

**THE CITY OF NEW YORK  
HUMAN RESOURCES ADMINISTRATION/  
DEPARTMENT OF SOCIAL SERVICES**

**INVESTIGATION, REVENUE AND ENFORCEMENT  
ADMINISTRATION**

**DISTRICT ATTORNEY CASE REFERRAL PROCEDURE**



February 2014

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**PROCEDURE NOTE:**

**This procedure manual (including any modifications) is prepared for informational purposes only. The purpose of this procedure manual is to provide support and guidance to the management and staff of the NYC/HRA Investigations, Revenue, and Enforcement Administration (IREA). Nothing in this manual is intended to create nor does it create any enforceable rights, remedies, entitlements, or obligations. IREA reserves its right to change or suspend any or all parts of this manual at any time.**



**District Attorney (DA) Case Referral Procedure**  
HRA Investigation, Revenue and Enforcement Administration (IREA)

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## INTRODUCTION

This guide is intended for use by Investigators in the Bureau of Fraud Investigations (BFI) in preparing cases for District Attorney (DA) Referral. A case is referred for DA prosecution when an applicant or participant intentionally misrepresents, conceals or withholds facts, or commits any act that constitutes a violation of Federal or State Social Services law for the purpose of receiving benefits for which they are not entitled.

The Agency must offer proof that satisfies the legal standard of “Beyond a Reasonable Doubt” in the referral of cases for criminal prosecution. For further information pertaining to evidentiary standards, refer to [Appendix II: Evidentiary Standards](#).

Please keep in mind when reviewing this document that there can never be enough evidence in a criminal case. The more proof you can find and share with the ADA’s, the more convictions we will get and the more money recovered.

### **Mission and Goals of IREA**

With over 3 million recipients, New York City has one of the biggest populations of public assistance recipients in the United States. The Human Resources Administration (HRA) has the dual responsibility of providing that population access to these programs and monitoring the integrity of the programs.

Criminal prosecution is an effective deterrent against welfare fraud. It keeps criminals from receiving benefits in order to preserve scarce public resources for those who need it most. It also sends a message to other would-be criminals that the consequences of abusing public assistance funds are grave.

The Investigator serves a pivotal role in maintaining program integrity. With the information obtained in a BFI investigation, prosecutors can determine whether or not to pursue a criminal case.

### **Legal Imperative for Fraud Prosecution**

New York State Office of Temporary and Disability Assistance (OTDA) regulation *18 NYCRR Section 348.2* requires Local Social Services Districts to implement procedures to prevent, detect and report cases of welfare fraud—this includes Cash Assistance, Supplemental Nutrition Assistance Program (SNAP) and Medicaid fraud. The regulation further requires local districts enter into cooperative agreements with the appropriate District Attorney for referral of all cases where grounds exist to believe that fraud was committed. Such cases are known as DA Referrals.

### **Partnerships with District Attorney Offices**

To facilitate the prosecution of fraud cases, IREA develops and maintains working relationships with local DA offices and collaborates with county prosecutors to furnish complete documentation for each case.

The role of the DA’s Office is to prosecute cases of Cash Assistance, SNAP and Medicaid Assistance fraud referred by HRA. The prosecuting Assistant District Attorney (ADA) shall:

- Assess referred cases for adequate documentary support to substantiate; fraud and intent<sup>1</sup>, filing false instruments and larcenies, and
- Make a determination to proceed with the referral, decline the case or return the referral to HRA with a Conditional Rejection.
- Evaluate the strength of the case.

If the ADA accepts a case for prosecution, the Investigator may be called upon to confirm information included in the case and, in some instances, testify before a grand jury.

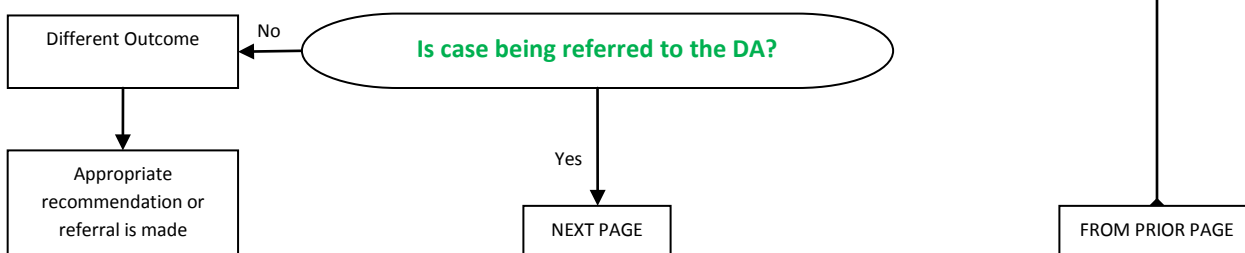
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<sup>1</sup> The determination of adequacy is made at the sole discretion of the prosecuting Assistant district Attorney.

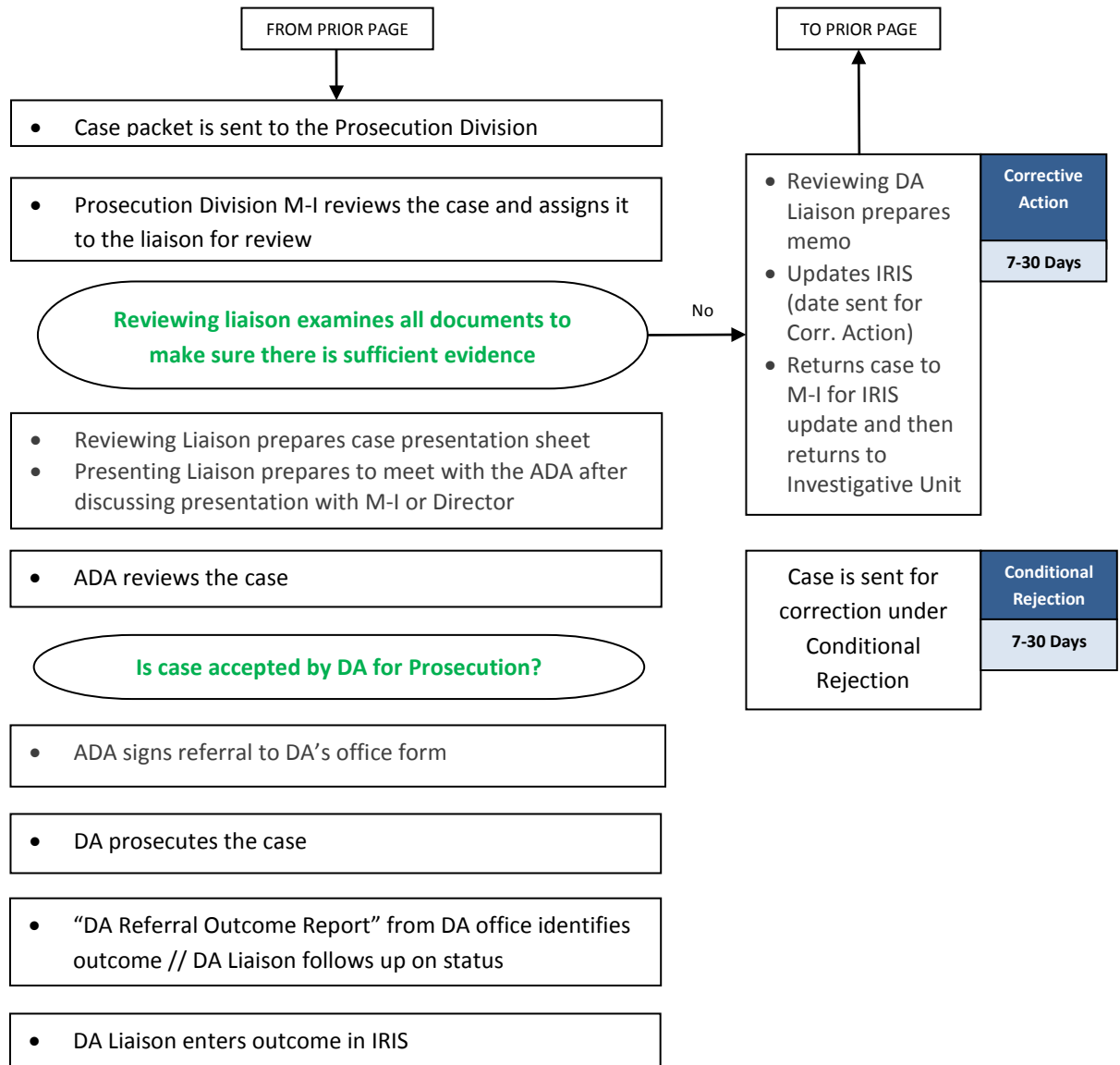
## I. Referral Process: Roles and Responsibilities

### Referral Process Workflow and Timeline

<b>Intake</b>	<ul style="list-style-type: none"> <li>BFI Intake receives fraud allegation/complaint</li> <li>Prepares the Fraud Allegation Worksheet</li> <li>Data enters the allegation/complaint into IRIS and assigns the case to an investigator</li> </ul>
<b>Folder Preparation</b>	<ul style="list-style-type: none"> <li>BFI Intake prepares a case folder and sends it to the appropriate supervisor</li> </ul>
<b>Review</b>	<ul style="list-style-type: none"> <li>Supervisor reviews case folder</li> <li>(s)h(S)he determines case priority</li> <li>Updates IRIS with priority code</li> <li>Discusses case with Investigator</li> </ul>
<b>Investigation</b>	<ul style="list-style-type: none"> <li>Investigator collects necessary documentation and information</li> <li>Use creative thinking when gathering evidence</li> <li>Obtain voluntary statement, (or indicate refusal or send 2 call-in letters to make 2 attempts)</li> <li>Confer with Supervisor as needed to discuss evidence and investigation progress</li> <li>Involve M-I or Prosecution Unit Director if necessary to obtain subpoena</li> </ul>
<b>1- 10 Days</b>	
<b>Case Determination</b>	<ul style="list-style-type: none"> <li>Investigator determines if case qualifies for DA referral</li> <li>Completes all necessary forms</li> <li>Prepares the final report</li> <li>Updates IRIS</li> </ul>
<b>Review</b>	<ul style="list-style-type: none"> <li>Investigator submits completed case to the supervisor for review</li> </ul>
<b>Approval</b>	<ul style="list-style-type: none"> <li>Supervisor reviews and approves the case</li> <li>If case is not approved, the case is returned to the investigator for corrective action</li> <li>If approved, the case is submitted to the MI (or designee) for review and approval</li> </ul>
<b>Referral</b>	<ul style="list-style-type: none"> <li>Investigation is completed</li> </ul>







The process by which cases are assigned, managed and referred is streamlined to ensure consistency and accountability. The following steps are taken when a potential DA Referral is assigned to an Investigator:



Please note the criminal remedies unit has undergone some significant changes in recent months. Based on the feedback from the DA offices, a call-in letter must be sent to every client and up to two attempts made to obtain a voluntary statement.

Also, be aware that the liaison reviewing the file may not be the same liaison presenting the case. Presentation sheets are required in all cases.

