

# Promising Practices Spotlight: New York

June 27, 2019

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*Director, Bureau of Adult Services*

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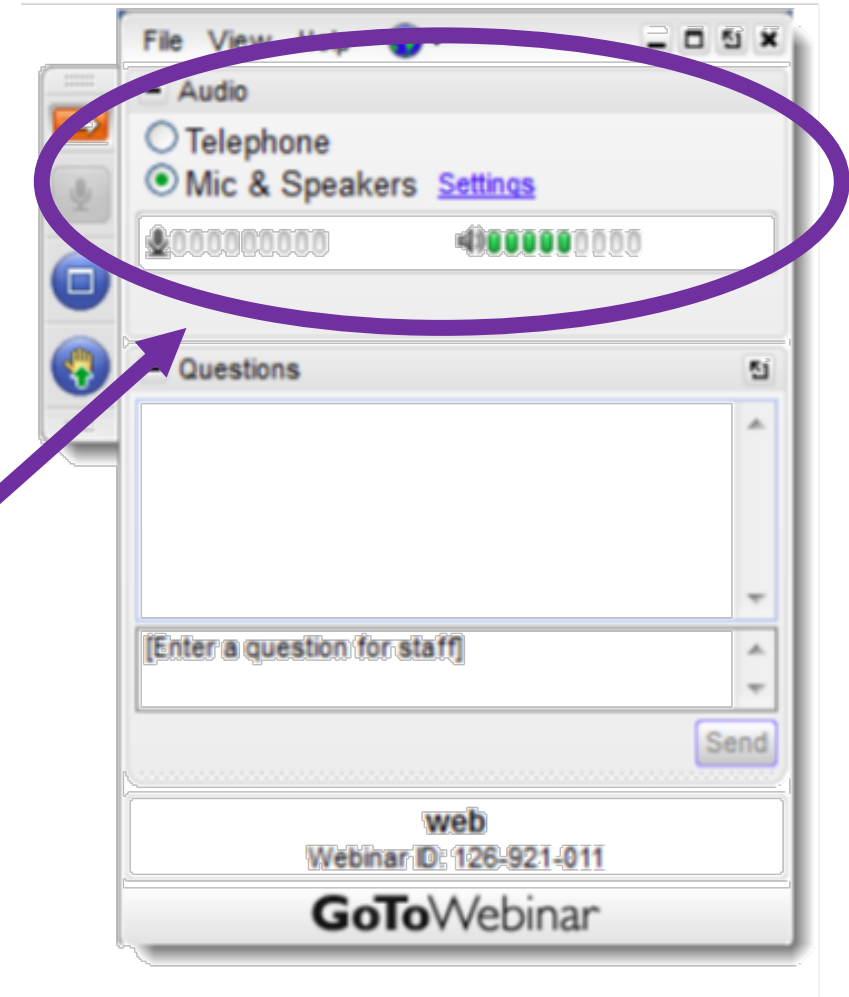
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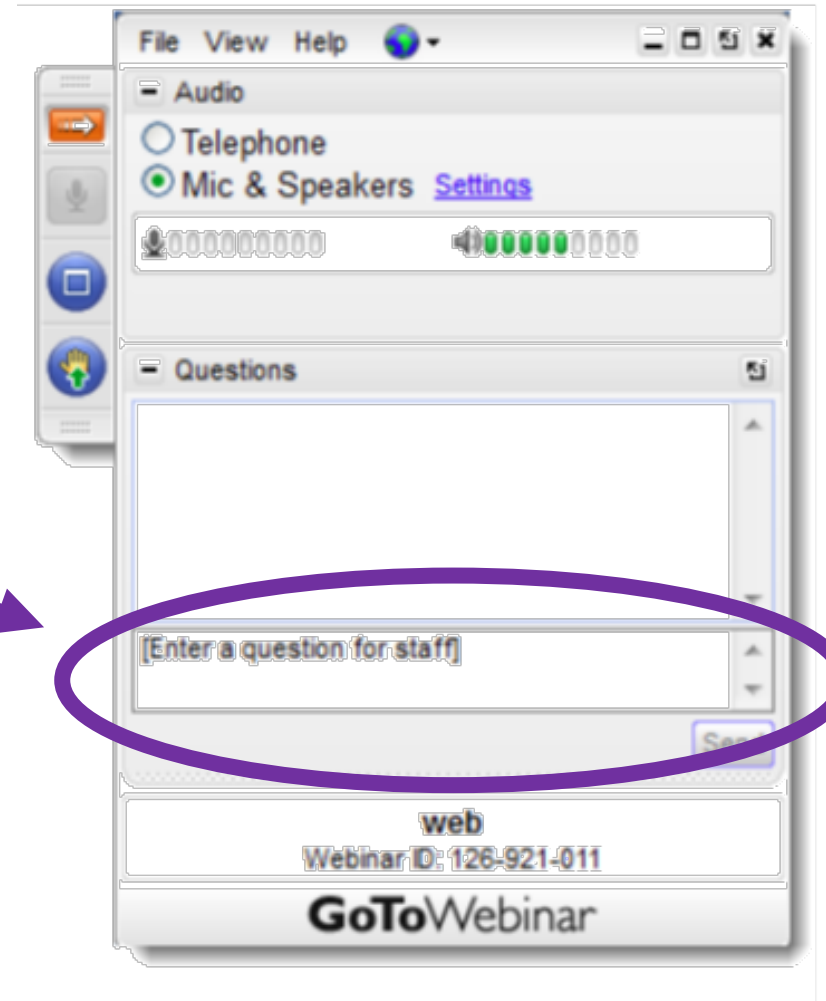
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# Attendee Poll

