apparent from the statistics provided by the three units, as indicated in Exhibit C-1. In particular, the gap between the arrest and conviction statistics reflects the fact that recently-arrested suspects have not yet been tried. For each site, the statistics cover the period from the start of investigations (as indicated in the exhibit) through March 1995.

The proportionately high number of retailers in the Bay Area statistics is the result of investigations in Santa Clara and Contra Costa Counties, where trafficking investigations have led directly to retailers rather than to street traffickers. Trafficking around issuance sites in these counties is less of a problem than in San Francisco, Sacramento, and Los Angeles, primarily because of the lower volume of food stamp coupons issued at the sites.

**Oversight Issues**

The food stamp trafficking projects in California are just now at the point that they have resolved their start-up problems and are starting to produce results. The targeting of street trafficking should mean a routine of short-term investigations and relatively high arrest rates for both street traffickers and recipients who sell their food stamps. Some concern has been voiced, especially in Los Angeles, about the appropriateness of targeting recipients, because of the belief that the overall problem of trafficking would be handled better by concentrating on street

## Exhibit C-1

## STATISTICS ON SLEB AGREEMENT-GENERATED CASES IN CALIFORNIA[a]

| | | Investigations | | | Arrests | | | Convictions | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Project | Start Date | Retailers | Traffickers | Recipients | Retailers | Traffickers | Recipients | Retailers | Traffickers | Recipients |
| Bay Area | Nov 94 | 41 | 29 | 19 | 2 | 13 | 0 | 0 | 0 | 0 |
| Sacramento | Jan 95 | 17 | 27 | 13 | 5 | 20 | 10 | 4 | 4 | 0 |
| Los Angeles | Aug 94 | 29 | 55 | 9 | 4 | 26 | 6 | 1 | 6 | 2 |

All statistics are from project start date through March 1995.

[a] Note that recent investigations or arrests may not yet have had time to lead to corresponding arrests or convictions.

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traffickers and retailers. Mr. Hauskins said, however, that he will continue to follow the guidelines established for the unit.

Because the projects' start-up phases took longer than anticipated, consideration is currently being given to extending them beyond their current termination date of June 1996. No one at the federal, state, or local levels, however, seemed to know how the decision would be made as to whether the projects would be continued on a permanent basis.

**Future Evaluation Issues**

Unlike the other SLEB agreement study state visits, the focus of the interviews in California was not on the results of years of food stamp trafficking investigations, but rather on the implementation of the three projects. As the state gains experience in conducting investigations, a follow-up evaluation would be advantageous. Such an evaluation would help make the decision as to the future of SLEB agreement activity in California. Also, if such projects are to continue, the evaluation would point to changes that could be made to increase the impact the projects have on the problem of food stamp coupon trafficking.

The targeting of recipients in trafficking investigations should be looked at very closely. Project staff should be consulted as to the effectiveness of arresting recipients who sell their food stamp coupons. Also, any problems with the prosecution of recipient trafficking cases should be highlighted.

In all three projects, there are relatively few primary target areas, namely the food stamp issuance sites. This situation provides a good opportunity to measure the impact of the projects on street trafficking. Issuance site managers and staff, neighboring businesses, and recipients could be interviewed to determine if they saw a decrease in trafficking during the life of the projects. Another important question is: if there has been a decrease around the issuance sites, has the problem moved elsewhere?

The Bay Area project should be evaluated to determine the effectiveness of the multi-jurisdictional approach. There, the principal issue is: were investigators able to handle promising leads in all three target areas?

At the end of the current two-year funding period, the three trafficking projects should have reached peak efficiency and productivity. Between now and then, FCS and DSS have the opportunity to learn much about the SLEB agreement process from the California projects.

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**Introduction**

The Florida state visit was arranged, jointly, by Mr. Tolia and Agent West. The first day of the visit was spent in Tallahassee interviewing Mr. Tolia, Mr. Russo, and Mr. Mehr, and in reviewing file material. On the second day of the visit, FDLE Agents McMillion and Smith were interviewed in their office in Orlando. The final interview during the visit was conducted with Detective Sheppard at the Kissimmee Police Department. Detective O'Neil had to cancel his interview, which was also scheduled for the afternoon of the second day. He was interviewed by telephone on April 18, 1995. FDLE Agent West was unavailable during the visit, and was interviewed by telephone on April 21, 1995.

**SLEB Agreement Implementation History**

The Florida SLEB agreement was originally signed by the Secretary of the Department of Health and Rehabilitative Services (DHRS) in 1989. There was little activity generated under the original agreement, and in 1991, the new DHRS administration decided to transfer the SLEB agreement to OAG. DHRS already had a contract with OAG, an arm of the state legislature, to conduct investigations of welfare fraud.

OAG's approach to implementing the SLEB agreement was to solicit interest in what the agreement offered from the Florida law enforcement community. With an introductory letter and in a series of meetings, OAG familiarized state and local law enforcement agencies with the SLEB agreement concept and gave them the opportunity to develop plans to obtain food stamp coupons via individual agreements with OAG. In addition, OAG tested the use of its own investigators in trafficking investigations. The result of the limited test, which was conducted in Miami, was that it was inappropriate for OAG investigators, who are unarmed and without arrest powers, to conduct this type of investigation.

Returning to the approach involving law enforcement agencies, Mr. Tolia said that the process established to govern the intra-state agreements was "intimidating" to some of the interested parties. The agreements were lengthy and legalistic in tone, as written by DHRS attorneys, and they set forth strict requirements for accounting for the food stamp coupons provided for investigations. As an additional disincentive, agencies were told that OAG would not approve any investigations in which the primary target appeared to be those involved in the illegal drug trade.

Subsequently, however, eight local police departments and sheriffs' offices have signed intra-state SLEB agreements and drawn down food stamp coupons. Two state agencies, FDLE and the Bureau of Alcohol and Tobacco, also conduct trafficking investigations under the terms of SLEB agreements with OAG. There is currently no effort at the state level to solicit more law enforcement agencies to participate in the SLEB agreement process.

From the federal perspective, Florida and the other states in the FCS Southeast region are different, in that the Southeast regional office has delegated the management of the SLEB agreement process to the FCS Field Offices, rather than retaining this function at the regional office. This administrative configuration works well, according to all parties in Florida. Mr. Mehr, the FCS Officer-in-Charge in Tallahassee, is fully engaged in the SLEB agreement process. He maintains a good working relationship with OAG, and with USDA OIG and Compliance Branch agents working in Florida. He also often communicates directly with the agencies investigating trafficking cases, sharing intelligence about retailers suspected of trafficking and taking action on the results of investigations.

**Activity Generated Under the SLEB Agreement**

The investigations generated under the SLEB agreement in Florida have developed from the interest that certain state and local law enforcement agencies have in fitting food stamp trafficking onto their criminal investigation agenda. For these agencies, the individuals and retailers that traffic in food stamp coupons are part of a criminal subculture that also commits other economic crimes (e.g., selling drugs, prostitution, and violating the laws governing the sale of alcohol and tobacco), and as such are appropriate targets. Conversely, it was mentioned by other respondents that the deterrence of violent crime, especially against tourists, has created such an overwhelming burden on law enforcement resources in Florida that there was no way for some law enforcement agencies to devote attention to food stamp trafficking. For example, this seemed to be the dominant opinion of the law enforcement community in southern Florida. Aside from the investigations conducted by OAG, there had been no SLEB agreement activity in the Miami area up to the time of the visit.

Agencies participating in the SLEB agreement process are required to submit requests to initiate investigations and to draw down food stamp coupons from OAG. The requests are usually approved within ten days. The agencies are required to pick up the food stamp coupons

that they requested from the OAG office in Tallahassee. This requirement is not seen as a burden by the participating law enforcement agencies (which are mostly in central Florida), but could be an obstacle for agencies in southern Florida.

According to Mr. Tolia, tracking the food stamp coupons issued to participating agencies has proven to be very difficult, given that up to a year can elapse before the agencies must report on the use of the food stamp coupons under the terms of the SLEB agreement with OAG. He has found it necessary periodically to update the accounting for the food stamp coupons, to determine whether the investigations that were planned have not been undertaken, or are taking place over a long period of time. In one situation, he had to bill an agency for approximately $250 in food stamp coupons for which the agency could not account.

Once the food stamp coupons have been issued to law enforcement agencies, OAG control is limited to the accounting function. The local agencies completely control the progress of the investigations.

Most of the SLEB agreement activity has been concentrated in the central part of the state. The Kissimmee Police Department and the Polk County Sheriff's Office have both conducted successful trafficking investigations. Detectives Sheppard and O'Neil provided valuable insight into the positive impact and some of the shortcomings of local SLEB agreement initiatives.

Detective Sheppard took an interest in food stamp trafficking because he often heard about it when investigating other crimes. He began to develop intelligence on stores suspected of trafficking. For example, staff at the local soup kitchen told him what they were hearing about where food stamp coupons could be sold for cash. Eventually he saw a pattern develop as to how trafficking occurred in Kissimmee. Through the use of SLEB-provided coupons by a confidential informant, he was able to develop solid cases against the stores that appeared to be most active in trafficking. He made the effort to bring other agencies into the investigation. For example, the city government would revoke the occupancy license of a store found to be involved in food stamp trafficking.

Detective Sheppard believes that an aggressive anti-trafficking initiative can have a significant impact in a relatively small jurisdiction, like the city of Kissimmee. The problem he sees with the current SLEB agreement process is that there are no operational funds to sustain

the investigations. He believes that short-term funding for local SLEB agreement initiatives would encourage his department, and others, to conduct food stamp trafficking investigations.