### *Preparing the DA Referral*

The Supervisor reviews the case folder, assigns the case priority in IRIS and discusses the case with the assigned Investigator.

The Investigator conducts the preliminary investigation, collects necessary information and documentation to make a determination on the case.

The Investigator periodically confers with her Supervisor to discuss progress.

The Investigator makes a case determination based on the information gathered. If it is decided that the case will be submitted to the Prosecution Division for referral to the DA, the investigator prepares the referral package. This is done by thinking creatively, gathering collateral evidence and the appropriate case documents (including the Investigator Affidavit (BFI-11-01), Fraud Report to the District Attorney (BFI-132) and Case Referral to the District Attorney (BFI-132(E), pages 1-6), along with all supporting documentation. Refer to Section III, Investigative Methods: Compiling Supporting Documentation, for suggested documentation to strengthen a case. The Investigator must send a call-in letter in call-in to every client and make attempts to obtain a voluntary statement. In addition to a referral for prosecution, recoupment, case re-budgeting, suspension of benefits or Civil Litigation referral may be required. This is not an exhaustive list, the more evidence, the better.

The case is submitted to the Supervisor (Deputy Assistant Director, or DAD), who reviews and approves the case if all standards are met and completes the Supervisory Approval Sheet (BFI-132, page 1).

Once approved by the Supervisor, the case is submitted to the Unit Director (M-I Manager) for review and approval.

If the case outcome is a DA Referral, the package is forwarded to the Prosecution Unit for quality assurance.

The M-I reviews the package and assigns it to the reviewing DA Liaison, and indicates assignment in IRIS.

### ***DA Liaison QA Review***

The reviewing DA Liaison updates in IRIS that (s)he received the DA Referral package and reviews it for completeness and accuracy. If (s)he determines that additional information is needed, (s)he will return the case to the Investigator for Corrective Action. Refer to [Section VII, Referral Outcomes and Follow-Up Action](#) for more details.

If completed, the DA Liaison hand delivers the case package to the appropriate DA office (*skip to Step 14 if the case is referred to the DA*).

### ***Case Returned for Corrective Action***

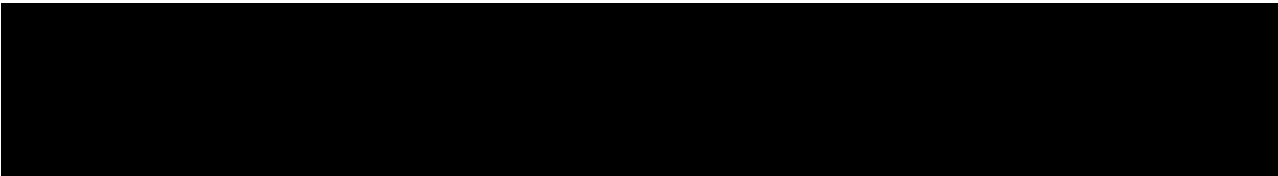
The DA Liaison updates IRIS with the status of the case (e.g. returned to the Investigator for Corrective Action) and outlines next steps to resolve the Corrective Action in the 'Notes' sections of both the Corrective Action and Follow-Up screens.

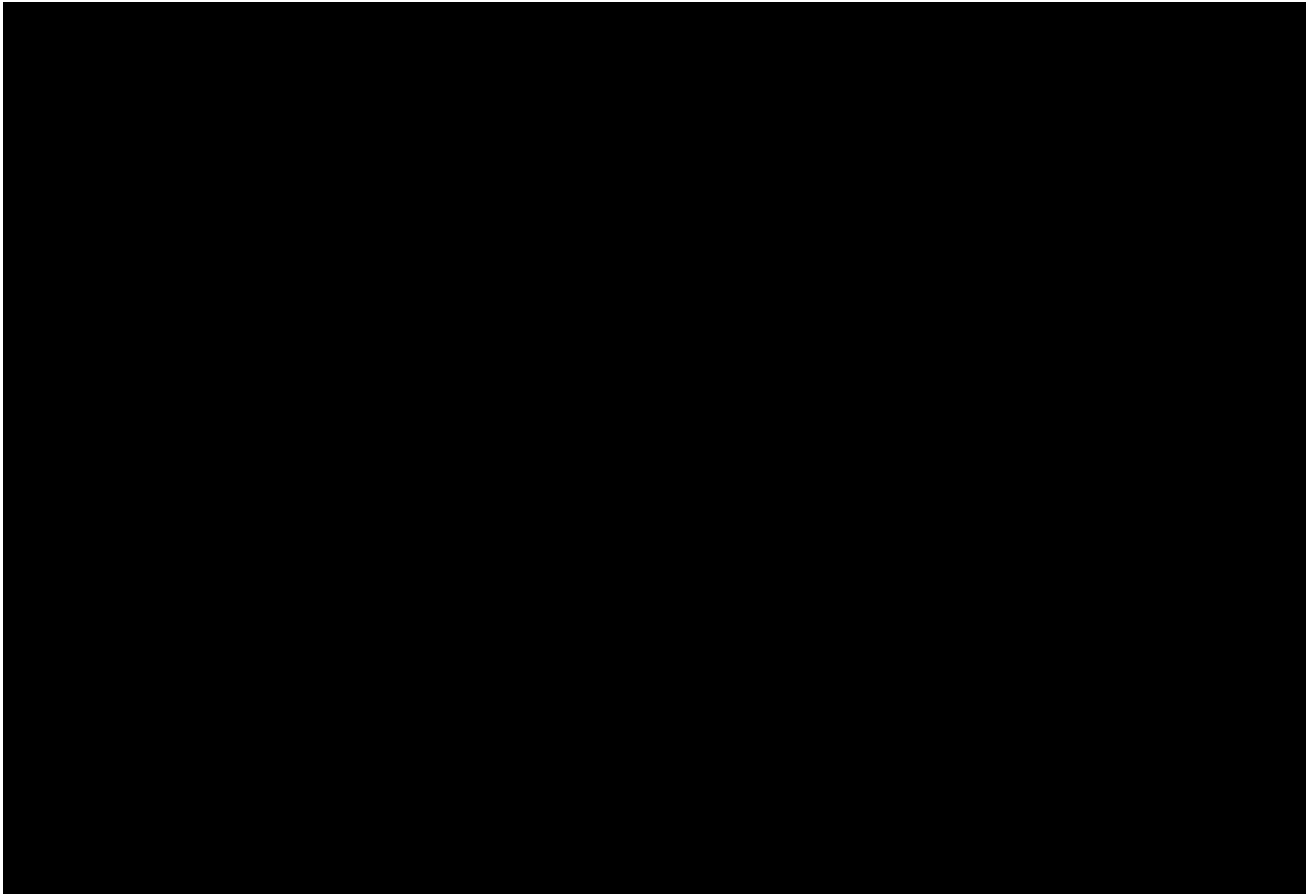
The Prosecutions Unit M-I assigns the case to the reviewing liaison. The DA Liaison then notifies the Investigator and Supervisor via email that changes to the "Notes" section have been made and they are to respond.

The Prosecution M-I goes over the reviewing liaisons Corrective Action notes to ensure that they are clear and constructive.

The DA Liaison returns the case package to the Investigator with the Corrective Action details (BFI-206c(E)). Upon receipt of the case, the Investigator updates IRIS acknowledging the referral package has been returned to him/her. The case is re-added to the Investigator's queue in IRIS via the "Case Update" feature and the Investigator has **7-30 business days to resolve the Corrective Action**.

Depending on the request, the Investigator has between **seven and thirty business days** to resolve the Corrective Action. During this time period, the Investigator consults with her Supervisor to determine if the information/documentation can be obtained and subsequently informs the DA Liaison. If the case is not resolved within the allotted timeframe, the Investigator is locked out of the case in IRIS and must obtain permission from his/her Supervisor to extend the Corrective Action response period. The Supervisor also receives notification of the Corrective Action via IRIS and follows up with the Investigator on the status of the case before the end of the determined timeframe. If it is determined that the requested documentation/information cannot be obtained, the Investigator and Supervisor decide on an alternative track for the case, update IRIS accordingly, and inform the DA Liaison.





Once the Corrective Action is completed, the Investigator re-submits the case to his/her Supervisor and DAD for review and approval. Once approved, the Investigator re-submits the case to the assigned DA Liaison. The Investigator is to update the case status in the Follow-Up screen (e.g. submitted to the Prosecution Division).

If the DA Liaison approves the case with added information, the case is referred to the DA (*skip to next step*).

If the DA Liaison rejects the information, (s)he updates IRIS and returns the case to the Investigator once again. The Investigator consults with her Supervisor regarding an alternative track for the case and updates IRIS accordingly.

#### ***Case Submitted to the District Attorney***

The DA Liaison delivers the case to the ADA for review. The ADA usually provides a decision on the case immediately, with further instruction if necessary (e.g. accept, decline or conditional rejection).

If the case is accepted, the ADA moves forward with the case and the DA Liaison reflects this decision in IRIS.

If declined/rejected, the ADA determines if additional information is necessary, they return the case to the presenting DA liaison. On the Referral to DA's Office form (BFI-206) the ADA indicates if the case is being returned as a Conditional Rejection or declined.

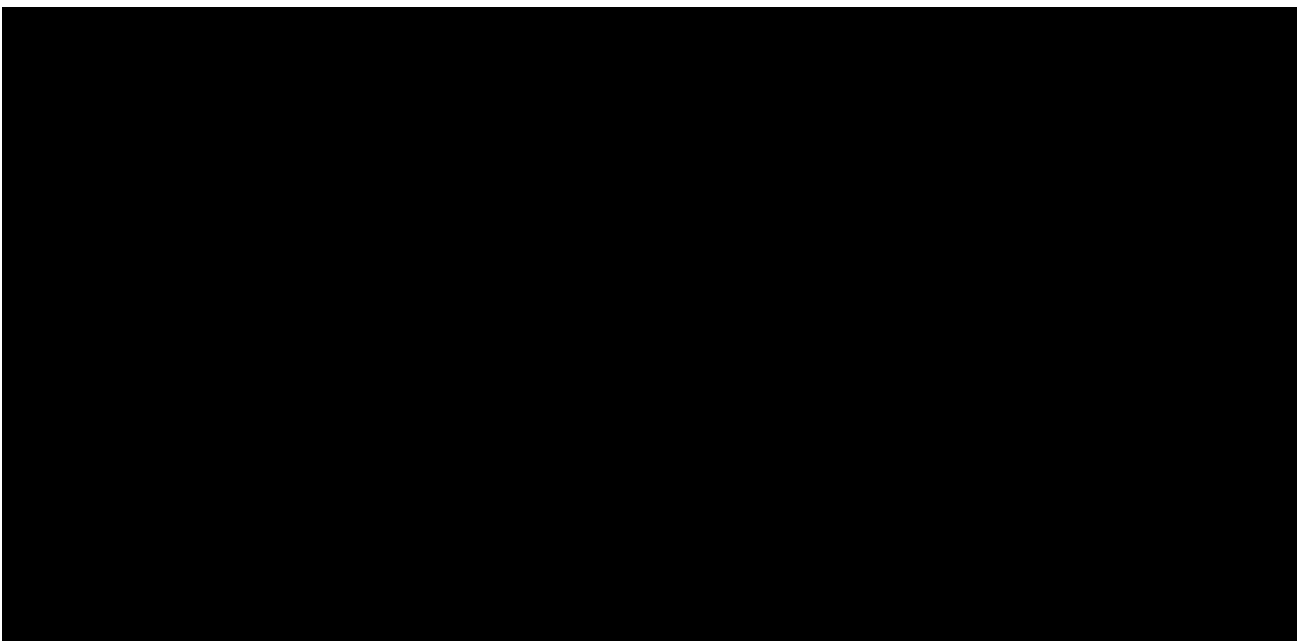
The presenting DA Liaison prepares a memo with a recommendation on case action, which is attached to the case when it is returned to the investigator.