**Which of the following categories do you identify the most with?**

1. Adult Protective Services Professional
2. Other Social Services Professional
3. Medical Professional
4. Legal Professional
5. Other

# About our Speaker

## **Alan J. Lawitz, JD**

*Director, Bureau of Adult Services  
New York State Office of Children & Family Services*

Alan has since November, 2007 served as the Director of the Bureau of Adult Services of the New York State Office of Children and Family Services (OCFS). The Bureau oversees the Adult Protective Services and the Family Type Home for Adults programs. Alan previously was an Associate Attorney for the New York State Department of Health, heading up the Long-Term Care Group of the Bureau of House Counsel, and dealing with legal issues relating to Assisted Living, Adult Care Facilities, Nursing Homes, and Home Care, among other areas. He also previously served as a Senior Attorney for the former New York State Department of Social Services, representing the agency in the areas of Adult Protective Services, Adult Care Facilities/Assisted Living and Homeless Housing, serving as counsel to the Homeless Housing and Assistance Corporation. He is a 1977 graduate of Columbia College, Columbia University (B.A.) and a 1980 graduate of the Syracuse University College of Law (J.D.).



# APR TARC Promising Practices Spotlight Series – New York

## New York's ACL APS Enhancement Grant

- New Data Elements Relating To Costs of Financial Exploitation and Case Outcomes
- Financial Exploitation Investigation Suite of Tools

Alan Lawitz, Director, Bureau of Adult Services, New York State Office of  
Children & Family Services

June 27, 2019



## U.S. Administration for Community Living (ACL) Issued Funding Opportunity to States to Enhance Adult Protective Services Practice (2015)

### NYS Office of Children & Family Services Bureau of Adult Services applied for and received grant to:

- Develop and test new reportable data elements to better capture costs of financial exploitation and case outcomes; and
- Develop in consultation with Forensic Accountant a new investigatory tool to assist APS and its partners conduct investigations of financial exploitation cases, and test tool at pilot sites; and
- Provide APS in pilot sites with access to forensic accountant in appropriate cases, to review and make reports to assist APS in referrals for criminal and/or civil legal proceedings.

# Why did New York Seek Such Grant?

Increasing number of cases of financial exploitation in New York State, including many complex cases.

## Why New Reportable Data Elements?

In 2015, New York was nearing completion of The New York State Cost of Financial Exploitation Study. Important baseline data regarding costs and outcomes collected.

Cost valuation data is not currently entered into electronic APS case recording/reporting systems in reportable format, if at all.

Wanted to study feasibility of developing a reportable dataset to be incorporated into APS data systems, to assure that our study was not merely a one shot, but that data is collected on an on-going basis to inform policy and funding decisions.