In a telephone interview, Detective O'Neil of the Polk County Sheriff's Office indicated that he learned of the SLEB agreement process from Agent David West of the FDLE. At that time, Detective O'Neil was assigned to work narcotic cases. He convinced his superiors that it would be worthwhile to look for the connection between food stamp trafficking and illegal drugs. He began to develop intelligence about trafficking in Polk County, and eventually targeted approximately 15 stores. He employed a single confidential informant to work the targeted stores with the SLEB-provided coupons. This informant was particularly adept at gaining the confidence of the store owners who, according to Detective O'Neil, were normally very cautious when doing illegal food stamp transactions.

As the undercover work progressed, transactions were made with USDA-authorized retailers, non-food stores, and a retailer who had been disqualified from the Food Stamp Program. In one case, the confidential informant was able to purchase cocaine from a store owner with food stamp coupons. As these trafficking investigations evolved, Detective O'Neil sought the assistance of several federal agencies. He cited USDA's OIG and the Secret Service as being very helpful in providing advice and intelligence on targeted stores, and in tracking food stamp coupons being used by the confidential informant to the Federal Reserve and retailers' bank accounts. (Florida's success in marking and trading coupons contrasts with the lack of success in this area experienced by the SLEBs in Ohio and New Mexico.) The Internal Revenue Service was very receptive and eager when Detective O'Neil referred retailers to them for investigation, but he does not know of any results from these investigations.

In the most noteworthy of the Polk County cases, the confidential informant was selling food stamp coupons at a beauty supply store in Winter Haven. The trafficker was working for a relative in Orlando who was an authorized retailer. Eventually the trafficker agreed to buy $50,000 in food stamp coupons, which the confidential informant said were stolen from a distribution point. This case is currently being prosecuted under the state's organized crime statute, and three of the five defendants have pleaded guilty.

There are currently no food stamp trafficking investigations being conducted in Polk County; the reasons for the discontinuation are interesting. When the trafficking investigations became more involved and demanding of Detective O'Neil's time, his supervisors saw a trend

that they did not want to see continued. The Sheriff's Office became unwilling to divert their resources from their top priorities of violent crime and illegal drugs to the food stamp cases. Also, the local prosecutor was not willing to take relatively small-scale cases to court based exclusively on evidence developed by a confidential informant. He required that corroborating evidence be developed by law enforcement officers, as was done in the two cases that he agreed to prosecute. This requirement would make the investigations even more complicated and time-consuming.

Aside from the case involving the cocaine purchase and the Winter Haven/Orlando case, none of the other trafficking investigations in Polk County resulted in arrests. Detective O'Neil has turned over eight investigative reports to the FCS Field Office for disqualification action. Mr. Mehr indicates that three of the stores referred have been disqualified, and the others are still under review.

The history of trafficking investigations in Polk County illustrates how expansive and successful local initiatives can be, but also just how tenuous the support for these investigations is when there is no direct funding to sustain them.

Agent David West has been the most active participant in the SLEB agreement process in the FDLE. He believes that the food stamp coupons available via the agreement provide a valuable tool to law enforcement agencies. In low-income, high-crime areas, food stamp trafficking is inexorably linked to other crimes. For the SLEB agreement to be successful, he believes that trafficking investigations should be integrated with the other investigations that the agencies are conducting. He feels that the goals of FCS and those of local law enforcement agencies need not be mutually exclusive.

FDLE's first experience with the SLEB agreement was when the agreement was controlled by DHRS. Agent West found the process to be poorly managed and non-responsive to the needs of law enforcement agencies. He credits OAG, and Mr. Tolia in particular, with improving the situation. He cites the open lines of communication and the sharing of important information with OAG and the FCS Field Office as two reasons for FDLE maintaining its interest in the SLEB agreement.

Agent West's comments about the escalation of trafficking investigations were particularly interesting. He stated that the immediate objective in a trafficking investigation is to determine if the suspect store or individual is a major player and, if so, to begin to build a

solid criminal case. If the determination is that the store or individual is only committing low-level violations, such as the sale of ineligible items or infrequent trafficking for small amounts, the investigation will be terminated and the investigative report will be submitted to FCS for administrative action. Agent West said that of the approximately 30 investigations that his office has undertaken, half have evolved into full criminal investigations and half have been referred to FCS.

In an unofficial capacity, Agent West has been fostering SLEB agreement activity in other law enforcement agencies. Detectives Sheppard and O'Neil both attributed their interest and involvement in trafficking investigations to Agent West. Agent West said that he can see his role in the future developing into one of coordinating the SLEB investigation activity in other law enforcement agencies.

In the interview with Agents McMillion and Smith, they were supportive of Agent West's efforts. They indicated that FDLE would be proactive in conducting food stamp trafficking investigations to the extent that time and resources would allow.

Because SLEB investigations in Florida are under local control, statewide statistics on the outcomes of these investigations are sketchy. In addition, there is local variation in the definition of an investigation. Mr. Tolia indicated that there have been "50 plus" completed investigations since 1991 when OAG took over the SLEB agreement. OAG annual reports contain highlights of successful investigations, and indicate that in 1992, 19 retailers were investigated; in 1993, 42 retailers and 49 individuals were investigated; and in 1994, 77 retailers were investigated. OAG did not have data on arrests.

In conducting SLEB investigations under the management of OAG, a total of $120,000 in food stamp coupons has been issued to participating law enforcement agencies. Of that total, $85,000 was used in undercover transactions; the remaining $35,000 was returned unused. The cash and goods received during investigations are accounted for by OAG. Mr. Tolia estimates that approximately $21,000 in cash has been sent to FCS to offset the value of the food stamp coupons "spent" in the investigations. Additional cash is being held in evidence and will also be used to offset unrecovered food stamp coupons, once it is released by the courts. The value of goods received was unavailable, but appeared to be small.

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**Oversight Issues**

From the federal perspective, Florida manages a low-cost SLEB agreement operation, because of the reliance on state and local law enforcement agencies. Although Mr. Tolia finds accounting for the food stamp coupons issued to law enforcement agencies difficult, it is not time-consuming. He estimates that only approximately 5 percent of his time is devoted to the SLEB agreements. (Mr. Russo is just beginning to take over the day-to-day management of the SLEB agreements from Mr. Tolia, his superior.)

Currently, no costs associated with SLEB agreement investigations are passed on to the state and federal governments as Food Stamp Program expenditures. This situation may change in the near future. According to Mr. Tolia and Agent West, the FCS Regional Office has discussed with the state the process to claim 50 percent federal matching funds for the cost of food stamp trafficking investigations conducted by participating agencies. Mr. Mehr, the FCS Officer-in-Charge in Tallahassee, indicated that the procedures to implement the access to FCS funds had not yet been developed.

The availability of new funds, and the possibility that FDLE may be ready to play a larger role in coordinating local involvement in the SLEB agreement process, could mean a substantial increase in trafficking investigations in Florida. The relationship between FCS, OAG, and FDLE has created an environment that should support any expansion of SLEB agreement activity.

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# SLEB AGREEMENT STUDY: MICHIGAN VISIT REPORT

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|---|---|
| **State:** | Michigan |
| **Dates of Visit:** | December 19-21, 1994 |
| **Sites Visited:** | • Dept. of Social Services (DSS) Inspector General's Office, Lansing<br>• State Police Food Stamp Trafficking Unit, Lavonia (suburb of Detroit)<br>• FCS Midwestern Regional Office, Chicago |
| **Individuals Interviewed:** | • Richard O'Herron, DSS Inspector General<br>• Annette Jurkewicz-Berry, Assistant Attorney General<br>• Detective/Lieutenant Lewis Langham, Michigan State Police<br>• Bill Daley, DSS Director of Financial Assistance Programs<br>• Dave Mickelson, FCS Regional Office—Food Stamp Program<br>• Gilda Karu, FCS Regional Office—Food Stamp Program<br>• Wilber Morrisey, Compliance Branch Regional Office |
| **Highlights** | • Cooperative effort of DSS, State Police, and Attorney General's Office<br>• State Police Trafficking Unit is receiving FCS matching funds<br>• Assistant Attorney General specializes in trafficking cases<br>• Strong approach to publicizing investigation results, arrests, and convictions<br>• Michigan has provided SLEB agreement technical assistance to other states |

| SLEB Agreement Statistics[a] | | | |
|---|---|---|---|
| | **Investigations** | **Arrests** | **Convictions** |
| FY94 | 86 | * | * |
| FY93 | 40 | * | * |
| FY92 | 56 | * | * |
| FY92-94 Total | 182 | 101 | 68 |

Breakdown by year not available.

[a] Note that recent investigations or arrests may not yet have had time to lead to corresponding arrests or convictions.

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**Introduction**

The Michigan visit was arranged by Mr. O'Herron. The first day was spent in an extended roundtable discussion with Mr. O'Herron, Ms. Jurkewicz-Berry, and Lt. Langham, and in a brief meeting with Mr. Daley. The second day was spent discussing SLEB agreement activity throughout the region with the contacts at the FCS regional office in Chicago. (This side trip was an opportunity to gather general information, rather than a part of the Michigan case study.) The third day included an exit interview with Mr. O'Herron and a visit to the State Police Food Stamp Trafficking Unit's Office in Lavonia.

**SLEB Agreement Implementation History**

Michigan was interested in the SLEB agreement concept from the time it was first offered by FCS. They were motivated by a concern for the public perception that trafficking in food coupons was a growing problem and was having a negative impact on the integrity of the Food Stamp Program. Trafficking investigations would be compatible with DSS's high-profile anti-fraud approach to managing its welfare programs. The state was unwilling to sign an agreement, however, until FCS removed the strict liability for food coupons used in trafficking investigations. Once the liability issue was resolved, allowing states to "spend" coupons in the course of investigations, the state signed an agreement in June of 1991. FCS was considered very helpful in getting the agreement signed, and then in establishing procedures for approving Michigan's investigations and issuing coupons.