The DA Liaison is also responsible for completing the Conditional Rejection form.

### ***Case Returned for Conditional Rejection***

The Prosecutions Unit M-I reassigns the case to the Investigator. The DA Liaison updates the Conditional Rejection screen and the "Notes" section of the Follow-Up screen. The DA Liaison also notifies the Investigator and Supervisor of the changes to the 'Notes' section via email. The DA Liaison then returns the case to the Investigator.

Upon receipt of the case, the Investigator updates IRIS acknowledging the referral package has been returned to him/her. Similar to requests for Corrective Action, the case is re-added to the Investigator's queue in IRIS via the "Case Update" feature and the Investigator has **7 to 30 business days to resolve the Conditional Rejection**. The Prosecutions Unit M-II decides the IRIS due date and includes this information in the "Notes" section. If the case is not resolved within the allotted timeframe, the Investigator is locked out of the case in IRIS and must obtain permission from her Supervisor to extend the response period.



Once the request(s) in the Conditional Rejection is collected, the Investigator reviews this information/documentation with his/her Supervisor.

Upon approval from the Supervisor, the Investigator returns the case to the DA Liaison for review and approval. The Investigator also updates the "Notes" section in IRIS.

If the investigator is unable to provide something that is being asked for, (s)he must provide a brief explanation for the reviewing liaison so the case is not returned for Conditional Rejections a second time.

If it is determined that the requested documentation/information cannot be obtained, the Investigator and Supervisor decide on an alternative track for the case, update IRIS accordingly, and inform the DA Liaison.

If there are any questions or DA input is needed, please consult the Prosecution M-II and M-III. The DA Liaison should update the DA's Office immediately if the case will no longer be a referral.

Once approved, the DA Liaison re-submits the completed case to the ADA and updates IRIS.

The ADA reviews the newly submitted supporting documentation and, if acceptable, moves forward with the case. If the information is unacceptable, the ADA rejects the case and returns it to the DA Liaison with the Case Rejection Form (BFI-206b (E)). Refer to Step 17 for the case rejection procedure.

### ***Case Accepted by the District Attorney***

The DA initiates the prosecution process.

The DA Liaison meets with the ADA as necessary. The DA Liaison should keep up to date on cases and how they are progressing. The DA Liaison must also, if necessary remind the Bureau Chief to timely complete the quarterly report.

Once the sentence is determined, the DA Liaison updates IRIS with the judgment (e.g. community service, payment to HRA, or amount of time sentenced to jail) and closes the case.

## INDIVIDUAL ROLES AND RESPONSIBILITIES

A case referral to the District Attorney relies upon team work and the completion of specific tasks by the Investigator, Supervisor (AF2), DA Liaison and Prosecutions Unit M-II to ensure the case contains the information/documentation necessary for prosecution. The roles of each team member are outlined below.

### *Investigator*

The primary charge of the Investigator is to gather information/documentation to support the case. This includes:

- Consulting his/her Supervisor to identify the appropriate documentation to obtain (refer to [Section III, Investigative Methods: Compiling Supporting Documentation](#) for required documents and suggestions).
- Seeking guidance from the borough DA Liaison on DA referral cases that are challenging and/or need to be strengthened;
- Performing surveillance and speaking with potential witnesses;
- Interviewing the client accused of a crime to determine the circumstances of the activity;
- Assembling the case referral package (refer to [Section VI, Assembling the Case Referral Package](#))
- Reviewing the DA referral with his DAD prior to submittal to the Prosecutions Unit, including after responding to a Corrective Action and/or Conditional Rejection;
- Responding to and collecting evidence requested via Corrective Action and/or Conditional Rejection within the allotted time frame.
- In consultation with his Supervisor, selecting an alternative track for rejected cases;
- Updating all steps in IRIS, including receipt of a returned case and responses to a Corrective Action and/or Conditional Rejection.

### *Associate Fraud II*

The Supervisor is to ensure the timely completion of a DA referral packet by confirming the Investigator is gathering information that meets the guidelines set forth in this document; including:

- Assisting the Investigator in identifying approaches for gathering evidence;
- Reviewing with the Investigator needed information to strengthen the referral prior to submittal to the Prosecutions Unit (refer to [Section III, Investigative Methods: Compiling Supporting Documentation](#) for suggested supporting documents);

- Examining thoroughly the DA referral case prior to submittal to the Prosecutions Unit to ensure: (a) the case summary is clear and cohesive and (b) information documented chronologically and evidence inventory is included in the packet;
- Reviewing cases returned for Corrective Action and/or Conditional Rejection to provide guidance to the Investigator and clarify any unclear requests;
- Following up with the Investigator to ensure (s)he is responding to the Corrective Action and/or Conditional Rejection within the specified timeframe;
- Re-opening the case in IRIS for the Investigator if (s)he is unable to obtain the requested documentation within the specified time frame;
- Re-examining the DA referral case once the requested information has been collected.
- If the case does not meet the standards for DA referral, identifying with the Investigator an alternative track for the case, such as IPV or Civil Litigation; review case with the M-I and document case status in IRIS
- Updating IRIS upon completion of each of these steps.

### ***Prosecutions Unit M-I***

The primary tasks of the Prosecutions Unit M-I include:

- Assign the case to the reviewing Liaison and updating IRIS accordingly;
- Reviewing the Corrective Action and/or Conditional Rejection request(s) and determining the time frame (between 7 and 30 business days) by which the Investigator is to resolve the request(s).
- Entering into the "Notes" section the IRIS due date (i.e. the timeframe by which the Investigator ought to complete the Corrective Action and/or Conditional Rejection).
- Reviews all cases that have been rejected by the District Attorney's Office. If the Statue of Limitations has expired, the M-I will look into the delay in referring the case; if there is not enough evidence to prosecute criminally, the M-I will consider whether this should be handled as an IPV.
- There has also been a significant change in the M-I's responsibility concerning the early steps in the referral process. If the M-I or reviewing liaison determines that there is not enough evidence to prosecute the client criminally, the M-I will have the authority to reject the case at this stage. There is no benefit to presenting cases to the ADAs that we know will be rejected. It is more practical and efficient to make this decision early. The M-I can consider whether the case should be handled as an IPV. When IRIS has been fully updated, it will be the M-I's responsibility to properly enter this into the designated field; until then, it will be noted in IRIS as part of the DA follow-up.



### *DA Liaisons*

The DA Liaison serves as the Quality Assurance manager on cases submitted to the Prosecutions Unit; primarily, (s)he reviews case packets submitted to the Prosecutions Unit to determine if there is sufficient information for referral to the DA. This includes:

- Reading the case summary to ensure there is a clear, cohesive explanation of the case;
- Identifying potential challenges and loopholes in the case;
- Returning the case to the Investigator for Corrective Action and notifying the Investigator and Supervisor via email of next steps that have been included in IRIS to resolve the Corrective Action (this information is to be included in the “Notes” section and Follow-Up screens);
- Re-submitting completed case packets to the District Attorney;
- Corresponding regularly with the District Attorney to address concerns with any cases, identify evidence necessary to strengthen cases, provide updates on cases returned to the Investigator for Conditional Rejection (i.e. documents are being pursued or the case has been referred for an alternative track), and follow up on cases that are with the ADA. At minimum, the DA Liaison is to meet in-person with the ADA as needed to discuss cases and maintain contact;
- Informing the Supervisor and Investigators of Conditional Rejections and declined cases, relaying any explanations from the DA, and responding to clarifying questions;
- Following up on Corrective Action and/or Conditional Rejection request(s) with the Supervisor and Investigator until the request(s) is completed or a case is referred for an alternative track;
- Communicating to all BFI staff (i.e. Managers, Supervisors and Investigators) any changes in law(s) and required documentation from the District Attorney;
- Updating IRIS consistently on the steps completed to ensure case referrals are expedited; additionally, once the case outcome is known, this information is to be added by the DA Liaison;
- Understanding the case and articulating facts in concise and persuasive fashion to the ADA;
- Reviewing case with M-I or M-II before presenting to the DA’s office;
- Reviewing liaisons are to complete presentation sheet to be used by their colleague or themselves during presentation.

## II. What Constitutes a Prosecutable Case

**NOTE:** This is an overview and **not** an exhaustive list of offenses or charges.

### *Elements of a Prosecutable Case*

The responsibility to prove a client intentionally committed fraud rests with the ADA assigned to prosecute a case. However, the Investigator's findings allow the prosecutor to determine the viability of a case. In cases submitted for DA Referral, the Investigator's findings and documentary support should offer answers to some of the following questions:

#### ***The client failed to report required information to HRA.***

- Did the client exclude employment information from applications/recertification(s) with HRA?
- Did the client fail to report changes in household composition in applications/recertification(s)?
- Does the client reside outside of the county where he receives public assistance?
- Did the client claim dependents that are not currently in his care?

#### ***The client made an intentional misstatement about his circumstances or purposely failed to reveal information that impacts his eligibility for public assistance.***

- Did the client conceal his employment earnings from HRA to qualify for more benefits?
- Did he withhold reports of changes in household composition to maintain program eligibility?
- Did he provide incorrect reports to HRA regarding his place of residence to continue collecting assistance from another locality?
- Did he claim child care expenses for a child for whom he is not the actual guardian?

#### ***The client understood his responsibility to report the information to HRA, was aware of the requirements and procedures to do so, and was aware of the consequences of non-compliance.***

- Does the client possess an adequate comprehension/proficiency in English?
- Did the client complete HRA forms and application for benefits under any coercion/compulsion?
- Has the client been informed of consequences of failure to comply with HRA policy?
- Did the client sign and date the application and, if appropriate, recertification(s)?

### *Examples of DA Referrals*

Please note that the following is a non-exhaustive list of fraud allegations that may lead to a referral for DA prosecution:

Failure to accurately report:

- Earned income (e.g. employment, rental income, payment for providing child care services);
- Unearned income (e.g. child support payments, alimony, interest on assets);
- Bank accounts;
- Vehicles/assets (when applicable);

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- Household composition changes (e.g. person in the household, child not in home);
- Address changes (client not residing at WMS address on record);
- Aid in two locations (i.e. the client receives public assistance from a locality outside of NYC, such as Westchester or Long Island).

### III. Investigative Methods: Compiling Documentary Support

**NOTE:** As applicable to all of the following paradigms – these lists are suggestions, and the more creative you can be when gathering evidence against the client, the better. You should not stop investigating just because you have all the listed materials.