# Why did New York Seek Such Grant? (cont'd)

## Why New Investigative Tool?

- Wanted to provide APS with a better structure for organizing investigation: client interviews, caseworker observation of “red flags”, collection of records, and review of financial records collected.
- Recognition that review of complex financial exploitation cases and voluminous records often requires the expertise of forensic accountant or certified fraud examiner.

# New Reportable Data Elements: Development

- Several data elements adapted from *The New York State Cost of Financial Exploitation Study* (2016) - <https://on.ny.gov/2X02QXf>
  - Developed by Bureau of Adult Services in consultation with Yufan Huang, PhD, Research Scientist, who co-authored the study
  - Further consultation with NYC APS, which has a separate APS case recording and reporting data system from rest of the State (although based on identical statewide regulations).
- Additional data elements regarding case outcomes based on information derived from APS technical assistance, training and case reviews.

# Testing of Data Elements Relating to Financial Exploitation

Tested only those cases in which APS believes financial exploitation has actually occurred and where there is information for at least one of the following:

- a) The estimated *valuation of the item(s) stolen*;
- b) The estimated *cost of any new or additional public benefits* resulting from the financial exploitation;
- c) The estimated *cost to APS and other agencies incurred for the investigation, assessment and related costs* resulting from the financial exploitation referral.

# Q6. Risk of Financial Exploitation

ASAP Reportable Data Elements

Case ID: 123456    Status: Ongoing

\* 6. Does this Case have a risk of Financial Exploitation?

“Financial exploitation” means improper use of an adult’s funds, property, or resources by another individual, including but not limited to

- fraud
- false pretenses
- embezzlement
- conspiracy
- forgery
- falsifying records
- coerced property transfers or denial of access to assets

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# Q7. Methods of Financial Exploitation

## ASAP Reportable Data Elements

Case ID: **123456** Status: **Ongoing**

\* 7. What methods did the perpetrator use to gain access to the client's assets? (Check all that apply.) Definitions are provided below

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Misappropriation of Funds | <input type="checkbox"/> Forgery                    | <input type="checkbox"/> Extortion                  |
| <input type="checkbox"/> Larceny                   | <input type="checkbox"/> Scam                       | <input type="checkbox"/> Falsifying Records         |
| <input type="checkbox"/> Coercion                  | <input type="checkbox"/> Fraud                      | <input type="checkbox"/> Coerced Property Transfers |
| <input type="checkbox"/> Power of Attorney Abuse   | <input type="checkbox"/> Denial of Access to Assets | <input type="checkbox"/> Identity Fraud             |
| <input type="checkbox"/> False Pretenses           | <input type="checkbox"/> Embezzlement               | <input type="checkbox"/> Conspiracy                 |
| <input type="checkbox"/> Other Method (Specify)    |   |   |

# Q8. Items and Amount Stolen

ASAP Reportable Data Elements

Case ID: 123456 Status: Ongoing

\* 8. Indicate all items stolen and the amount stolen.

	Amount	More than once?
Cash	<input type="text"/>	<input type="text"/>
Description	<input type="text"/>	<input type="text"/>
	<ul style="list-style-type: none"><li>\$1 - \$100</li><li>\$101 - \$500</li><li>\$501 - \$1,000</li><li>\$1,001 - \$2,000</li><li>\$2,001 - \$3,000</li><li>\$3,001 - \$4,000</li><li>\$4,001 - \$5,000</li><li>\$5,001 or more</li></ul>	<ul style="list-style-type: none"><li>Yes</li><li>No</li><li>Unknown</li></ul>
Personal Checks	<input type="text"/>	<input type="text"/>
Description	<input type="text"/>	
Bank ATM Transaction / Debit Card	<input type="text"/>	<input type="text"/>
Description	<input type="text"/>	



# Q8. Items and Amount Stolen (cont'd)

Amount More than once?

Real Estate

Description

City/Town

*(Dropdown menu for Amount: Less than \$50,000, \$50,001 - \$100,000, \$100,001 - \$150,000, \$150,001 - \$200,000, \$200,001 - \$250,000, \$250,001 or more)*

*(Dropdown menu for More than once?: Yes, No, Unknown)*

Amount More than once?