There was strong support from the top down in state government for the agreement. The DSS Inspector General's Office took the lead in implementing the process surrounding the SLEB agreement. In short order, both the Attorney General's Office and the State Police were on board in a one-year pilot of conducting SLEB agreement investigations. The State Police established a special unit of five detectives and troopers and a supervisor (currently Lt. Langham) that qualifies for FCS 50 percent funding. The Attorney General's Office contributed a full-time assistant to prosecute cases generated by the State Police unit. (Matching funds have not been requested for this position, even though the prosecutor maintains a full-time commitment to SLEB agreement cases). Based on initial success, the pilot operation became permanent.

Early in the history of the agreement, the DSS Inspector General convened a Task Force with federal and state members to build trust and cooperation between the law enforcement agencies that were exploring new approaches to investigating trafficking in food coupons. On the Task Force were staff from the Inspector General's Office, the Attorney General's Office, the State Police, USDA's Office of Inspector General, FCS Field Office, FCS Compliance Branch, and the U.S. Secret Service. Although the Task Force was instrumental in successfully launching the SLEB agreement initiative, it also brought certain "turf" issues to the surface, such as sharing intelligence on suspected traffickers and the federal investigation approval authority. USDA OIG staff are currently not active on the Task Force, and they also have required Compliance Branch staff to terminate their participation. In addition, the DSS Inspector General's staff have been withdrawn because their lack of law enforcement status raised concerns about their participation in undercover work and police raids. The dynamics of the Task Force have changed, but it still provides a forum for exchanging information, monitoring the status of SLEB agreement investigations, and maintaining focus on deterring trafficking.

**Activity Generated Under the SLEB Agreement**

The State Police Food Stamp Trafficking Unit is conducting a sustained campaign against trafficking in food coupons. They have been most active in the southeastern part of the state, primarily in Detroit. The unit gathers leads from numerous sources, including the DSS Hotline and other law enforcement agencies. The leads are entered onto a "tip sheet" that the unit uses to target areas, stores, and individuals for investigation. The priority targets are retailers, but the unit also investigates "street runners." The unit will do some preliminary work on a lead to assess its potential for being a good target before the decision is made to elevate it to the status of an investigation. This might include an initial visit to the suspect area and a search for collateral information about the potential target. This preliminary work results in solid investigations that consistently result in warrants being issued. The primary techniques used by the unit in their investigation are surveillance and undercover work. Troopers will work undercover with the unit for three years before being assigned to other duties. The unit does not rely on informants, the reason being that they are "usually more trouble than they are worth." With an informant in a case, there is always the possibility that the investigation could

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favorable concerning the SLEB agreement process, and has been used to send a deterrent message to those considering or involved in trafficking.

The three state principals involved in the SLEB agreement process have provided technical assistance to other states. Most noteworthy was the Food Stamp Anti-Trafficking Conference that the state co-hosted with FCS on July 14-16, 1993. The conference was basically a "how-to workshop" on the investigation and prosecution of food coupon trafficking cases. This conference has been mentioned by several states as having been very helpful in developing an understanding on how to implement and carry out a SLEB agreement initiative. State staff have also provided technical assistance to other states on an *ad hoc* basis.

The Michigan SLEB agreement began producing results in FY 1992. According to Lt. Langham, 56 investigations were conducted in FY 1992, 40 in FY 1993, and 86 in FY 1994.

Ms. Jurkewicz-Berry provided the following statistics on the SLEB agreement-generated cases that have been handled by the Attorney General's Office during the life of the initiative: 132 warrants have been issued; 10 individuals went to trial and all were convicted; 58 individuals plead guilty; 11 charges were dropped or dismissed; 31 individuals are at large; 9 cases are being appealed; 6 cases were referred to the U.S. Attorney's Office because the state had a problem aggregating their undercover transactions to meet the felony level; and 12 stores were involved. The typical sentence in trafficking cases has been a period of probation and a small fine. The stores are referred to FCS for administrative sanctioning.

**Oversight Issues**

The direct costs associated with conducting SLEB agreement investigations are generated by the State Police Food Stamp Trafficking Unit (at a 50/50 match with FCS) and by the Assistant Attorney General (state-only funds). (Mr. O'Herron indicated that the cost of his recent administrative involvement has been minimal.) The estimated annual cost, based on billing from the State Police to DSS and Ms. Jurkewicz-Berry's salary and fringe benefits, is $521,000. There was some discussion at the state level about not continuing the food stamp trafficking investigations when the enhanced funding for anti-fraud activities was terminated. The state decided to continue to operate to State Police Food Stamp Trafficking Unit at its usual level of funding, in spite of the loss of the federal dollars.

Interestingly, in the year-end accounting for the food stamps used in SLEB agreement investigations the state has been showing a "profit." For example, in FY 1993, $6375 in "SLEB" coupons were used in investigations, but $26,755 in coupons and $14,756 in cash were confiscated.

The state staff strongly believes that the SLEB agreement initiative is cost-effective and, to some extent, deters food stamp trafficking. For example, they believe that every store owner in Michigan is now aware that the State Police are investigating food stamp trafficking. Not unexpectedly, however, they thought it would be impossible to document objectively the impact of the investigations.

The state views FCS as providing the "financial backbone" for the SLEB agreement initiative. They have leveraged the matching funds available for the State Police Food Stamp Trafficking Unit and access to the "SLEB" coupons to mount an offensive against abuse of the Food Stamp Program. The state has developed a very sophisticated approach to monitoring and controlling the processes that surround the SLEB agreement initiative. At the DSS Inspector General's Office, the "SLEB" coupon inventory is managed so that the coupons used in investigations are accounted for "to the last dollar." Mr. O'Herron also handles routine matters and issues that arise with FCS. At the State Police Food Stamp Trafficking Unit, the investigations are conducted with the high level of professionalism one would expect from the state's top law enforcement agency. The Attorney General's Office has developed the expertise to build solid cases, and the specialization to expedite them through the criminal justice system.

State staff believe that the SLEB agreement process they have developed can stand on its own merits. They are not currently focused on outcome measurements of the initiative. In fact, there is no central point at the state level where all important statistics are gathered, analyzed, and reported. They agree that FCS should collect more and better information about the activity generated by the agreements, and they would not be likely to have a problem designing a system to capture standardized cost and outcome data.

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# SLEB AGREEMENT STUDY: NEW MEXICO VISIT REPORT

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|---|---|
| **State:** | New Mexico |
| **Dates of Visit:** | March 20-21, 1995 |
| **Sites Visited:** | • New Mexico Human Service Department (HSD), Office of the Inspector General (OIG), Santa Fe<br>• HSD EBT Project Office, Albuquerque |
| **Individuals Interviewed:** | • Brett Woods, HSD Inspector General<br>• John Cedebaca, HSD Deputy Inspector General<br>• Toby Encinias, HSD OIG Senior Special Agent<br>• Chris Najar, HSD OIG Special Agent<br>• Raymond Sedillo, HSD OIG Restitution Bureau Chief<br>• John Waller, HSD EBT Project Director<br>• Ron Walker, District Attorney, Fifth Judicial Circuit, Lea County Office (by phone)<br>• Sandra Petersen, Vice President, Bank Card and Electronic Banking Services Division, First Security Service Company<br>• (Name withheld), Eligibility Supervisor, HSD Northeast Bernalillo County Office<br>• Angie Robertson, HSD EBT Help Desk staff |
| **Highlights** | • Smallest Food Stamp Program caseload of states visited<br>• Largest trafficking investigation was "Operation Badlands," which has received much attention<br>• New Mexico has conducted "sting" type trafficking investigations<br>• Restitution sought in court as component of sentences for trafficking<br>• Refocusing trafficking investigations from food stamp coupons to electronic benefits |

| SLEB Agreement Statistics[a] | | | |
|---|---|---|---|
| | **Investigations** | **Arrests** | **Convictions** |
| FY94 | 10 | NA | NA |
| FY93 | 30 | 263[b] | NA |
| FY92 | 5 | NA | NA |

NA = not available

[a] Note that recent investigations or arrests may not yet have had time to lead to corresponding arrests or convictions.

[b] Operation Badlands only—excludes some small investigations.

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## Introduction

The SLEB agreement study site visit to New Mexico was arranged by Mr. Cedebaca. Mr. Allman and Mr. Logan jointly conducted the interviews, on the first day, with Mr. Woods and Mr. Cedebaca. On the second day of the visit, Mr. Allman interviewed the investigators, Mr. Encinias and Mr. Najar, and Mr. Sedillo, the Restitution Bureau Chief. He also conducted a follow-up interview with Mr. Cedebaca and a brief exit interview with Mr. Woods. Mr. Logan interviewed Mr. Waller, the Eligibility Supervisor, and Ms. Robertson of HSD, and Ms. Petersen of First Security Services Company (the EBT system vendor) on the second day. Mr. Allman interviewed the Lea County prosecutor, Mr. Walker, by phone on April 6, 1995.

## SLEB Agreement Implementation History

The New Mexico SLEB agreement was originally signed in July 1990. There was no activity generated by the agreement until 1992. According to Mr. Woods and Mr. Cedebaca, there was little interest in HSD or elsewhere in state government in conducting food stamp trafficking investigations during that period. The turning point came when Mr. Woods attended an FCS regional conference in 1992 to discuss the SLEB agreement process. He returned from the conference with the firm purpose in mind of seeing what his office could do to mount a food stamp anti-trafficking campaign.

As a result of his background in public safety, Mr. Woods had many key contacts in the New Mexico law enforcement community. When he contacted these individuals about using food stamps for criminal investigations, they were very interested. Especially compelling to them was the possibility of working food stamp trafficking cases in conjunction with drug investigations.

In New Mexico, local police departments have joined together with county sheriffs and prosecutors in Narcotic Task Forces, which receive state and federal financial support through the Department of Public Safety. These task forces provided a forum for the HSD OIG and local agencies to work out the details of what could be accomplished via the SLEB agreement. As the SLEB Agreement strategy began to develop, HSD OIG realized that, because of its small staff, it would clearly have to rely on local resources to conduct trafficking investigations. HSD OIG saw its primary functions to be developing intelligence about trafficking, high level coordination for investigations, and acting as the "banker" for operations.