*Although every case is unique, the majority of cases require a baseline set of supporting documents to be included in the case referral package. These documents include, but are not limited to:*

- Original, signed client application and all subsequent applications for benefits (i.e. client history)
- All available signed recertification(s) submitted by the client to HRA
- Case summary from WMS (case ID, client name, DOB, address, benefits received, etc.)
- Budget calculation(s) of benefits received vs. eligible amount
- Photo ID of the client, and any documents submitted by the client to HRA (proof of address etc.)
- Investigator’s report of interview, along with any handwritten field notes (if applicable)
- Client’s voluntary statement (if applicable)

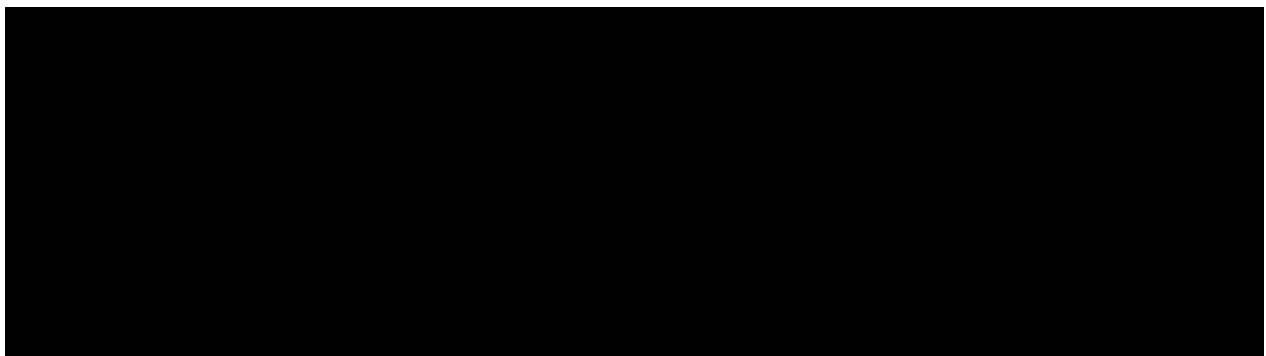
#### DOCUMENTARY SUPPORT BY CASE TYPE

##### *Unreported Earned Income*

A client may fail to report earned income such as employment, rental income or payment for services (e.g. providing child care) in client’s application, or to update any changes in earned income in subsequent recertification(s). Withholding information or failing to report changes in earned income constitutes fraud when the client knowingly and intentionally misinforms the agency in order to receive more assistance than that for which the client is eligible.

**Q: In the case of unreported earned income, do you have proof that the client was working and earning pay during the same period as the client received public assistance, and that the information pertaining to this source of income was intentionally withheld from HRA?**

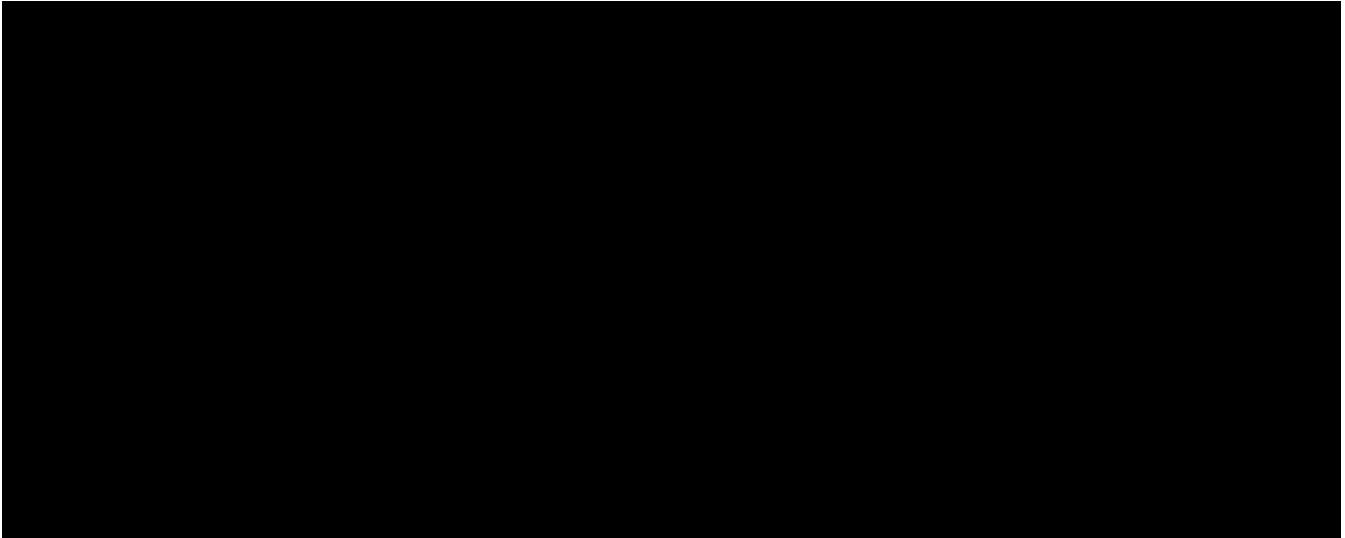
##### Supporting Documents<sup>2</sup>



*Proof of Falsification/Concealment*

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<sup>2</sup> The lists provided in this section do not represent absolute requirements; rather, they are to be used as a guide to commonly obtained materials. Failure to obtain each/all of these items will not necessarily impact the case.

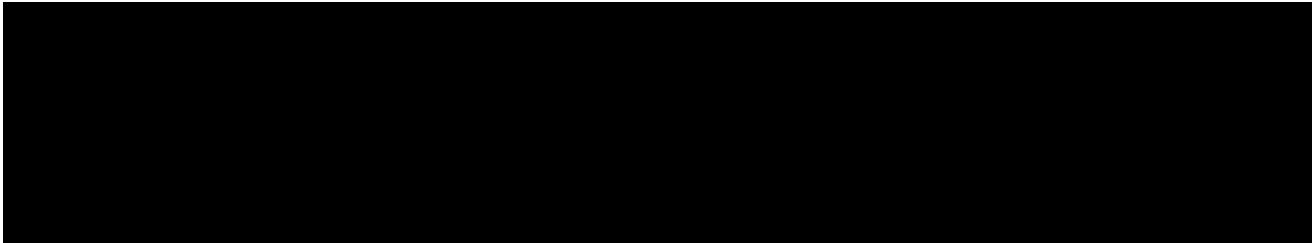


***Unreported Unearned Income***

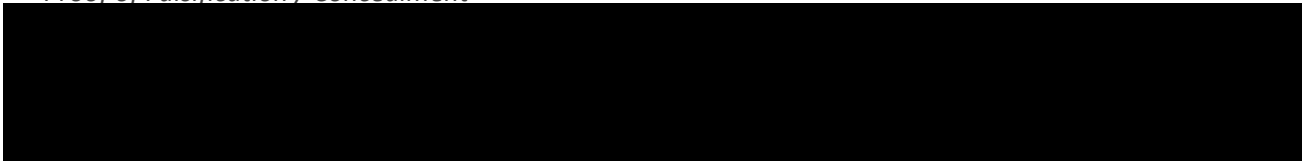
Similar to those cases enumerated for unreported earned income above, cases of this nature occur when a client fails to report or update information on unearned income, such as child support or alimony payments.

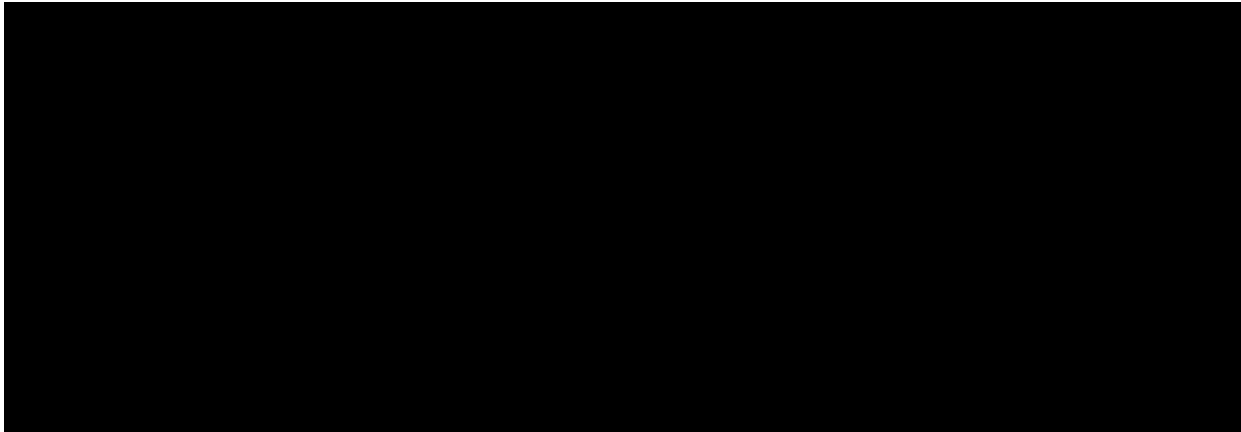
**Q: In the case of unreported unearned income, do you have proof that the client received these payments during the same period as the client received public assistance, and that the information pertaining to this source of income was intentionally withheld from HRA?**

**Supporting Documents**



*Proof of Falsification / Concealment*





**NOTE: These are the types of documents that may require a subpoena. Please reach out to the Prosecution Unit for assistance.**

***Person in the Household***

Clients are obligated to report changes in household composition to HRA as they occur. Every recipient agrees to this condition when signing HRA’s application for benefits.