Automobile/Boat

Description

Year

Make

Model

*(Dropdown menu for Amount: Less than \$5,000, \$5,001 - \$10,000, \$10,001 - \$15,000, \$15,001 - \$20,000, \$20,001 - \$25,000, \$25,001 - \$30,000, \$30,001 - \$35,000, \$35,001 - \$40,000, \$40,001 - \$45,000, \$45,001 - \$50,000, \$50,001 or more)*

*(Dropdown menu for More than once?: Yes, No, Unknown)*

# Q8. Items and Amount Stolen (cont'd)

## Other Item (Specify)

Item 1:	Amount	More than once?
<input type="text"/>	<input type="text"/>	<input type="text"/>

Description

Item 2:	Amount	More than once?
<input type="text"/>	<input type="text"/>	<input type="text"/>

Description

Item 3:	Amount	More than once?
<input type="text"/>	<input type="text"/>	<input type="text"/>

Description

# Q9. Cost of Benefits Needed Due to FE

ASAP Reportable Data Elements

Case ID: 123456 Status: Ongoing

## 9. Cost of New/Additional Type of Benefits Needed Due to Financial Exploitation

**Public Assistance**

New/Additional Cost

How often?

One Time

Monthly

**Food Stamps/SNAP**

New/Additional Cost

How often?

One Time

Monthly

**HEAP**

New/Additional Cost

How often?

One Time

Monthly

# Q10. Agency Cost of Inv/Assess of FE Case

ASAP Reportable Data Elements

Case ID: 123456    Status: Ongoing

## 10. Agency Cost for Investigation/Assessment of Financial Exploitation Case and Related Costs

**Adult Protective Services**

New/Additional Cost

How often?

One Time     Monthly

**Police/Sheriff**

New/Additional Cost

How often?

One Time     Monthly

**District Attorney**

New/Additional Cost

How often?

One Time     Monthly

# Q11. Criminal Proceedings

ASAP Reportable Data Elements

**Case ID:** 123456    **Status:** Ongoing

11. Have any of the following occurred, related to a possible criminal proceedings? (Choose the choice that applies to the most recent action.)

- Referred to District Attorney (subsequent action unknown)
- Perpetrator prosecuted (subsequent action unknown)
- Perpetrator convicted
- Perpetrator acquitted
- Case pending/unknown
- Case dismissed
- No action taken after referral to police/DA, criminal case closed

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# Q12. Civil Proceedings

ASAP Reportable Data Elements

Case ID: 123456 Status: Ongoing

12. Have any of the following occurred, related to a possible civil proceedings? (Check all that apply.) e.g., Order of Protection in Family Court, Guardianship, POA special proceeding, eviction-related proceeding

Civil Action initiated

Specify type of civil action

Favorable result from civil action

Court  
Action

Settlement

Mediation  
involved

Specify what happened

Case Pending

Case Dismissed

Other

(Specify)

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# Q13. Current Status of Case

ASAP Reportable Data Elements

Case ID: 123456 Status: Ongoing

### 13. Current status of case (Check all the apply)

- Financial exploitation not verified
- Financial exploitation verified by APS and referral made to law enforcement but no arrest/prosecution
- Financial exploitation verified, but victim refuses to press charges
- Case remains open for investigation/services
- Guardian appointed or in process
- Order of protection issues or in process
- Representative payee appointed or in process
- Perpetrator arrested or convicted
- Restitution/reimbursement made to victim or in process
- Other statue (Specify)

### 14. Please briefly describe current status of the case.

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Done

# Testing of Data Elements For Use in Cases Involving Any Type of APS Referral

- Did APS refer case to law enforcement? Did LE subsequently investigate or prosecute?
- Did APS obtain an Order to Gain Access in this case? (New York Law)
- Did APS help with an Order of Protection?
- Did APS obtain a Short Term Involuntary Protective Services Order? (New York Law)
- Did APS or its designee on behalf of APS obtain a Guardianship Order?



New York State Office of Children & Family Services  
Bureau of Adult Services  
FEEDBACK FORM

For Proposed New ASAP Reportable Data Elements Tested for ACL Grant

*A Copy of the Proposed New ASAP Reportable Data Elements is attached for your reference.)*

County: \_\_\_\_\_

Name and Title of Person Providing Feedback: \_\_\_\_\_

- Overall, is the content of the proposed data elements clear and understandable?  
 Yes  
Yes, except for question(s):  
 No (please explain):
- Would you recommend revision of content for any data element? Please specify which data element(s) (by question #) and why you would make the change.
- Would you recommend elimination of any data element? Please specify which data element (by question #) and why you would eliminate it.