Because of the relatively small food stamp caseload in New Mexico, the FCS Compliance Branch and the USDA OIG have had a limited presence in the state. This situation has made the approval of investigations and coordination with federal investigators much less of an issue than it is in other states. In fact, there is usually only a single USDA OIG investigator working in the state, and he has established a close working relationship with HSD OIG staff.

HSD OIG took a strong position on the economic nature of the crime of food stamp trafficking, believing that those convicted of trafficking offenses should make restitution to the government for their illegal gains. A goal in the prosecution of trafficking cases is, therefore, to establish a restitution account on each case and to be aggressive in collecting the amount owed.

Mr. Cedebaca provided the following totals from the HSD OIG Restitution Bureau's records of restitution ordered in trafficking cases: 37 accounts have been established; the total amount owed is $25,025; and HSD has collected $12,135, or nearly 50 percent of the total.

**Activity Generated Under the SLEB Agreement**

The HSD OIG approach to beginning a campaign against food stamp trafficking was based on the premise that food coupons have become a secondary currency in the criminal sub-culture. Setting-up undercover agents, who would use food stamps as their medium of exchange in "sting" type operations, would attract the type of individuals who sustain the illegal trafficking in food stamps.

Operation Badlands was HSD OIG's first activity under the SLEB agreement, and remains the agency's most enterprising undercover operation to date. It included separate operations in ten different locations. The operation lasted throughout most of 1993. It included the participation of local police agencies, with some assistance from the New Mexico Department of Public Safety. Mr. Woods indicated that federal agencies contributed surveillance equipment (which HSD OIG lacks) to the effort. As mentioned, the planning for the operation was done to a large extent by those agencies and officers who were already working together as members of regional Narcotic Task Forces.

It was the HSD OIG's practice during the operation to keep tight control on the food stamps given to undercover operatives. Mr. Cedebaca is responsible for all aspects of the

control of and accounting for the food stamps used in investigations. He requires undercover operatives to sign for the food stamps in their possession and account for their use in investigations.

During Operation Badlands, local police used three methods to get undercover agents in contact with those willing to traffick in food stamps. In the largest of the operations (in the town of Hobbs), an undercover agent was set up in a rented house as a fence for stolen goods. During the time that the bogus fencing operation was active in Hobbs, the undercover agent sold and traded food stamps for cash, drugs, guns and miscellaneous items, some of which were traced to burglaries in the Hobbs area.

In several other operations, the undercover agents were working in the illegal drug trade. The largest of these operations was in Carlsbad, where 51 individuals were arrested for accepting food stamps in transactions for drugs, guns, and ammunition.

Finally, three areas had undercover agents trading food stamps for cash and otherwise legal goods at large flea markets. As a result of food stamp transactions in the flea markets in Las Cruces and Gallup, a total of 27 individuals were arrested. The deterrent impact of these arrests was apparent in Farmington, the site of the third flea market operation. The undercover agents there found that the vendors were aware of the arrests made earlier in Las Cruces and Gallup, and the vendors refused to accept the food stamps. This effect may have been temporary, because post-Operation Badlands stings in flea markets (as recent as March 1995) have resulted in a number of arrests.

According to HSD OIG, a total of $102,630 in food stamps was used in Operation Badlands. In the operation in Hobbs, Mr. Cedebaca indicates that $55,000 in food stamps were turned over to the undercover agent. The majority of the food stamp coupons in the "sting" operation were not recovered; a specific amount was unavailable from the state. In addition, in an audit of the use of the food stamps, $885 in food stamps could not be accounted for. Mr. Cedebaca categorized this "loss" rate as acceptable considering the size of the operation.

As a result of Operation Badlands, 236 individuals were arrested. The HSD OIG does not keep records on the dispositions of the cases, which are being handled in local courts by local prosecutors. Mr. Cedebaca and the investigators indicated that most of those arrested had pleaded guilty. In the city of Espanola, however, the local prosecutor refused to accept the food stamp cases, according to HSD OIG's summary report on the operation. The prosecutor

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apparently had a problem with the targeting of individuals living in poverty. This seems to be an exception. Mr. Woods believes that the prosecutors generally thought that the targets of the investigations were appropriate, not only because of the food stamp offenses, but also because of the collateral involvement in drug and property crimes.

Mr. Walker is a District Attorney who handled about 10 percent of the cases from the undercover operation in Hobbs. Although he generally supported the concept behind Operation Badlands, he was critical of how the investigation was handled locally. He believed that the operation lasted too long. He also stated that the local police had trouble maintaining adequate reporting because of the length of the investigation and the number of officers involved.

According to Mr. Walker, the defendants represented a broad spectrum of criminal backgrounds. Some he classified as opportunists, who found themselves in trouble with the law for the first time; a few were career criminals. In some cases, the food stamp charges were dropped in favor of prosecuting defendants on more serious drug charges.

Mr. Walker stated that his office was not ready to handle the sizeable workload generated by the investigation. The office's staff resources were strained during the extended time required to process all of the cases. In addition, a financial burden was created in his office by the court hearings. For example, the District Attorney had to pay travel expenses to the undercover agent every time he came to Hobbs for a trial. Finally, he was critical of the massive show of force that the police used in making the arrests in Hobbs (see below). He thought it was far out of proportion to what was realistically needed to do the job.

Mr. Woods and Mr. Cedebaca were surprised at how Operation Badlands expanded after it started. HSD OIG was able to capitalize on the interest and enthusiasm that the federal, state, and local agencies had when working together for the first time on food stamp cases, especially because of the relationship to their ongoing activity in the drug enforcement area. As a result of relationships that had developed during the course of the investigation, the support from the law enforcement community even intensified when it came time to shut down the operation and make arrests.

For example, the arrests in Hobbs were to be made during an early morning raid. According to the summary report on the investigation, approximately 200 law enforcement officers from 22 federal, state and local agencies conducted the raid. Back-up for the raid included two helicopters and an ambulance. The arrests were made without incident. Not

unexpectedly, however, there was some criticism from members of the community about how the raid was conducted. Mr. Woods indicated that the criticism was not sustained, and that he considered most of the press coverage to be positive.

As Operation Badlands expanded during its lifetime, so has its visibility after it was terminated. HSD OIG has received recognition and endorsement from the FCS Regional Office in Dallas for the success of the operation. The local and national media have covered New Mexico's efforts to combat food stamp trafficking to an extent not seen in other states. Operation Badlands was prominently featured in a workshop on food stamp trafficking at the annual conference of the American Association of Food Stamp Directors in Baltimore in October of 1994.

There was a significant drop-off of new investigations under the SLEB agreement in 1994. Mr. Cedebaca indicated that ten investigations had been undertaken, using $15,000 in food stamps. This low level of activity is attributed in part to the residual work associated with processing the Operation Badlands cases through the court system. Also, HSD OIG has begun to adjust their routine to focus on the EBT system, which is being implemented statewide after an extended pilot phase in Albuquerque.

**EBT Investigations**

The HSD OIG has conducted a number of investigations using EBT cards instead of food stamp coupons. Unlike Operation Badlands, these investigations have targeted Albuquerque retailers suspected of trafficking, although a "broker" that sold EBT cards to retailers was implicated in two cases. As in other SLEB agreement states, the rationale for targeting retailers has been their role as the linchpin in trafficking. The EBT cases also have involved closer coordination with federal investigators from the FCS Compliance Branch, the USDA OIG, and the Secret Service, all of whom have been actively conducting their own trafficking investigations with EBT cards. Both the USDA OIG and the Secret Service have participated in joint EBT investigations with the HSD OIG, and the U.S. Attorney has been involved with legal action on some of these cases. The EBT project manager, Mr. Waller, has worked closely with HSD OIG to facilitate investigations and has encouraged this activity.

The EBT system gives HSD OIG access to the retailer activity data that it lacks in the coupon system, making it easier to target retailers for investigation. HSD OIG uses the EBT

system data to examine a suspect retailer's redemption history, looking for patterns such as even-dollar transactions and after-hours activity. The initial leads for EBT investigations have come from a variety of sources: the HSD fraud hotline, the EBT project staff, First Security Bank (the EBT vendor), and even (in one case) a trafficking "buy" by a Compliance Branch investigator. HSD OIG does not systematically analyze EBT system data for leads, even though there are some exception reports that could be used. According to Brett Woods, the non-technical sources provide more than enough leads.

Under current procedures, the HSD OIG lead investigator obtains EBT cards and benefits through Mr. Waller. Mr. Waller directs a designated local office supervisor to set up the fictitious recipient cases and benefit amounts on the state's ISD2 computer system as requested by the investigators; once the supervisor has done this, he directs the office's EBT specialist to issue the cards and link them to the fictitious cases. The supervisor maintains a file of cases created for investigation and makes sure that they are canceled on the eligibility system at the end of the month. On a few occasions, benefits have been added to cards previously issued to federal investigators.

HSD OIG also relies on the EBT project staff for access to EBT system data. One of the EBT Help Desk staff, usually Ms. Robertson, obtains printouts of retailer and recipient transaction histories for the state and federal investigators. This process can be very time-consuming, and sometimes interferes with Ms. Robertson's primary responsibility to assist local HSD staff and EBT retailers. HSD is exploring the possibility of providing an administrative terminal to the state investigators, although providing the system expertise to use the equipment may be more of a challenge than making the hardware available.

These procedures have raised concerns about security and administrative burden. Mr. Waller is concerned that he and other non-investigative staff are too much "in the loop," making external investigations less secure and internal investigations impossible. At the same time, the EBT staff role is burdensome because of the complexity of the tasks, which is often compounded by time pressures to accommodate investigators' schedules.

The "gatekeeper" role of the EBT staff has raised a "turf" issue, because the federal investigators must go through the same channels to get cards, benefits, and transaction histories. (USDA OIG does receive and analyze a monthly transaction file for the entire EBT system, but the investigators in the field need reports on individual retailers and recipients.) Despite the

frequent contacts between the state and federal investigators, this situation has led to competition for access.

