

GENERAL INFORMATION SYSTEM
Center for Employment & Economic Supports

June 20, 2008

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TO: Commissioners, TA & FS Directors, Investigation Supervisors, Legal Affairs and Fair Hearing Supervisors

FROM: Russell Sykes, Deputy Commissioner, Center for Employment and Economic Supports

SUBJECT: New Policy and Closing Codes for Fleeing Felons and Probation and Parole Violators

EFFECTIVE DATE: June 23, 2008

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The purpose of this GIS is to notify the social service districts of the resumption of computer matching for fleeing felons and probation and parole violators. Included under this revised process are three new closing codes for Temporary Assistance (TA) and Food Stamp (FS) cases and a revised definition of what constitutes a fleeing felon. This revised definition applies to both programs.

The recent court decision in Fowlkes v. Adamec issued by the Second Circuit of the United States Court of Appeals necessitated some changes to the computer matching process used for fleeing felons and probation and parole violators. Under the Fowlkes decision, the court acknowledged a fleeing felon to exist only when **a court or tribunal had determined** a person to have escaped, or to be fleeing to avoid prosecution, or custody or confinement for a felony or an attempted felony. In addition, the court also held the term "fleeing" to mean "the conscious evasion of arrest or prosecution." Thus, for the Agency to take adverse action against an individual described in the Social Security Act as "fleeing to avoid prosecution, custody, or confinement," the Agency must have some evidence that the individual knew his or her apprehension was sought.

This is a more stringent standard than simply a wanted felon who has left the jurisdiction of conviction.

To accommodate this revised definition of fleeing felon, three new closing reason codes will be added to replace current code F35. Until these new reason codes become available, reason code F35 with an M3E Indicator of 'T' (manual notice) should be used for fleeing felons, probation violators and parole violators. Manual notices must be provided, using the appropriate language, as follows.

Fleeing felons: "This is because you are currently a fleeing felon. A warrant was issued because you have been determined to be fleeing to avoid prosecution, or custody or confinement for a felony or an attempted felony. A warrant was issued by the State of _____. The issuing agency was _____. For more information about this warrant you may contact this issuing agency at _____."

Probation violators: "This is because you are currently in violation of probation."

Parole violators: "This is because you are currently in violation of parole."

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During July 2008, OTDA will begin to send out its fleeing felon, probation and parole violator matches, which were suspended November 2007. This restart of the matches will probably result in a larger volume of "hits" for the districts to resolve in the first month. Districts will be afforded extra time to resolve these matches.

Districts must adhere to these new procedures and use these new closing codes both when processing computer matches and when applicants/recipients meeting the fleeing felon definition are identified.

To establish that a felon is actually fleeing, the local district must obtain a copy of the flight warrant from the issuing agency or a written statement from such agency on their letterhead with the specific flight/escape warrant information.

Furthermore, section 4112 of the Food, Conservation and Energy Act of 2008 (also known as the Food and Nutrition Act of 2008) amends federal law with respect to fleeing felons. Specifically, the law requires the Secretary to define the terms "fleeing" and "actively seeking" and "ensure that State agencies use consistent procedures established by the Secretary that disqualify individuals whom law enforcement authorities are actively seeking for the purpose of holding criminal proceedings against the individual". Therefore, in anticipation of such regulations, the Agency also should ask the issuing jurisdiction if it is seeking the individual with the intent to prosecute such individual.

This revised policy supersedes all prior policy.