## FEEDBACK FORM (cont'd)

- Would you recommend adding any related data element?

What would you add?

- How difficult was it for you to provide estimated costs for Question 8: Items stolen and amount stolen?
  - Very
  - Moderately
  - Not difficult(additional space for comments if desired)
- How difficult was it for you to provide estimated costs for Question 9: Cost of new/additional benefits resulting from Financial Exploitation?
  - Very
  - Moderately
  - Not difficult(Additional space for comments if desired)

## FEEDBACK FORM (cont'd)

- How difficult was it for you to provide estimated costs for Question 10: Agency Costs for Investigation/Assessment/ Related Activities?
  - a) For APS
    - Very
    - Moderately
    - Not difficult
    - (additional space for comments if desired)
  - b) For Other agencies
    - Very
    - Moderately
    - Not difficult
    - (additional space for comments if desired)

## FEEDBACK FORM (cont'd)

- Would it make sense to add a new data element for an estimate of the value of the client funds/property preserved/protected against financial exploitation due to APS action?
  - Yes
  - No
  - Not sure(additional space for comments if desired)
  
- Would it be useful for APS to collect the types of information contained in these new proposed data elements on an on-going basis, and to incorporate these data elements into the official APS electronic case recording/reporting systems?
  - Yes
  - No
  - Not sure
  - Other(Additional space for comments if desired)

# Next Steps Regarding Data Elements

- Review feedback to determine whether changes are desirable
- Send final data set to ACL this Fall
- Evaluate options for incorporating data elements into our State APS data recording/reporting systems

# New Data Elements: Challenges

- Time pressures/resources/caseloads limited the ability of some APS units to test
- Availability of IT resources limited the formats in which testing could be done
- Local labor/management rules in one district limited ability of APS agency staff to test the proposed data elements, as it was somehow considered a new local form that required certain prior approvals, resulting in need to use APS vendor staff as testers
- Ability of testers to buy into , see potential benefits of, gathering new types of data (Culture Change)

# New Data Elements: Positive Results

- The ability to develop and test the data elements to better capture costs of FE and case outcomes on an on-going basis, rather than just a one-shot report
- The positive response we have received from our testers for most of the draft data elements
- The feedback we received to show the need to tweak certain elements and/or to supplement guidance related to data elements

# New Data Elements: Sustainability

- Will send model data set to ACL for its possible sharing in other jurisdictions
- Will seek to incorporate data set into existing State APS data systems for case recording/reporting



# Financial Exploitation Suite of Tools (FEIST)

# Process of FEIST Development

- Initial meetings between Bureau of Adult Services (BAS) and Karen Webber, Forensic Accountant
- BAS and Karen Webber meetings with Advisory Group and Pilot Site Reps
- Additional Meetings, calls and emails between BAS, Karen and Advisory Group members
- Development of initial draft by Karen Webber
- Sent draft to Advisory Group and Pilot Site for review/comment
- Incorporated comments received and revised the FEIST
- First trainings of pilot sites in use of the FEIST: April, 2017

# ACL Grant Advisory Group

Includes representatives of:

1. New York State Police Center
2. New York State Office for the Aging
3. New York State Division of Criminal Justice Services
4. New York State Elder Abuse Coalition
5. Lifespan of Greater Rochester, Inc.
6. New York City Elder Abuse Center/Weill Cornell Medical
7. Vera House, Inc.
8. Onondaga County Sheriff's Office
9. Onondaga County District Attorney's Office
10. Queens County District Attorney's Office
11. New York City Police Department
12. Brookdale Center for Healthy Aging, Hunter College

# Foundation for FEIST

**The FEIST Is Built On A Foundation Of Other Resources Developed by NYS OCFS/Brookdale Center For Healthy Aging and Used by APS, including:**