These issues led Mr. Waller to convene a meeting of all stakeholders in compliance investigations, which was held in December 1994. In addition to the investigators and EBT staff, the meeting included representatives of the FCS regional and field offices, the USDA Regional Inspector General, the FCS Compliance Branch Area Office, and the EBT vendor's project manager. Mr. Waller laid out his concerns and proposed several options, which (according to several of those present) the participants freely and constructively discussed.

After the meeting, Mr. Waller prepared a proposal to give HSD OIG the resources and access to create assistance cases, EBT accounts and cards for all investigators. This proposal, which would also enable HSD OIG to obtain transaction histories independently through an EBT administrative terminal, is still under consideration by HSD management. The proposal also provides for a special retailer account (with a working EBT point-of-sale terminal) that investigators could use to perform debit transactions with cards purchased from recipients or other traffickers, avoiding the current awkward process of using the EBT vendor's test terminal for this purpose. (When investigators buy EBT cards, they need to create debit transactions so that the sellers of those cards will believe that the undercover investigators are able to "launder" benefits.)

One EBT investigation involving HSD OIG and the Secret Service raised a policy issue regarding the seizure of an EBT point-of-sale (POS) terminal, which was done under a general provision of the arrest warrant. The merchant in question objected to losing EBT system access—and, effectively, the ability to redeem food stamp benefits—without going through the administrative disqualification process. FCS verbally directed HSD to replace the terminal, but the HSD OIG convinced the HSD secretary to refuse on the grounds that the seizure was authorized by a federal judge. (The Secret Service agent had obtained the warrant in federal court.) HSD was concerned that the deterrent effect of the arrest would be undermined if the press learned that the retailer was able to resume EBT transactions. In response to the concerns of FCS, the EBT project director, and the EBT vendor, the investigators have agreed to obtain specific authorization for any future POS terminal seizures.

The desire to disqualify trafficking retailers from the Food Stamp Program has raised an issue of inter-agency cooperation and communication in New Mexico. After Operation

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Badlands, the FCS field office sought information on any retailers caught trafficking, so that these retailers could be disqualified, but HSD OIG only offered to let FCS copy case files. The field office did not view this offer as helpful, given the size of the case files and the time that would be required to review and copy them.

As noted earlier, Operation Badlands did not target authorized food retailers, focusing instead on trafficking of stolen goods and drugs for coupons. Therefore, few (if any) of the Operation Badlands cases are likely to lead to FCS administrative disqualification. Nevertheless, the field office was concerned about the lack of an efficient, expeditious process for getting information on cases investigated under the SLEB agreement.

This issue was raised at the December 1994 meeting by the field office representative and Mr. Waller. (In April 1994, the EBT staff had taken over responsibility for retailer authorizations and sanctions in seven New Mexico counties, under FCS demonstration authority.) The FCS field office and EBT staff also wanted to make sure that HSD OIG would refer EBT cases for administrative action.

At the time of the site visit, no retailers had been disqualified as a result of HSD OIG investigations, but administrative action was pending in at least two cases. HSD OIG had agreed to provide information on the Operations Badlands cases to FCS, although the details for this exchange had yet to be worked out.

HSD considered disqualifying recipients who were identified as trafficking through state and federal investigations. The state did not take this action because of two concerns. First, the HSD General Counsel was uncertain about whether disqualifications on grounds of EBT trafficking would be upheld in administrative review, given the lack of an explicit reference in

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# SLEB AGREEMENT STUDY: OHIO VISIT REPORT

| | |
|---|---|
| **State:** | Ohio |
| **Dates of Visit:** | March 15-16, 1995 |
| **Sites Visited:** | • Ohio Department of Human Services (DHS) Bureau of Investigation (Columbus)<br>• Lawrence County Sheriff's Office, Ironton |
| **Individuals Interviewed:** | • Paul Rapp, Criminal Investigation Supervisor II, DHS Bureau of Investigation<br>• Ken Shomody, Criminal Investigation Supervisor I, DHS Bureau of Investigation<br>• Mike Cotterman, Investigator, DHS Bureau of Investigation<br>• Colin Baxter, Investigator, DHS Bureau of Investigation<br>• Roy Smith, Sheriff, Lawrence County<br>• John Kelly, Detective, Lawrence County Sheriff's Office<br>• Gary Fayne, Welfare Fraud Investigator, Lawrence County Dept. of Social Services |
| **Highlights** | • Ohio has a long history of conducting trafficking investigations<br>• Bureau of Investigation is in a period of transition—being transferred from DHS to Department of Public Safety<br>• Investigators to be elevated to full peace officer status<br>• Bureau generates long-term, in-depth investigations<br>• Visit included field observation of final stages of trafficking investigation |

| SLEB Agreement Statistics[a] | | | |
|---|---|---|---|
| | **Investigations** | **Arrests** | **Convictions** |
| FY94 | 64 | 23 | 1 |
| FY93 | 60 | 152 | 69 |
| FY92 | 83 | 71 | 71 |

[a] Note that recent investigations or arrests may not yet have had time to lead to corresponding arrests or convictions.

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**Introduction**

The Ohio visit was arranged by Mr. Rapp. The first day of the visit had been scheduled to include interviews in the Office of the DHS Bureau of Investigation. Mr. Rapp, however, phoned Mr. Allman during the week before the visit to suggest a change in plans. An investigation was coming to closure in the southern part of the state and, on March 15, 1995, a final trafficking transaction was to be attempted; if successful, arrests would be made. Mr. Rapp suggested that it might be helpful to the SLEB agreement study for Mr. Allman to observe this operation. Mr. Allman agreed, and the first day of the visit was taken up with the trip to Ironton with Mr. Rapp. The second day of the visit included further discussion with Mr. Rapp and his investigation supervisor, Mr. Shomody, and in reviewing the Bureau's files.

**SLEB Agreement Implementation History**

Ohio's history of conducting food stamp trafficking investigations predates the FCS SLEB agreement initiative. From 1984 until June of 1992, the Ohio Department of Agriculture had a unit of investigators devoted to food stamp trafficking investigations. According to Mr. Rapp, this unit's investigators were armed and had arrest powers. He also indicated that they worked well with USDA's OIG, which at that time controlled food stamps used by state investigators. In June of 1992, after a change in DHS administration, the new director thought it appropriate that the trafficking unit be housed in DHS. The unit was transferred to DHS to continue the work under the SLEB agreement initiative. The investigators in the new DHS unit were armed, but did not have arrest powers. The unit focused exclusively on trafficking in the Food Stamp Program.

Since 1992, another round of changes in leadership, both at the DHS executive level and in the Bureau of Investigation, have taken their toll on the unit, according to Mr. Rapp, who took over supervision of the unit in July 1994. For example, there are 17 authorized investigator positions in the unit, but there are only five investigators currently on the job. This is a low point for staffing in the unit. DHS apparently has been reluctant to fill vacancies as the future of the unit was being decided. In addition to the lack of resources, Mr. Rapp found the unit's record-keeping and productivity in decline.

Currently, the details are being worked out to transfer the unit again, this time from DHS to the Ohio Department of Public Safety. The transfer is scheduled to take place in July

of 1995. Mr. Rapp believes that this move will have a positive effect on the unit. His plans are to fill the investigator and support staff vacancies, and to improve the production and accountability of the unit. The transfer will include the upgrade of the investigator positions to full law enforcement officer status. Mr. Rapp believes that the transition of the unit from its current status to a fully-staffed professional law enforcement agency will take at least a year to complete.

**Activity Generated Under the SLEB Agreement**

The food stamps used in SLEB agreement investigations are under the control of Mr. Rapp and Mr. Shomody. A working inventory of food stamp coupons is maintained in a safe in the Office of the DHS Bureau of Investigation.

Targets for investigation are developed from tips and complaints that are maintained by the Bureau in a file organized by county. The most useful intelligence about trafficking comes from the state's local law enforcement community and the DHS Hotline, which shares office space with the Bureau. Areas are targeted by reviewing current intelligence and deciding where the scope of the trafficking problem seems to be the greatest. Although the Bureau's investigators work out of the Columbus office, Mr. Rapp indicated that logistic concerns do not control the initiation of investigations. The investigators are expected to work out of motels when they are beyond commuting distance from Columbus.

Investigators check out the food stamps they will need for their current investigation, and are responsible for keeping them secure while they are in the field. The unit is in the process of purchasing special safes for their undercover vehicles.

All of the SLEB agreement investigations are conducted by the DHS investigators, all of whom work undercover. During large investigations, such as the Cleveland and Akron operations, Mr. Rapp and Mr. Shomody coordinate with local law enforcement agencies and local prosecutors, using local resources to complement their own. In cases of smaller scope, the local law enforcement agencies would be involved only in arresting subjects.

Mr. Rapp is intent on integrating up-to-date law enforcement technology into the investigations his unit is conducting. He has a variety of electronic surveillance equipment, and his investigators are using laptop computers to prepare their reports.

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An important feature of the Bureau's investigations is their thoroughness. The Bureau's policy is to designate an area and, within that area, to work as many targets as are developed during the course of the investigation. The primary targets of the investigations are authorized retailers. Once initial undercover food stamp transactions are made, the investigators stay undercover and try to develop related targets. For example, an investigation may track an individual buying food stamps to a retailer; or one retailer trafficking in food stamps may lead to others involved in a local trafficking network. The progress of the investigations is monitored by Mr. Rapp; he approves any expansion of the investigation and, ultimately, the timing of the arrests.

**Observation of Field Investigation**

As mentioned, the first day of the visit focused on the closure of an investigation in Ironton, a small town in rural southern Ohio. Mr. Rapp discussed the background of the case during the three-hour drive from Columbus to Ironton.