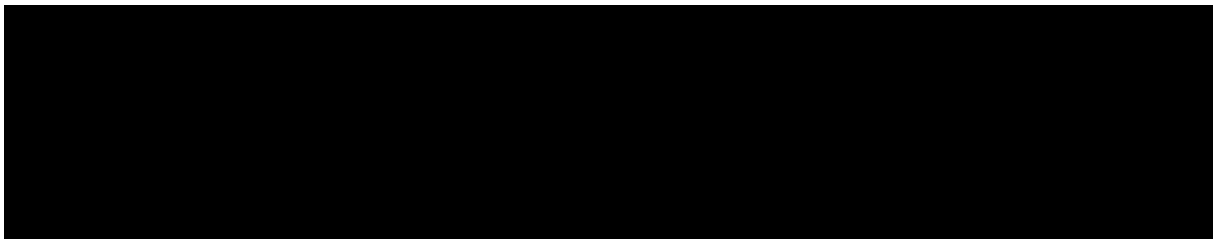
**The public assistance application states the following:**

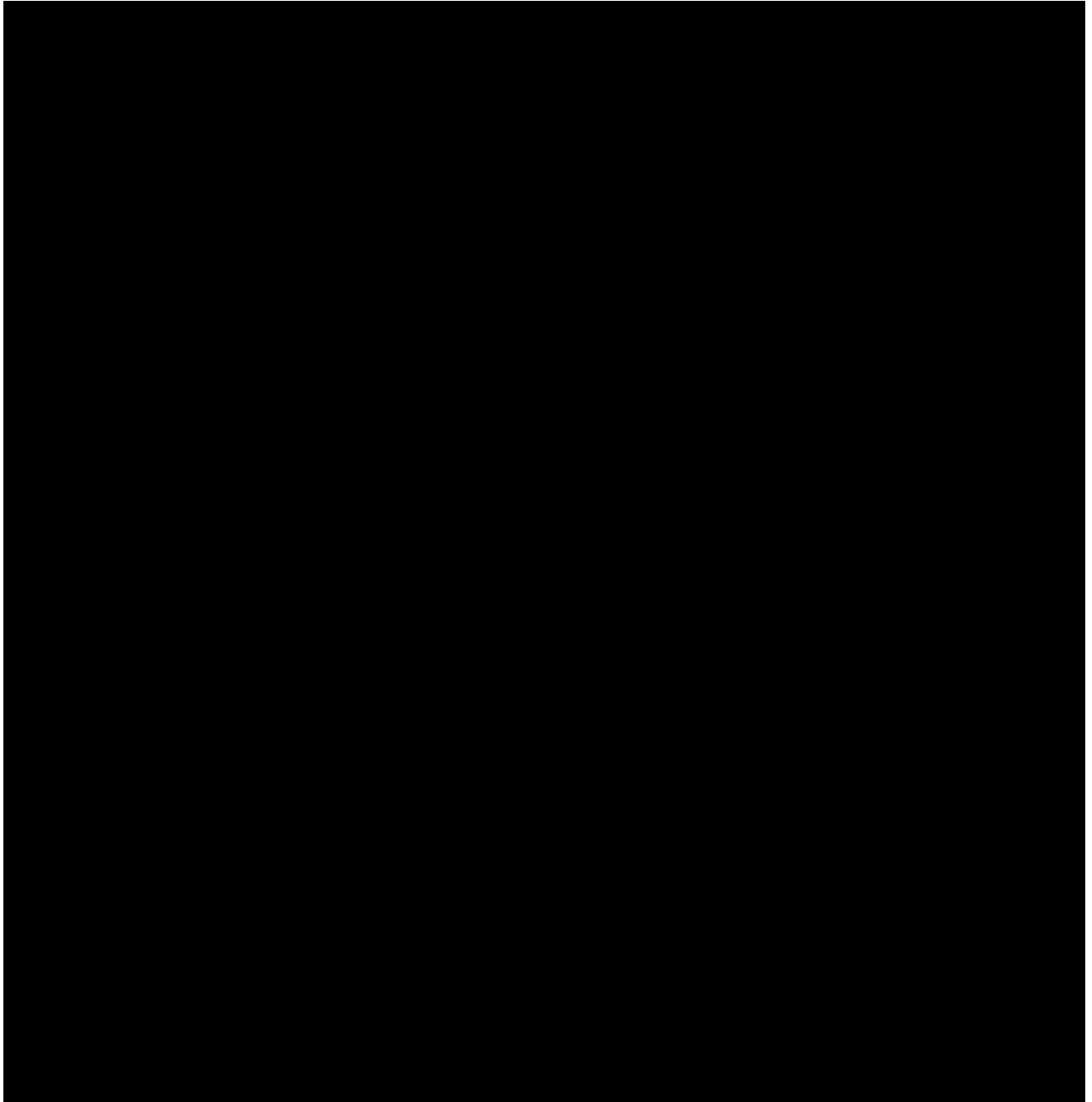
**CHANGES** - I agree to inform the agency **promptly** of any change in my needs, income, property, living arrangements or address to the best of my knowledge or belief. If I am applying for child care assistance, I agree to inform the agency **immediately** of any change in family income, who lives in my house, employment, child care arrangements or other changes which may affect my continued eligibility or amount of my benefit.

In most fraud cases involving household composition, the client fails to list a spouse or partner as co-resident to conceal supplementary income. In such cases, the objective of an investigation is two-fold: (a) to demonstrate the client’s failure to report a co-resident in the household, and (b) to furnish proof of the co-resident’s income and contribution to the overall household budget.

**Q: Do you have proof that: a) the client failed to report a member of her household to HRA, and b) that the client concealed the unreported household member’s income?**

**Supporting Documents**



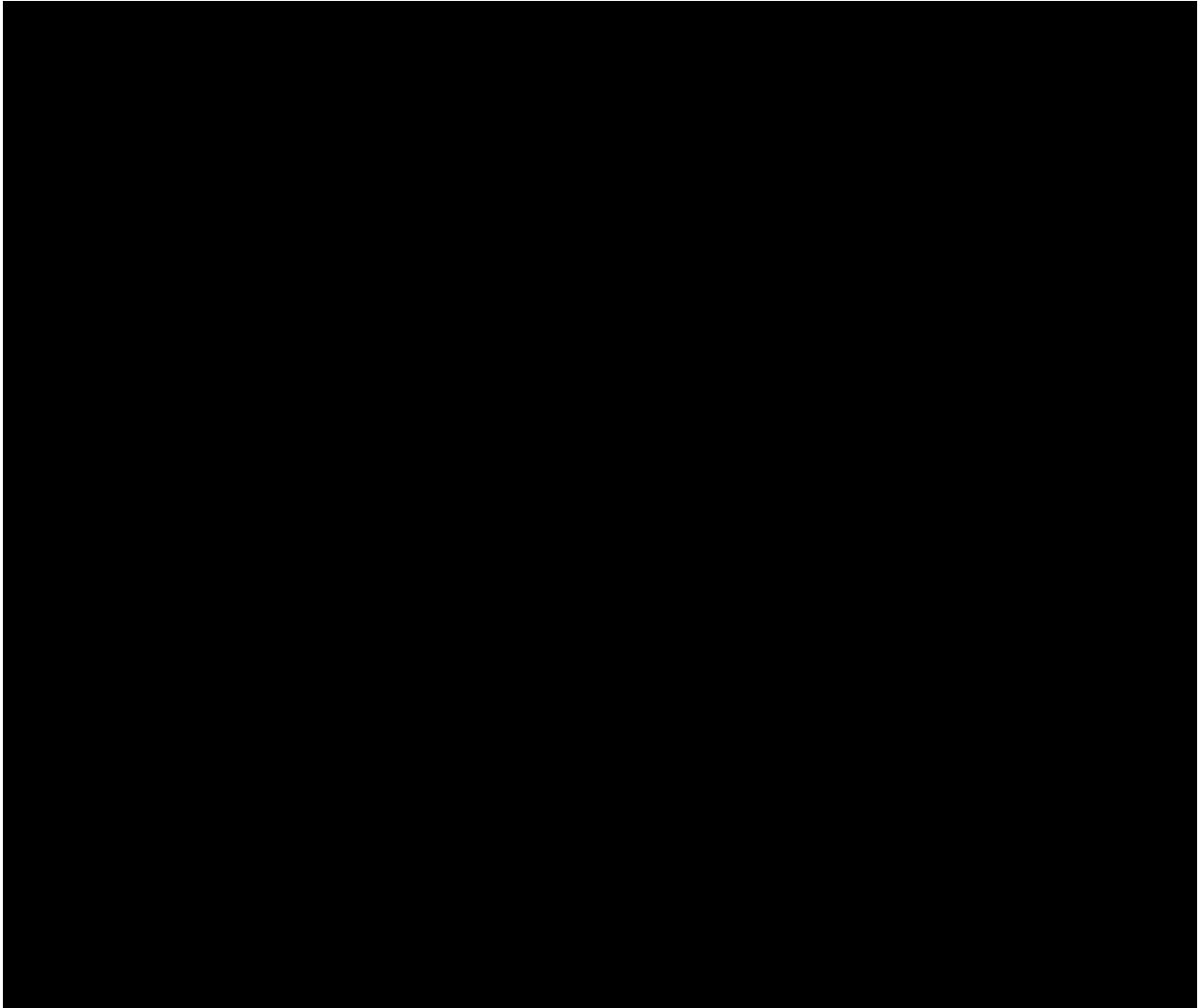


***Child Not in Home***

In other types of fraud cases involving household composition, the client claims to have custody of a child who is not actually living with the client. Fraud occurs when the client knowingly and intentionally misinforms the agency in order to receive assistance based on the client's custody claim.

**Q: Do you have proof that the client received assistance while the child(ren) was not actually living with the client?**

**Supporting Documents**



***Aid in Two Locations***

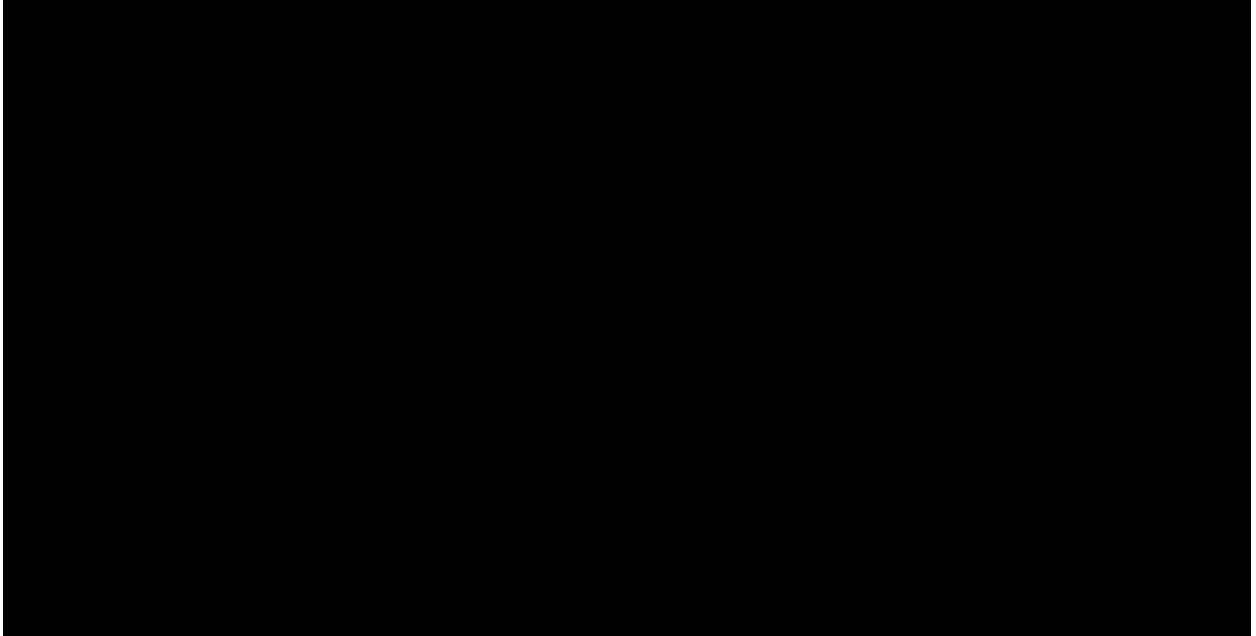
In order to qualify for receiving public assistance, clients of NYC HRA must not be in receipt of assistance from any other locality. In cases where in a client collects benefits from other localities in addition to New York City, the Investigator’s objective is to demonstrate that the client claimed residence and received assistance in NYC while maintaining residence elsewhere. If the client knowingly and intentionally misinforms the agency to receive assistance in multiple localities, it is considered an act of fraud.