- New Worker Institute Training and Special Topic Trainings, on investigation of suspected financial exploitation
- *Broken Trust: Financial Exploitation and Power of Attorney Abuse: A Guide for APS Professionals in New York State*
- Focus on warning signs of financial exploitation in the client's home, in the client's demeanor, in questionable financial transactions, and in suspicious relationships
- Standard NYS APS forms sent to financial institutions requesting customer records to assist in investigation of suspected financial exploitation

# Foundation for FEIST

**The FEIST Is Built On A Foundation Of Other Resources Developed by NYS OCFS/Brookdale Center For Healthy Aging and Used by APS, including: (cont'd)**

- Use of “15 Day Letter” and special proceedings to direct agent under POA to provide accountings to APS
- Trainings of Financial Professionals Sponsored by NYS OCFS and NYS Department of Financial Services to recognize, prevent and report suspected financial exploitation

# The FEIST Supports Existing APS Practice

- Engagement of client and building of trust and rapport comes first
- It may take multiple visits to get the answers needed to complete the FEIST
- The FEIST is intended to provide a helpful structure, but is not to be rigidly applied
- The FEIST works in tandem with the electronic APS case recording and reporting systems (ASAP.Net or APS.Net) in a number of areas

# The Initial Version of FEIST An 8 Step Process

I recommend you listen to the NAPSA Webinar in which Forensic Accountant Karen Webber and I devote 90 minutes on the FEIST – <http://www.napsa-now.org/get-informed> (Webinars - Webcasts)

- ✓ STEP 1: Client data
- ✓ STEP 2: Client questions/caseworker observations (Note first 24 questions intended to indicate whether Financial Exploitation is occurring. If no indication of FE, stop. If so, continue through the questions and observations.)
- ✓ STEP 3: Red flags identified by client questions/caseworker observations

# The Initial Version of FEIST An 8 Step Process (cont'd)

- ✓ STEP 4: Client income and expenses
- ✓ STEP 5: Client account log
- ✓ STEP 6: Document review file
- ✓ STEP 7: Bank statement summary
- ✓ STEP 8: Red flags identified by statement review

When & How to Refer A Case to a Forensic Accountant



# FEIST 1.0 Tested In Pilot Sites

In NYC, Central NY and the Finger Lakes Region of New York

# Feist 2.0

Based On Feedback From Pilot Sites That Caseworkers Would Welcome A Shorter, More Streamlined Version, A FEIST 2.0 Version has been Developed

# FEIST 2.0

## Phase I: *Initial Inquiry & Observations*

Step 1: Client Questions/Caseworker Observations

Step 2: Red Flags Checklist- Initial Inquiry & Observations

**Can FE Be Ruled Out or Not? If not, proceed to Phase II.**

## Phase II: *Additional Investigation & Documentation*

Step 3: Client Income & Expenses

Step 4: Bank Statement Summary

Step 5: Red Flags Checklist – Investigation & Documentation

**These Steps are Intended to Guide User Through a Thorough and Well-Documented Investigation of Suspected FE**

# FEIST 2.0

## Supplemental Appendices

- Appendix A: Client Data Form
- Appendix B: Client Account Log
- Appendix C: Document Review Guide
- Appendix D: Forensic Accountant Referral Checklist

# FEIST: Challenges

- Length of time required to proceed to obtain approval of sole source procurement
- Challenge to introduce a new service intervention and obtain buy-in (culture change); especially here when we ask caseworkers to collect financial records and format same to a greater extent than before
- Here too encountered a labor/ management issue that halted use of the new form by agency staff before getting local approvals; needed to be creative and use APS vendor staff instead when this issue arose

# FEIST: Positive Results

- Allowed us to help develop in pilot sites a process for uniform use of tools and resources to seek financial records to assist APS in investigation of suspected FE
- Has enhanced ability for APS to determine whether or not FE exists
- Has enhanced APS ability to seek civil legal remedies such as guardianship and revocation of agents in POA cases
- Has enhanced APS ability to make criminal referrals

# FEIST: Sustainability

- In New York , a combination of funding sources (federal, State, NYC Council) is funding Enhanced MDTs across the state. Expected that by end of 2020 there will be an E-MDT in every county. The E-MDT will provide continuing access to forensic accounting resource to assist APS and its investigative partners investigate suspected FE.
- We are training all APS units and E-MDT coordinators in the use of the FEIST.

# Questions?



# Thank You!

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# Contact Us

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