The investigation was initiated as a result of solid tips on trafficking in Lawrence County. In addition to investigating retailers in the area suspected of trafficking, the lead investigator on the case, Mike Cotterman, had targeted two individuals who were buying food stamps in a bar on the outskirts of town. These individuals came to trust Mr. Cotterman and were willing to buy large amounts of food stamps from him. In one transaction, the investigator sold food stamps for cash and a van. (Mr. Rapp plans to equip this van with surveillance equipment).

An FCS Compliance Branch investigator was working in Lawrence County during the Bureau's investigation, and in fact had targeted some of the same stores that the Bureau wanted to include in their investigation. The Compliance Branch moved first to disqualify the stores, and the FCS Field Office had issued the disqualification letters and a press release. The Bureau decided to make the arrests of the two individuals buying food stamps before the disqualification of the retailers appeared in the local paper. This was certain to make the traffickers suspicious of the investigators. Mr. Cotterman arranged to meet the primary suspect at the bar on March 15th and exchange $10,000 worth of food stamps for cash. Mr. Cotterman was going to introduce the other DHS investigator, Colin Baxter, to the suspects as another source of food stamps.

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Mr. Rapp and Mr. Allman met Mr. Cotterman and Mr. Baxter in the Lawrence County Sheriff's Office. The planning of the final food stamp transaction and arrests of the suspects was under way. Detective Kelly of the Sheriff's Department was in charge of the coordination of the arrests.

The investigators deployed electronic surveillance technology to monitor and record Mr. Cotterman's conversations with the suspects. Four cars were positioned to track the suspects if they left the bar and to make the arrest when the time came. Mr. Rapp and Mr. Allman were with Mr. Fayne, the County Welfare Investigator, in his car, which was approximately 300 yards from the bar and had a view of the parking lot. (It is unusual to have local welfare fraud investigators involved in the Bureau's investigations. Mr. Fayne had close ties to the Sheriff's Office, and had volunteered his services on the day the arrests were to be made.)

After all aspects of the transaction and arrest were discussed, the four cars went to their positions, and Mr. Cotterman and Mr. Baxter drove into the bar parking lot. Mr. Cotterman entered the bar and began a conversation with the first suspect. Soon Mr. Baxter and the $10,000 in food stamps were interjected into the conversation by Mr. Cotterman. The suspect indicated that he would be glad to meet Mr. Baxter. Mr. Cotterman went out to his car and brought Mr. Baxter into the bar.

The conversation then focused on the sale of the $10,000 in food stamps. The suspect wanted to negotiate the price down from the $.50 per dollar fee that he had paid during other transactions. In addition, he wanted to discuss selling the 1978 Lincoln he had driven to the bar.

Finally, the investigators agreed to go for a ride in the Lincoln. Upon returning to the bar, the investigators said they were not interested in buying the car. After more complaining by the suspect about the $.50 per dollar fee, the investigators agreed to accept $4000 in cash for the food stamps. At that point, the suspect said that he would have to get $2000 from his friend, the second suspect. They left again in the Lincoln. This trip included taking the second suspect to the bar to get his $2000. On the way back to the bar the transaction was completed. The investigators leaving the bar parking lot was the signal for the four cars monitoring the transaction to converge on the bar. Both of the suspects were arrested without incident. The $10,000 in food stamps was recovered in the trunk of the suspect's Lincoln. Because the car was used in the commission of a felony, the Sheriff's Office will file with the court to confiscate it.

The suspects were taken to the Sheriff's Office and processed into the jail. The first suspect agreed to be interviewed. He refused to implicate the second suspect, saying that he was borrowing money from him for the food stamp transaction. (Mr. Cotterman had previously sold food stamps to the second suspect.) The first suspect also continued to be vague as to how he was getting rid of the food stamps. He said he knew individuals who would buy them, but denied selling them to food retailers in the area.

The local media were contacted by the Sheriff's Office. Mr. Rapp and Detective Kelly were interviewed by a newspaper reporter and two television reporters towards the end of the visit. The investigators will now be assigned to another target, but may have to return to Ironton if the suspects go to trial.

Sheriff Smith was pleased with the results of the investigation and the role his office played in assisting the Bureau. He indicated that he would be more than willing to assist the Bureau in future investigations.

Mr. Rapp believes that the combination of the arrest of the two suspects and the disqualification of the stores by FCS will have a definite impact on illegal food stamp activity in the area. In retrospect, he felt that a better effort could have been made to coordinate the federal and state investigation activity that was going on simultaneously. He believes that the results of the investigation would have had an even greater impact if criminal charges were brought against the retailers in addition to the disqualification action.

**Investigation Statistics**

The unit's records indicated that 74 investigations were conducted in 1991, resulting in 24 arrests, 24 convictions, and 17 cases in which violations were not found. In addition, during that year, 37 recipients who were involved in selling their food stamps were referred to county welfare offices for administrative action. (Few recipients are found in the statistics after 1991, as a result of a concentration on targeting retailers.) In 1992 there were 83 investigations, resulting in the arrest of 71 individuals, 71 convictions, 44 cases in which violations were unfounded (meaning that the investigations did not substantiate the suspected trafficking), three cases in which individuals were administratively disqualified, 7 cases referred to FCS or other agencies for action, and three cases still pending.

In 1993, records indicate that there were 60 investigations. Included in this total were the Cleveland and Akron cases, which were very broad in scope. The Cleveland project resulted in 58 arrests and 58 convictions. The arrest and conviction data mix individuals and store names. Of the 58 listed, 23 are stores and 35 individuals. In Akron, 65 individuals were arrested. (The Akron data do not include store listings.) The disposition data have not been updated, but according to Mr. Rapp most of the defendants are now in the process of working out plea bargains with the local prosecutor's office. The Akron case was featured on ABC's Prime Time. Because of the size of four defendants' trafficking operations and their flagrant continuation of illegal activity, even after their convictions, they were sentenced to substantial jail time. Of the other cases listed in the 1993 statistics, there were 29 arrests, 11 convictions, 23 unfounded cases, and 18 cases pending court action.

In 1994, there were 23 arrests with one conviction, three cases were unfounded, and the balance pending. The drop in arrest statistics seems to reflect the continued use of investigators' time in tying up the loose ends of the Cleveland and Akron cases, including court appearances, and the growing vacancy rate in the unit.

**Oversight Issues**

The Ohio DHS Bureau of Investigations is at a point of transition. After the success and notoriety of trafficking cases in Cleveland and Akron, the unit has seen a drastic reduction in its available manpower. Mr. Rapp is convinced that the transfer of the unit to the Department of Public Safety will bring positive results.

Mr. Rapp seems committed to continue working areas and individual cases in the thorough manner described above. This approach emphasizes the quality of the investigation over the posting of impressive arrest statistics. Mr. Rapp would argue that this type of investigation is likely to have a greater impact on the food stamp trafficking in targeted areas.

Nevertheless, this approach makes coordination with the USDA OIG and Compliance Branch a critical issue. Mr. Rapp believes that better relationships should be developed with both of these agencies, so that together they can better advance the interests of the Food Stamp Program. This is especially true as the state begins to expand its EBT pilot project to a statewide system. To date, the DHS Bureau of Investigation has not been involved in working EBT trafficking cases. USDA OIG has taken exclusive responsibility for that aspect of the

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Dayton Project. Likewise, the Bureau has not been involved in any EBT planning efforts at the state level.

Because of the gradual reduction of investigator positions, Mr. Rapp indicated that the true cost of his unit's investigative work over the last several years would be difficult to determine. There are no cost accounting reports readily accessible by Mr. Rapp that would allow him to calculate the costs of the investigations during this period when the unit's available staff was depleted. As stated above, he believes that once the unit is transferred to the Department of Public Safety, he will need a full year to recruit, hire, and train his staff. During this time, he will also continue to enhance the productivity and the accountability of the unit.

Finally, as testimony to the quality of the investigations that the unit has handled to date, Mr. Rapp indicated that in every case that has gone to court, the defendant has either pleaded guilty or been convicted. Sentencing the food stamp traffickers in Akron to substantial jail time, with the resulting publicity, has been a real incentive for others arrested in the Akron case to plead guilty and try to negotiate lesser sentences.

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# SLEB AGREEMENT STUDY: TEXAS VISIT REPORT

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|---|---|
| **State:** | Texas |
| **Dates of Visit:** | January 21-22, 1995 |
| **Sites Visited:** | • Dept. of Human Service (DHS), Office of the Inspector General (OIG), Austin<br>• Office of the Inspector General Field Office, Houston |
| **Individuals Interviewed:** | • Gordan Hardy, Inspector General<br>• Claude Hill, Deputy Inspector General<br>• Bill Whalen, Deputy Inspector General<br>• Darrell Hartman, Supervising Investigator, DHS OIG<br>• Philip May, Regional Supervisor, Austin DHS OIG Field Office<br>• Mike Cooper, Regional Supervisor, Houston DHS OIG Field Office<br>• Carey Le Veck, Senior Investigator, Houston DHS OIG Field Office<br>• Sgt. Frank Quinn, Houston Police Department<br>• Detective Earl Moore, Houston Police Department<br>• Carl Hobbs, Assistant District Attorney, Harris County (by telephone)<br>• Patty O'Malley, FCS Regional Office, Dallas (by telephone)<br>• Ralph Minton, Regional Officer-in-Charge, Compliance Branch (by telephone)<br>• Al Escoto, FCS Field Office, Austin (by telephone)<br>• Don Willis, FCS Field Office, Houston (by telephone) |
| **Highlights** | • Texas has a long history of conducting trafficking investigations<br>• All State Welfare Fraud Investigators are expected to produce trafficking investigations<br>• Good working relationships exist with the USDA OIG, the FCS Compliance Branch, local police departments, and local prosecutors<br>• Staff is beginning to investigate EBT trafficking as the system expands statewide<br>• Staff developed standard format for SLEB agreement investigative reports |

| SLEB Agreement Statistics[a] | | | |
|---|---|---|---|
| | **Investigations** | **Arrests** | **Convictions** |
| FY94 | 201 | NA | 44 |
| FY93 | 78 | NA | NA |
| FY92 | 51 | NA | NA |

NA = not available

[a] Note that recent investigations or arrests may not yet have had time to lead to corresponding arrests or convictions.