**Q: Do you have proof that the client received assistance from NYC HRA while living in, and/or receiving benefits from a welfare agency in another locality?**

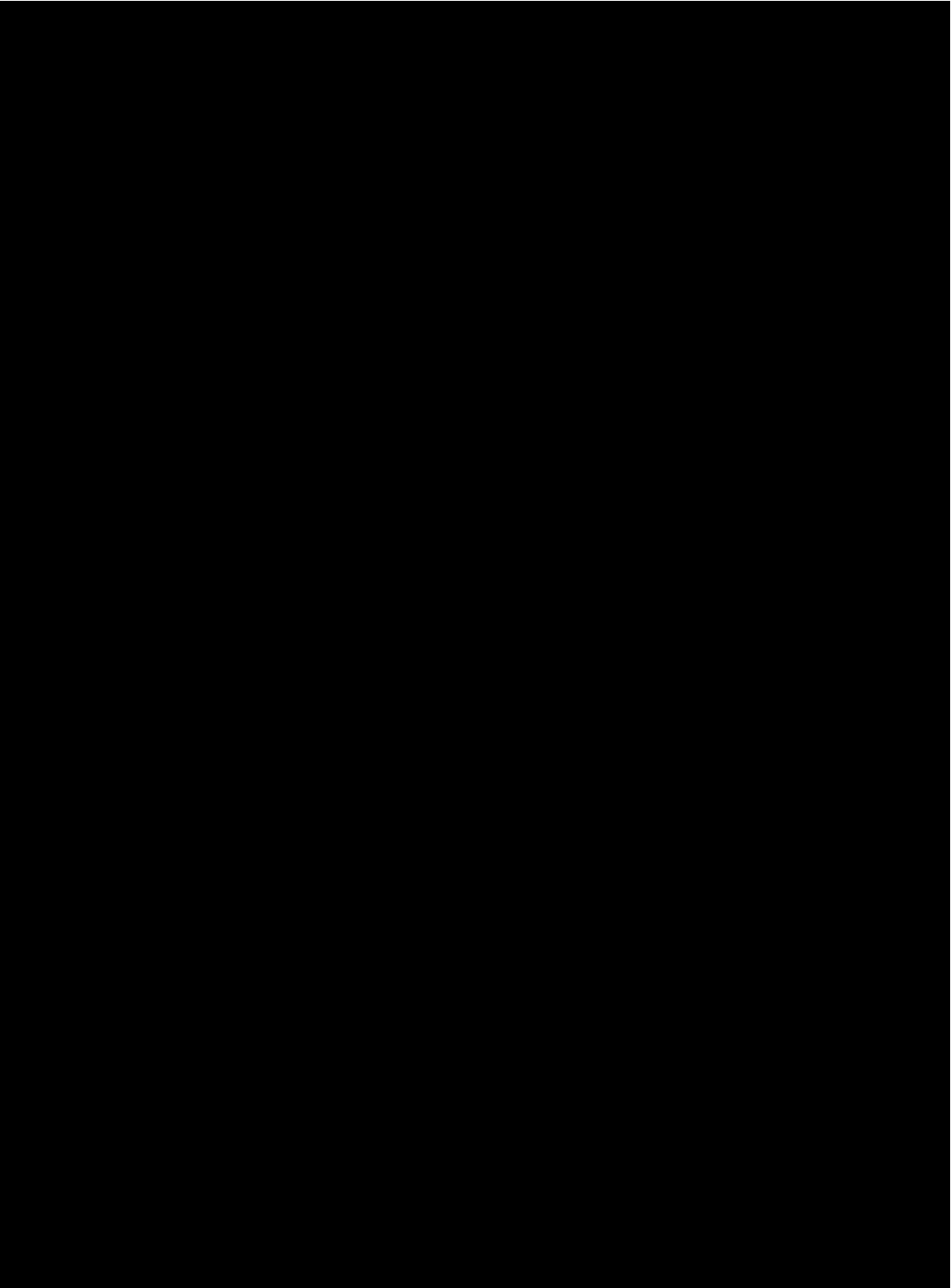
**Supporting Documents**

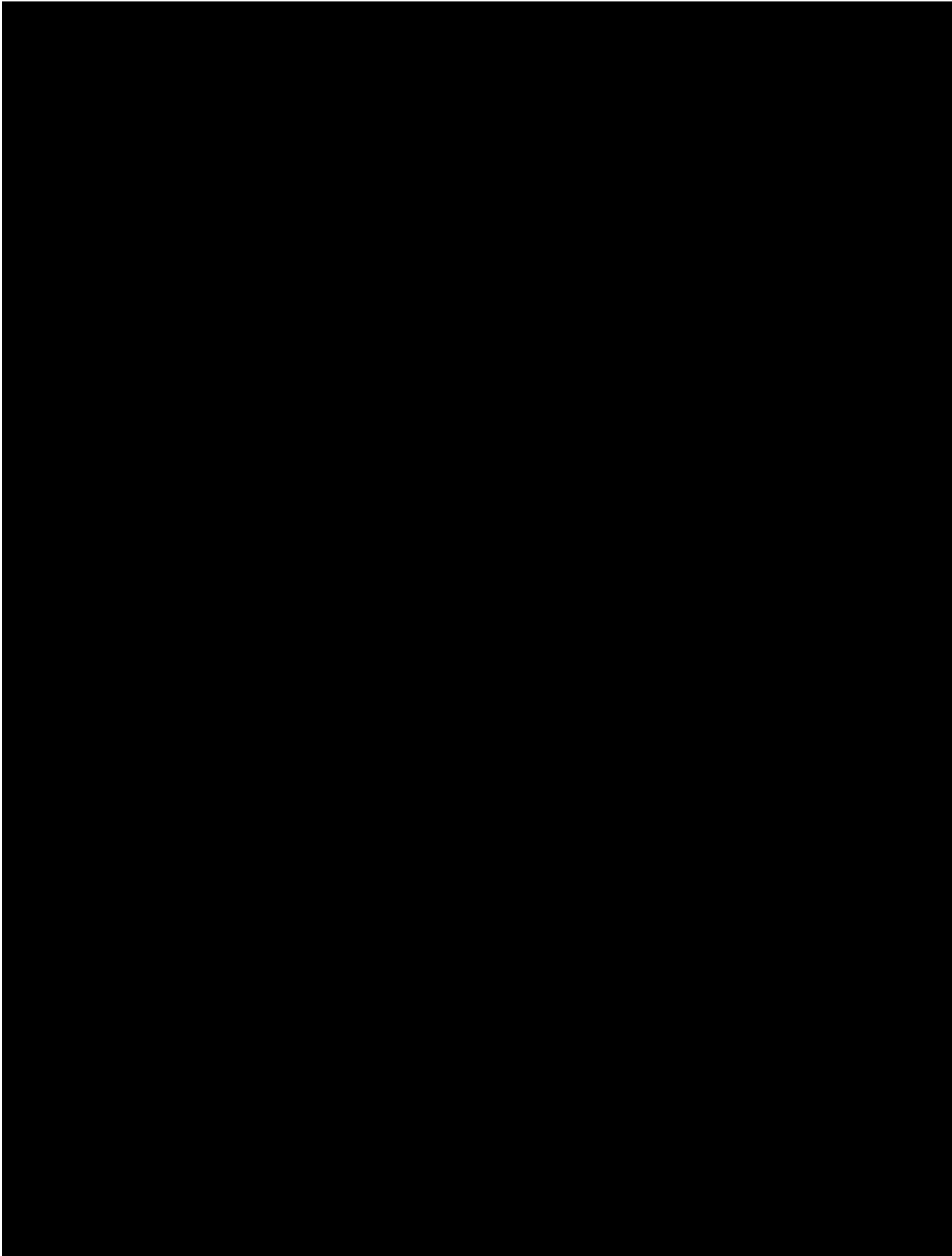


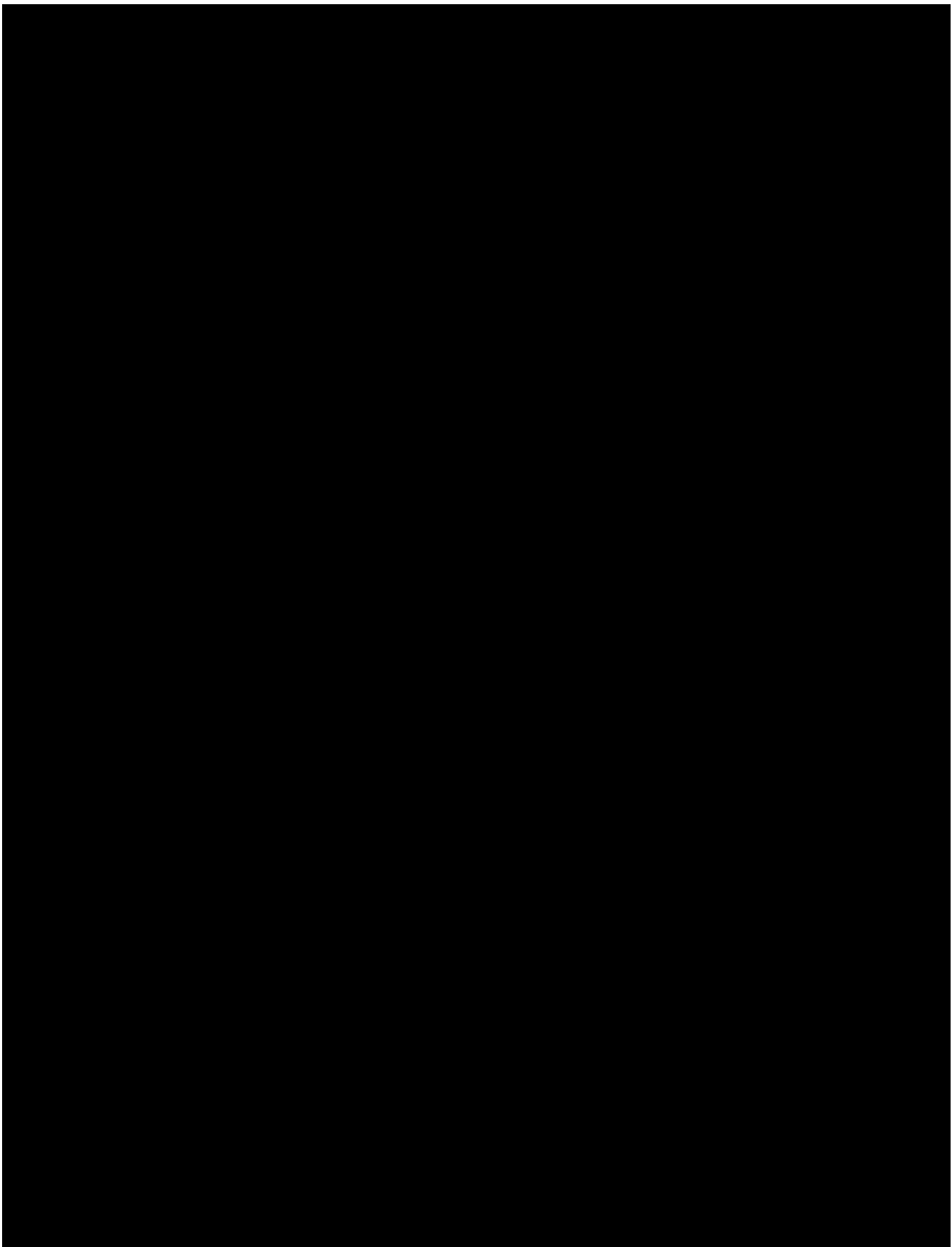




**REMINDER:** You are not limited to the above-listed types of evidence. You are always encouraged to think about ways we can discredit clients and make stronger cases against them.