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**Introduction**

The Texas visit was arranged by Mr. Hardy. The first day was spent in a roundtable discussion and individual interviews with Mr. Hardy; his two deputies, Mr. Hill and Mr. Whalen; Mr. Hartman, the supervisor assigned to the EBT project; and Mr. May, the supervisor of the DHS OIG field office in Austin. The second day was spent in the DHS OIG field office in Houston. Mr. Cooper and Ms. Le Veck were interviewed individually and together. During the afternoon of the second day, Sgt. Quinn and Detective Moore were interviewed. Mr. Hobbs was interviewed on the telephone on Feb. 23, 1995, and Ms. O'Malley on Feb. 28, 1995. Mr. Minton and Mr. Escoto were also interviewed by telephone on Feb. 28, 1995, and Mr. Willis on Mar. 6, 1995.

**SLEB Agreement Implementation History**

The Texas DHS has a long history in investigating trafficking in the Food Stamp Program. In the late '70s and early '80s, the DHS OIG worked with the USDA OIG in trafficking investigations. Food stamps used in these investigations were provided by USDA OIG. Mr. Hardy indicated that during this period an excellent working relationship developed between the DHS OIG and the USDA OIG at all levels.

In 1985 policy was issued by FCS (then the Food and Nutrition Service), based on a USDA OIG legal opinion, prohibiting states from using food stamps controlled by USDA OIG for the purpose of investigating trafficking. The DHS OIG did not completely abandon its involvement in trafficking investigations after this policy was implemented. In 1989, for example, well before the SLEB agreement was in place, 86 trafficking investigations were conducted in which DHS OIG participated in investigations with USDA OIG. Although some involvement in investigations continued, Mr. Hardy believes that the loss of autonomy seriously limited the productivity of his staff and their responsiveness to the problem of trafficking. When the Dallas press focused on the problem of food stamp trafficking, Mr. Hardy made it clear to FCS that the state's inability to conduct trafficking investigations could become a source of embarrassment to the agency. Shortly thereafter, the SLEB agreement initiative was launched.

Because of this early history in conducting trafficking investigations, when FCS launched the SLEB agreement initiative, DHS was predisposed to execute an agreement. The state rejected the first version of the SLEB agreement offered by FCS, however. The terms

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establishing the strict liability for food stamps used in investigations were totally unacceptable to the state. Also, the requirement for prior written approval of investigations was seen as an unnecessary bureaucratic impediment. Once these problems were resolved, the agreement was signed by Mr. Hardy in March of 1990.

The DHS OIG has a good relationship with and support from the DHS Commissioner and his executive staff. There has been no opposition to the DHS OIG effort to rebuild their capacity to conduct independent trafficking investigations.

**Activity Generated Under the SLEB Agreement**

The use of food stamps in SLEB agreement investigations is tightly controlled by the DHS OIG chain of command. Only the two DHS OIG deputies can draw food stamps out of the state's inventory. On an as-needed basis, the food stamps are mailed to the 11 DHS OIG field offices, where they are under the control of the Regional Supervisor. During investigations the food stamps are always under the control of the DHS OIG investigator. Prior approval to conduct trafficking investigations, as mentioned, was an issue with the state. The current SLEB agreement allows DHS OIG to make direct telephone contact with the FCS Regional Office to clear investigations.

Mr. Hardy has established production targets for trafficking investigations. Each DHS OIG field investigator is expected to complete successfully a minimum of two trafficking investigations per year. In both Dallas and Houston, an investigator has been assigned full time to trafficking investigations. This leaves 80 investigators in the balance of the state, subject to the production target.

Because the DHS OIG investigators do not have arrest powers and are not armed, there has been some resistance to the production target in the field. Apparently some investigators, whose primary responsibility is investigating eligibility fraud, believe that they are ill-equipped to conduct trafficking investigations. Headquarters has responded to this situation by modifying the production target, allowing investigators to meet it by acting in a coordinating role with local law enforcement or gathering the intelligence necessary to initiate and support the investigations.

The DHS OIG position on the trafficking investigations they undertake is that "they don't have to be flashy." Because USDA OIG is targeting the high-volume, complex trafficking cases, state and local resources should be used to conduct short-term investigations and get

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convictions. Mr. Hardy said that this approach has led to a high degree of cooperation and avoidance of "turf" issues between state, federal, and local agencies. Mr. Hardy and his staff displayed a high degree of respect for the competency and professionalism of his colleagues at USDA. Strong relationships have developed, especially with USDA OIG. In fact, it is Mr. Hardy's expectation that these relationships be cultivated in each of the 11 regional DHS OIG offices.

At the regional level, regional supervisors are also expected to develop working relationships with local law enforcement agencies and district attorneys. These relationships were explored in some detail in Austin and Houston during the visit. The police departments in these cities have been assisting DHS OIG staff in trafficking investigations in the following areas: (1) sharing intelligence; (2) use of police department undercover officers and informants; (3) use of surveillance equipment; (4) making arrests; and (5) preparing cases for court.

After the trafficking investigations are complete, the DHS OIG investigator writes up the case in a standard format. The case files that were reviewed during the visit were consistently well-organized and concise. The case files also include cassette recordings of the food stamp transactions that were recorded with the undercover officers' body microphones. By presenting the trafficking case as a DHS case, the prosecutor will be paid for taking the case to court via the agreement they have with DHS for food stamp and AFDC fraud prosecution reimbursement.

The Houston DHS OIG office has just recently started to conduct single-transaction "buy/bust" transactions. If the targeted retailer is not at all hesitant to do the illegal transaction, the undercover officer or investigator will leave the store and uniformed officers will go right in, make the arrest, and confiscate the trafficked food stamps. The DHS OIG staff, the police, and the Harris County prosecutor stated that the "buy/bust" technique results in solid cases. In addition, the "buy/bust" avoids the common problem of identifying the individual who accepted the food stamps in cases where there is a lapse of time between the trafficking episode and the arrest. Because it is a felony to traffick amounts of $200 or more in food stamps, a single exchange of four $65 books gives the investigators the level of offense that they want to take to

are typically more straightforward than the eligibility fraud cases. The usual outcome in a trafficking case is a plea to the felony charge and a suspended jail sentence with 10 years' probation and a fine.

Surprisingly, from discussions and in file reviews, it was learned that the typical exchange in trafficking cases in Houston was between $190 and $200 for $260 in food stamps (four $65 books). This rate, approaching $.80 on the dollar, is extremely high and not seen elsewhere in the state. The DHS OIG and Houston police believe that trafficking is widespread and well organized, and that competition is driving the illegal exchange rate up.

The Texas visit provided the first opportunity in the SLEB agreement study to get first-hand information from state staff dealing with trafficking in EBT benefits. Mr. Hardy has assigned an Investigation Supervisor, Mr. Hartman, to the DHS EBT audit team to monitor investigation activity and provide investigators with EBT cards and benefits.

Unfortunately, indications are that trafficking in EBT benefits began as the system was being implemented in Houston. Several observations indicate how quickly traffickers learned to abuse the new system, even during the first month that the retailers could use their EBT point-of-sale equipment: (1) high transaction volumes at "mom and pop" stores, usually not in whole dollar amounts, in an apparent effort to avoid detection; (2) transactions grouped together, often at odd hours; (3) $.25 transactions to check the food stamp balance before the illegal transaction; (4) physical acceptance of the EBT card in one store with the electronic transaction done in another store, in order to spread out the transactions to avoid detection; (5) mobile route vendors conducting their trafficking business from trucks and vans; and (6) retailers whose primary business seems to be trafficking. During the first quarter of 1995 the DHS OIG office in Houston had 24 active EBT cards with which to conduct trafficking investigations. DHS issued $9,235 to these cards, and $1,736 was debited during investigations.

At this juncture, the DHS OIG is beginning to develop a systemic approach to dealing with fraud in the EBT system. They do not yet have a sophisticated fraud profiling system, but they are doing a good job of analyzing the information they get from the system, on an inquiry basis, that points to trafficking. One of the best sources of leads on possible fraud is the EBT contractor's Help Desk. Staff there will forward any suspicious retailer transactions to the state. Because of the pervasiveness of trafficking in Houston and the abundance of investigative leads

that can be extracted from the EBT system, there is a real possibility that EBT trafficking investigations may have to be worked on a priority basis, targeting the most flagrant offenders.

In discussions with Sgt. Quinn and Detective Moore, it was obvious that they want to continue to support the trafficking investigations of DHS OIG. They are concerned, however, with the amount of time that they can spend on these cases. Currently they believe that they have expanded their involvement to the extent that they can before it becomes an issue with their superiors in the department.

In FY 1991 DHS OIG conducted 69 trafficking investigations; 51 in FY 1992; 78 in FY 1993; and 201 in FY 1994. In FY 1994, 44 individuals were sentenced in trafficking cases; 32 received a sentence to probation or a short jail term; in 10 cases, adjudication was deferred pending the successful completion of a period of probation (known elsewhere as probation before a judgement); and two cases were referred to administrative disqualification hearings. A large number of the FY 1994 cases were closed at the end of the year, so these cases are not reflected in the disposition statistics.

In FY 1994, $53,865 in food stamps were spent in SLEB agreement investigations. DHS OIG did not have statistics on the number of food stamps recovered during these investigations. To keep the inventory accounting simple, recovered food coupons are canceled and sent to FCS for destruction, and are not balanced directly against the food stamps used in the investigations. The DHS OIG deputies are responsible for handling all accounting for the coupons.

DHS OIG expects to exceed the FY 1994 total in FY 1995 because of the production target established for investigators, the dedication of full-time investigators to trafficking cases in Dallas and Houston, and the aggressive approach that they are taking with the EBT trafficking cases that they are detecting.

**Oversight Issues**

It is clear from the Texas visit that food stamp trafficking investigations have a prominent position on the DHS OIG agenda and, if the current trend continues, that the number of investigations will increase. Mr. Hardy and his headquarters staff believe that they have resolved the federal/state issues that arose over the signing and implementation of the SLEB agreement. Although headquarters manages the draw-down of coupons and monitors the flow

of completed investigations, the DHS OIG regional supervisors are very much in control of how the SLEB agreement generated investigations are conducted. If the operations in Austin and Houston are any indication, field staff has been very successful in mustering local law enforcement agencies to participate in trafficking investigations.

Most state legislatures had the opportunity to make up the shortfall created by the reduction in the 75 percent anti-fraud funding from FCS before it took effect. Because the Texas legislature meets every other year, DHS OIG faced the loss in 1995. There was a supplemental budget request to continue the agency's funding at current levels. If the funding was approved, the commitment to trafficking investigations would continue. Without the funding, the DHS OIG work agenda would have to be reordered, and would likely result in a reduced capacity to conduct these investigations.

Mr. Hardy indicated that DHS OIG SLEB agreement-related costs could not be determined because they are spread throughout the agency. Also, there is much variability in how involved the investigations are and what part his staff plays in them. Adding SLEB agreement investigations to the DHS OIG agenda has not required any special state cost accounting.

DHS OIG tracks SLEB agreement activity at the state level. Statistics on investigations for the regional offices were not available from the state's database. As mentioned, food stamps confiscated during investigations are not balanced against the food stamps drawn from the inventory. These data are among those that would be essential if a cost analysis were to be conducted.

An informal survey conducted by the Compliance Branch indicates that only nine retailers were disqualified in FY 1994 in Texas as a result of state SLEB agreement investigations. In addition, Ms. O'Malley indicated that she had passed along 42 investigations to the FCS Field Offices for disqualification action. The fact that 201 investigations resulted in so few disqualifications indicates that coordination and communications could be improved. Mr. Hill reported that FCS has not indicated to DHS OIG that they have a problem acting on the information in the investigation reports.

Mr. Hardy and his staff have devoted a considerable amount of their energy and resources to making the SLEB agreement work in Texas. The operations in Austin and Houston demonstrated dynamic working relationships with local law enforcement and prosecutors. The

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intelligence that staff has developed on EBT benefit trafficking was very impressive. There is clear potential to make better use of the results of the SLEB agreement investigations in the authorized retailer disqualification process. The long history of mutual cooperation between DHS OIG and FCS should facilitate the enhancement of this already strong SLEB agreement process.

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## COMMENTS ON CASE STUDY SUMMARIES

The FCS Office of Analysis and Evaluation sent copies of the six case study summaries in this appendix to the state SLEB agreement contacts for review and comment. This section presents the comments received, including oral and written communications. Corrections of fact indicated by the comments were made to the text. FCS determined that more general comments, updates, and rebuttals were best presented in this section.

As noted in the text of the report, each of the six case study states had an ongoing, evolving SLEB agreement process at the time of the visits. Thus, the case study summaries do not reflect the current status of the states' operations under their SLEB agreements. Readers wishing updated or additional information should contact the state SLEB agreement coordinator identified in the preceding summaries. The state and local staff were willing to share their experiences and make suggestions on how the SLEB agreement initiative could be improved.

### California

In a telephone call, Mr. Richard Tibbets of the California Department of Social Services indicated that the three trafficking projects have identified 1000 traffickers and runners since the site visit. In one instance of particular interest, a Department of Motor Vehicles employee was found to be selling counterfeit driver's licenses for food stamp coupons.

### Florida

In a letter, Mr. Christo Tolia of the Florida Office of the Auditor General stated:

> I have reviewed Mr. Allman's report and find it to be factually correct. Since Mr. Allman's visit, the Division of Public Assistance Fraud has entered into an additional eight (8) contracts with law enforcement agencies under the SLEB program. Two of these contracts were with the Florida Department of Law Enforcement, Miami office and the Division of Alcoholic Beverage and Tobacco, Miami office.
>
> I mention this since Mr. Allman's report points out that no SLEB contracts were initiated in the Miami area.

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**Michigan**

In a letter, Mr. Richard O'Herron of the Michigan Department of Social Services elaborated on the following points:

> In the report area entitled "SLEB Agreement Implementation History", the tenor of your report suggests that the Michigan Food Stamp Trafficking Task Force is not as effective today as it was in the past. You conclude the area by specifying that "The Task Force now meets less frequently, but it still provides a forum for the exchange of information and the monitoring of the status of SLEB agreement investigations.["] As discussed by phone with you, perhaps you could improve the statement by suggesting that the dynamics of the Task Force has been altered from its inaugural year of operation, but it still maintains quality focus and deterrence to Food Stamp trafficking in Michigan. Similarly on page C-3 of your report, you specify that Task Force priority targets are "street runners". Almost as an after thought you continue to specify that the unit also follows leads to retailers. For the record, the Task Force has a primary mission of targeting stores---authorized or unauthorized. "Street runners" are sometimes targeted as a means to achieve the end.

**New Mexico**

In a memorandum, Mr. Brett Woods of the New Mexico Human Services Department offered the following additional information:

> Page C-29, Paragraphs 2, 3 and 4: Mr. Walker has prosecuted perhaps ten percent of the cases in Hobbs and evidently feels that it contributed to an increased, and ostensively unwanted, workload on his part. The lead prosecutor was/is Assistant District Attorney Bill Quiekel who, if interviewed, could perhaps provide a more balanced evaluation of the prosecutory realities. Regarding Mr. Walker's criticism of the "massive show of force" during the Hobb's [*sic*] arrests, this seems to be a matter of simple opinion offered by an individual who was not only absent during the arrests, but obviously unfamiliar with contemporary arrest strategies which, in the interest of officer safety, rely on numbers, not force, to subdue potentially dangerous subjects. Since the arrests were primarily a Hobbs Police Department jurisdictional issue, perhaps Captains Tony Knotts or Jim Murphy, both of whom were central to the entire sting operation, could provide additional clarification.
>
> Page C-30, third full paragraph: There was indeed a significant drop off of paper coupon investigations in 1994. However, this was due to the fact that I directed efforts, both training, operation, and prosecutorial, be focused on EBT. As [a] practical matter, the HSD-OIG had to completely "re-invent the wheel" moving from typical "sting" operations to more complex computer fraud investigations. However, these cases were also being conducted under the basis of the SLEB agreement.

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Page C-32, Paragraph 1: After "... accommodate investigators schedules," the next sentence (to be added) should read: *Mr. Woods agrees in principle to Mr. Waller's concerns, however the decrease in enhanced fraud funding, and the corresponding decline in state revenues, precludes the HSD OIG from hiring additional personnel with which to alleviate this untenable situation.*

Page C-32, Paragraph 4: After "...by HSD management," the next sentence (to be added) should read: *Mr. Woods actively supports this measure, which will be monitored by HSD OIG's Audit Bureau, and would alleviate the concern over evaluation of EBT exception reports* (as noted on page C-31, paragraph 2), *as well as facilitate system expertise* (as noted on page C-31, paragraph 4) *due to the fact that HSD OIG's audit staff, as a matter of course, initiate and review computer data, such as that generated by the state's Medicaid program.*

Page C-32, Paragraph 5: "...involving HSD..." should read "...involving HSD *OIG*..." Following "...future POS terminal seizures" the next sentence (to be added) should read: *However, Mr. Woods maintains that a conviction in a criminal case, in which the burden of proof is considerably more stringent than that required in a civil or administrative sanction, should, on its intrinsic merits, preclude the necessity of any civil or administrative process. Debarment from the EBT program, or any civil fines drawn from criminal cases, should be re-evaluated by the Department of Agriculture's General Counsel with a eye to cutting administrative effluence and streamlining what has become an arguably redundant process.*

**Ohio**

Mr. Paul Rapp of the Ohio Department of Human Services indicated by telephone that he had no specific comments on the Ohio report, and that his unit continues to initiate SLEB agreement investigations of food stamp coupon trafficking.

**Texas**

Staff of the Texas Department of Human Services offered no comments on the report, but Mr. Ron Gwinn of the FCS Southwest Regional Office offered the following comments:

First, on page C-45 in the second full paragraph, the last sentence states, "The current SLEB agreement allows DHS OIG to make direct telephone contact with the FCS Regional Office to clear investigations." On January 11, 1995, our office approved an amendment to the SLEB agreement which allowed the State agency to use up to $100,000 in food coupons and EBT benefits without prior approval of the FCS Regional office conditional upon continued coordination of the investigations with USDA Compliance Branch and USDA-OIG. This agreement must be renewed upon request of the State agency each fiscal year to remain in effect.

Second, on page C-50, the first sentence states "it seems clear that there are problems in coordination and communications for 201 investigations to result in so few disqualifications." This conclusion is erroneous for several reasons. Of the 201 investigations conducted under the SLEB agreement, only 44 resulted in positive investigations. These 44 positive investigations were appropriately referred by the regional office to the responsible field office for followup action. Southwest OICs have been delegated the responsibility to take whatever administrative action is deemed appropriate concerning the results of any SLEB investigation. However, disqualification is just one of the administrative actions that can be taken and, in some cases, is not an appropriate remedy. For example, some eligible firms may be assessed a civil money penalty or CMP in lieu of a permanent disqualification for trafficking. Also, many of the "positive hits" resulting from SLEB trafficking investigations involve "unauthorized third parties" such as private individuals, unauthorized stores, and other businesses. At the time of the study, Texas in particular was targeting its SLEB investigations toward trafficking at coupon issuance sites (which are not authorized retailers) and therefore would not be subject to disqualification. In these cases, the assessment of a fine is the appropriate administrative action because disqualification is not an option.