### Guidelines for Composition

*This is a guideline. Use your experience and knowledge to get the best statements, even if they are not a carbon copy of this page.*

- Start with the subject “I” – always use the **voice of the client** in a voluntary statement  
*I applied for benefits in December 2009.*
- Use past-tense **verbs** (“applied”) for **past** events; present tense (“working”) for **continuing** activity  
*I’m still working there, about 20 hours each week at the same pay.*
- Specify what **type and/or value** of benefits the client received in the alleged period of fraud  
*I was afraid I couldn’t make enough to pay the rent without food stamps or cash assistance.*
- Cite the **start/end date(s)** of any noted events (month and year, at minimum)  
*I only started working in October 2010... I’m still working there...*
- Provide specific **location details**—type of place, neighborhood, borough, address  
*... Key Food supermarket on Flatbush Avenue and Park Place in Prospect Heights.*
- Confirmation of concealment/misrepresentation of facts  
*I decided not to tell my caseworker about it because I knew that they would cut my benefits...*
- Confirmation of **willful act** to commit fraud  
*I was afraid I couldn’t make enough to pay the rent without food stamps or cash assistance, and I didn’t want to tell them so they would cut my benefits.*
- Confirmation of **knowledge / understanding** of rules and regulations for public assistance  
*I knew I was supposed to when I sent in the recertification in January 2011, but I didn’t.*
- Make sure:
  - a) the statement is reviewed by the client,

- b) the declaration box is checked and initialed by the client and
  - c) the form is signed and dated by the client and the Investigator.
- Check the story—**cross-check the statement** against any **field notes**, report of interview, or other documentation that may present the details differently. Ensure consistency throughout; where there are distinctions, note those in the case summary.

### **Witness Accounts**

Neighbors, building supervisors or even the local postman may be able to share direct observations about the client’s household composition, such as the regular presence of unreported persons in the home or absence of children claimed. Business owners, store managers or other employees in the client’s alleged workplace can confirm the client’s employment in cases of unreported income. These ‘witnesses’ or ‘collateral contacts’ can add valuable color to a case.

Upon initiating an interview with a potential witness, the Investigator must first introduce him/herself, and identify themselves as an Investigator for HRA’s Public Assistance Fraud Investigation Unit and inform the individual that they may be called as a witness, if a statement is given and the case goes to trial. If the contact offers consent, the Investigator should obtain the witness contact information (to be included in BFI-132(E), page 6). Questions should be broad but relevant to the fraud in question.

For household composition cases, ensure that the witness:

- a) can identify the client,
- b) can describe/identify the persons living in the household, and
- c) specifies how often they observe the persons in the household.

Since every case is unique, the Investigator must determine which questions to ask based on the context of the case and the identity of the contact. However, interviews should always be brief (about five minutes), and written statements should be succinct (1 paragraph, or up to 5 sentences). Statements should also be signed by both the witness/collateral contact and the Investigator.

### **Sample Witness Statement**

The following is an account provided by Mr. Joe Smith, a postman serving the residence of Jane Doe (client) at 123 Elm Street, Brooklyn, NY:

*I, (postman name), deliver mail to this address every day, Monday thru Saturday. I see a man in that house every day. The couple seems very happy. It appears to me that the man lives there because the same two cars are always parked in the driveway—his and hers. I’ve seen him get in and out of the car.*

\_\_\_\_\_ (postman printed name and signature)      \_\_\_\_\_ (date of statement)

\_\_\_\_\_ (Investigator printed name and signature)      \_\_\_\_\_ (date of statement)

### ***Anticipated Challenges in the Investigative Process***

Challenges can be anticipated and addressed proactively by the Investigator to obtain the documentation required for a case. These include, but are not limited to:

### ***Obtaining Records from Third-Party Entities***

To obtain documents from a client's employer (e.g. W-2 form, pay stubs, employer affidavit), government agency (e.g. DMV-issued license or photo ID, birth certificate, IRS tax records, public school administrative records) or external service provider (e.g. credit card statement, utility bill), submit a written request to the entity using the appropriate BFI forms (e.g. Payroll Inquiry Form (BFI-130)). Such materials are considered documentary support and are not admitted as evidence in a grand jury case. They need not be certified to be included in the Investigation package.

The following materials are considered certified upon receipt:

- Birth certificate
- Marriage certificate
- Death certificate
- Doctor's affidavit (in cases of forgery)
- HRA forms and any other documents submitted to the agency by a client

Though HRA does not have the authority to subpoena external records, District Attorney Offices do. In cases requiring bank statements, certified documents are preferred. If an Investigator is unable to obtain certified copies without legal intervention, the Investigator must contact the criminal remedies M-I or Director for assistance in asking the DA's office to issue a subpoena.

If a subpoena request is approved, the ADA will require the following, at minimum:

- Client name
- Client address in WMS
- Client SSN –or – DOB

Ideally, the request should also include:

- Bank name (company, if known)
- Branch information (address/location)
- Account # (if known)

If an Investigator cannot identify the name of the bank, the ADA can subpoena the top 5 banks in the client's area and identify accounts matching the client's name, SSN and/or date of birth. However, the specific years in which the fraudulent activity took place will still be required.

***Obtaining Internal Back-Records on the Client***

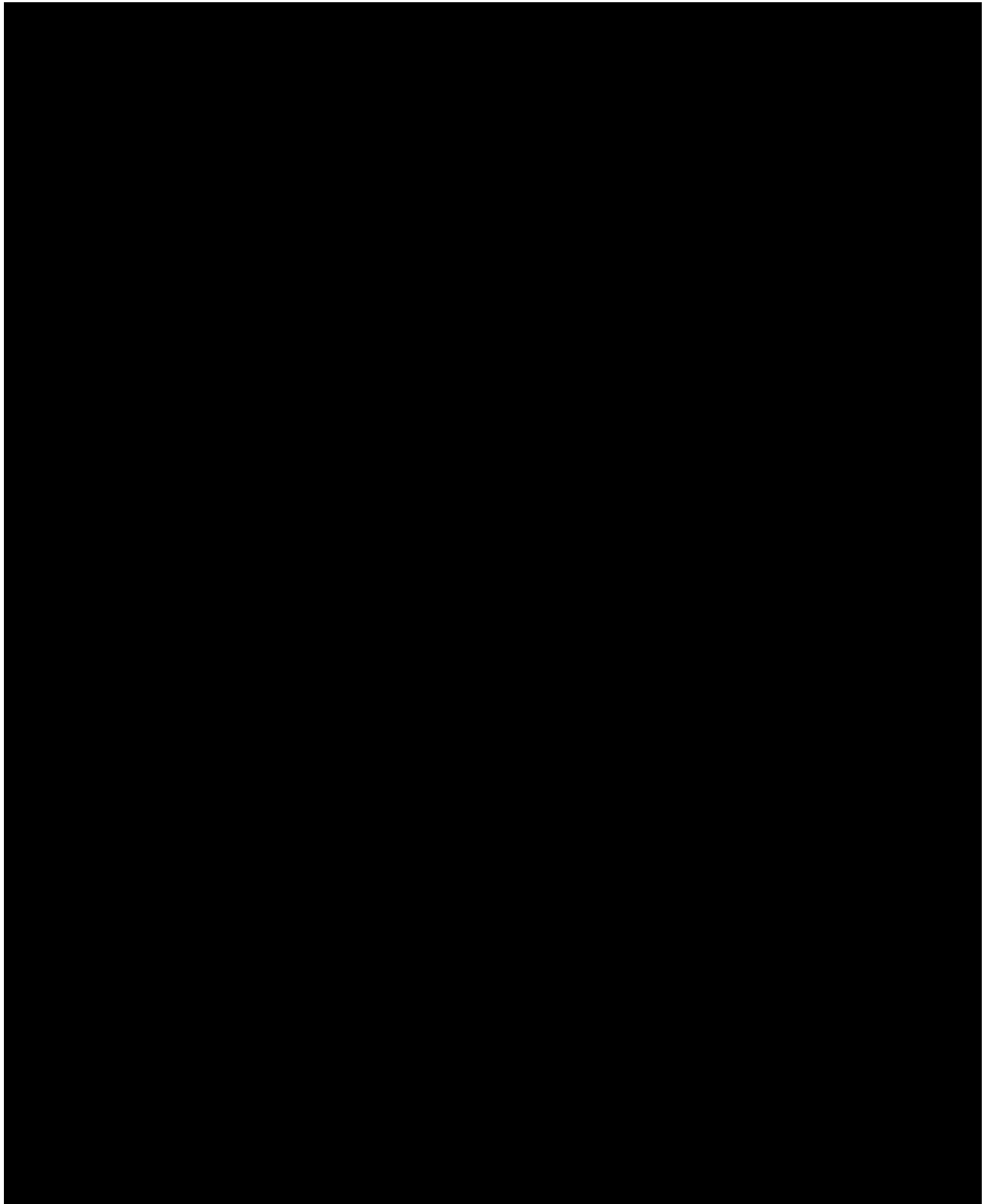
The client's full history and the details of his relationship with HRA, past and present, must be furnished with any DA Referral case. It is not unusual for clients to receive benefits with years or months between each period of collection. To this end, the Investigator must conduct a thorough review of the client's history from WMS, IRIS, HRA Viewer and POS by:

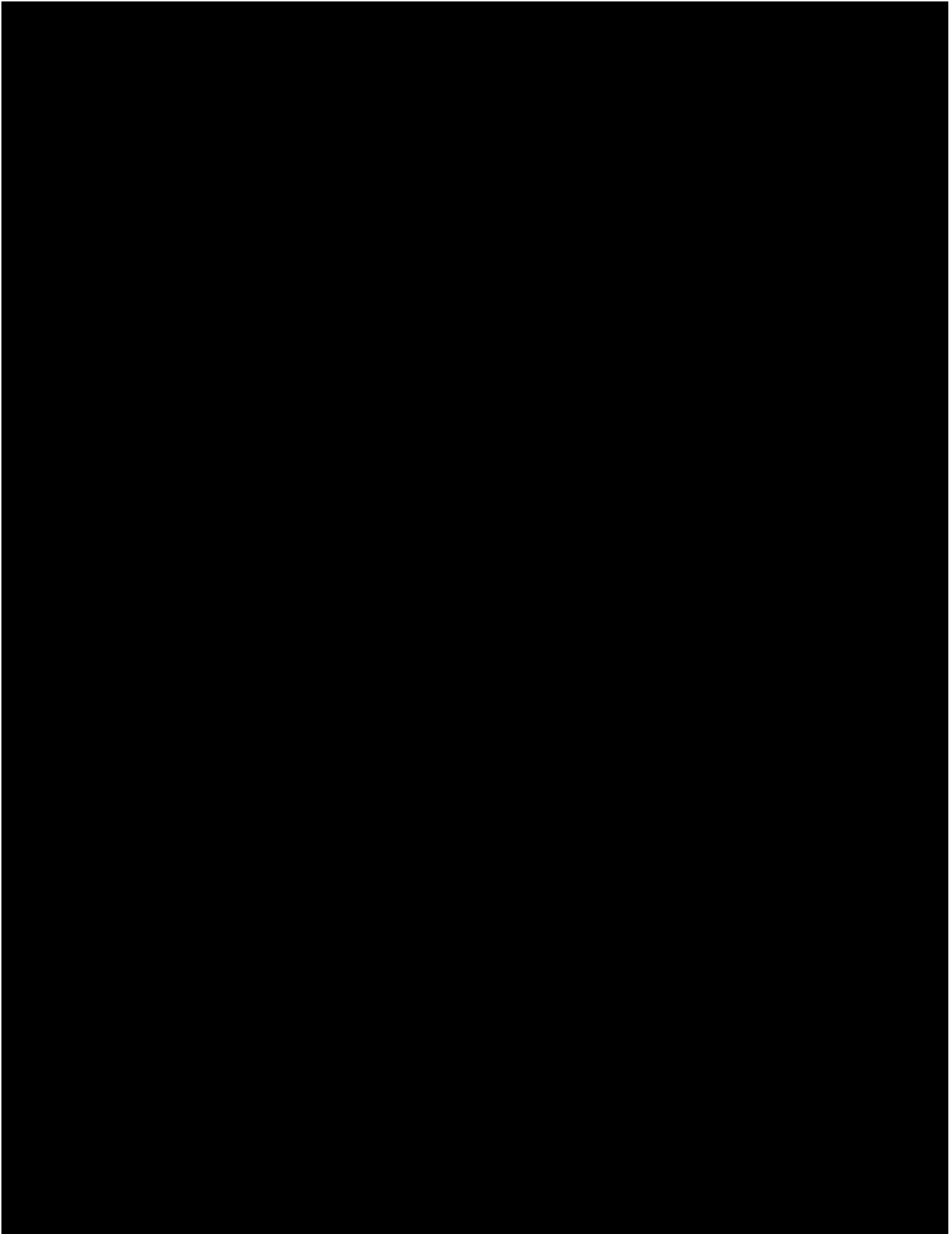
- a) providing a detailed account of all periods of enrollment in the investigation report (including type of benefit, amount received, and dates), and
- b) confirming these details by providing original agency documentation (i.e. prior enrollment applications, recertification(s) or other documents submitted for any closed or open case with HRA).

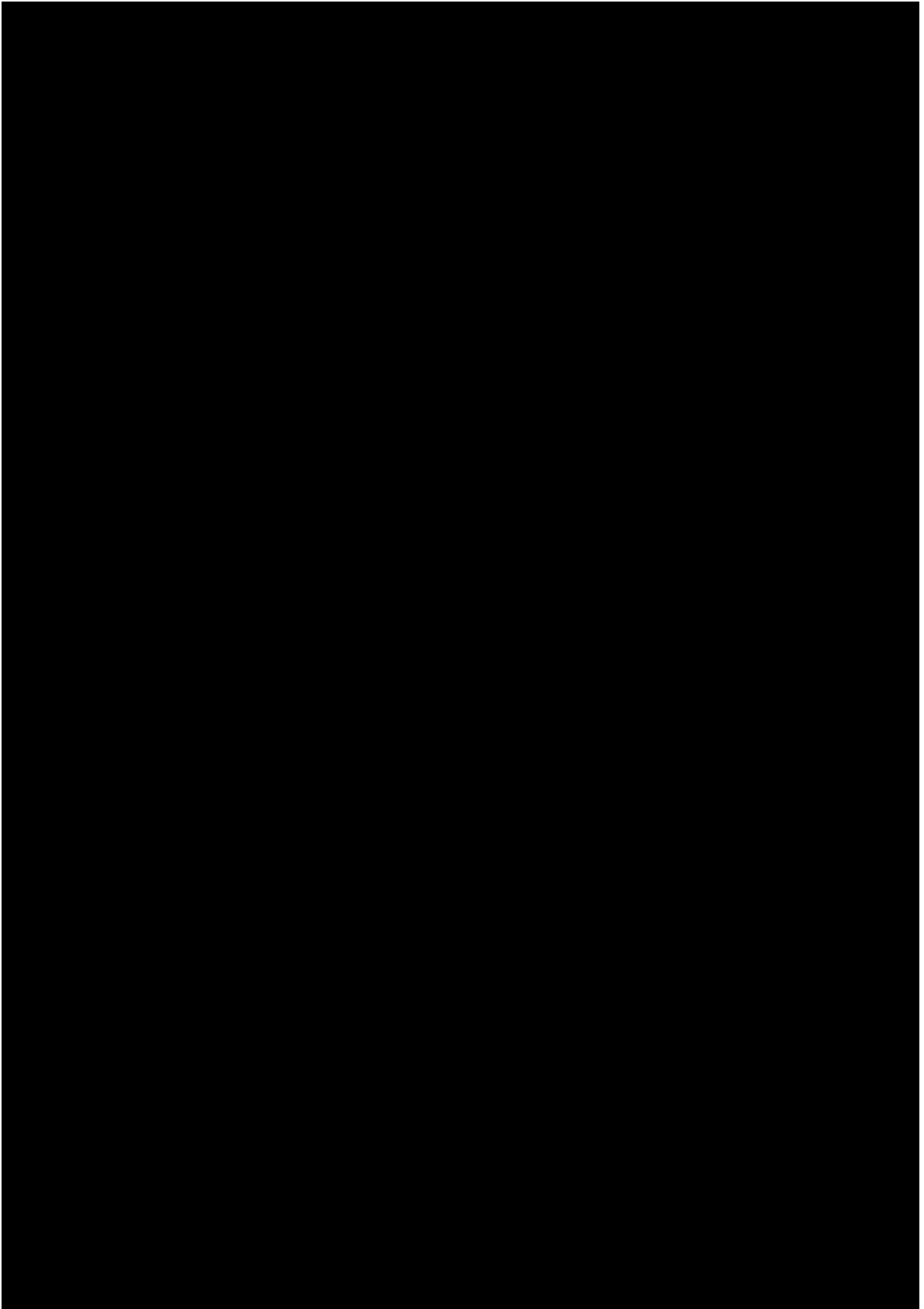
The Investigator must also review these documents for errors/inadequacies and consult with their Supervisor (as needed) to ensure that these weaknesses do not threaten the prosecution. Examples include application forms missing client signatures, blank fields in application forms, and/or incomplete recertification(s).



## **V. Assembling the Case Referral Package**









### **CHECK LIST**

**NOTE: This checklist represents the minimum information required.**

Before submitting the case package to the Prosecution Division, did you:

- Gather available background information on the client from WMS and HRA Viewer?
- Include the signed and dated application and, if applicable, recertification(s)?
- Obtain supporting documents based on the case type (e.g. employer affidavit to prove the client concealed income; a copy of the lease agreement to show another person in the household)?
- If necessary, obtain certified documents (i.e. bank records)?
- Interview the client to obtain a Report of Interview or Client Voluntary Statement (refer to [Section IV, Investigative Methods: Interviews and Voluntary Statements](#))?
- Complete the Fraud Report to the DA (BFI-132), including the case summary?
- Complete the Case Referral to the DA (BFI-132 (E))?
- Complete your list of collateral contacts, including telephone number and address?

## VI. Referral Outcomes and Follow-Up Action

Once an Investigator has completed the assembly of a case package, they submit the completed folder to the Supervisor for review. All documentary support should be included as exhibits, and all references to exhibits should be cross-checked.

Upon submittal of a case package to the Prosecution Division, there are three stages in which an Investigator may be required to revisit a case:

- **Corrective Action:** Upon review of the case, the DA Liaison finds the case package does not include sufficient information for referral to the DA's office. The case is returned to the Investigator with a referral for Corrective Action (BFI-206c (E)).
- **Conditional Rejection:** The DA Liaison finds the case has sufficient information and refers it to the ADA. The ADA reviews the case package and **does not reject** the case; however, determines that additional information is needed to strengthen the case and returns it to HRA with a Referral for Conditional Rejection (Form BFI-206X (E)).
- **Case Rejection:** The ADA or DA Liaison rejects the case because the evidence is insufficient. The case is returned to the Investigative Unit to determine if it is appropriate to pursue an IPV or refer to civil litigation.

Common reasons requiring a case be returned to the Investigator for additional information include:

- Missing documents, such as an application/recertification(s), proof of income, etc.
- Unclear details pertaining to a case, i.e. a case summary that does not sufficiently explain relevant characters, context, value of fraud, gaps in services, etc.

If any of these factors are found lacking, the case may be found unsatisfactory and referred back to the Investigative Unit for additional information.

### ***Responding to a Corrective Action Request***

When a case is returned to the Investigative Unit for Corrective Action:

- The Prosecutions Unit M-I reassigns the case in IRIS to the Investigator.
- The case is re-added to the Investigator's queue with the screen "Case Update."
- The DA Liaison sends an email to the Investigator and the Investigator's Supervisor indicating that the Corrective Action and Follow-Up screens have been updated to reflect the status of the case and are pending action from the Investigator.
- The case package is returned to the Investigator with a memo and a completed referral for Corrective Action (Form BFI-206c (E)).
- Upon receipt, the Investigator updates IRIS indicating he has received the referral package.

The Investigator has **7-30 business days** to resolve the Corrective Action; this includes discussing the case with the Supervisor and/or the DA Liaison, determining if the requested information can be

obtained, and, if available, gathering the requested documentation. Recognizing the varying timeframes for collecting documentation (e.g. obtaining a client application vs. bank records), the Prosecutions Unit M-I determines the IRIS due date (i.e. the date by which the Investigator is expected to submit the requested information) and updates the "Notes" section accordingly. The Investigator is to refer to the IRIS due date upon receipt of the case to confirm the timeline by which he is expected to complete the request. If the case is not resolved within the allotted timeframe, the Investigator is locked out of the case in IRIS and must obtain permission from his Supervisor to extend the Corrective Action response period. The Supervisor also receives notification of the Corrective Action via IRIS and follows up with the Investigator on the status of the case before the end of the determined timeframe.

Additional information that may be requested includes:

Type of Case	Examples of Supporting Documentation for ADA Case Review:
Person in the Household	<ul style="list-style-type: none"> <li>• DMV records listing the client’s residence as the unreported household member’s address</li> <li>• Billing statements (e.g. phone/utility bill(s)) addressed to the unreported household member at the client’s home address</li> <li>• Co-signed rental agreement</li> <li>• Co-resident’s employee records confirming residence</li> <li>• Bank records indicating a shared account</li> <li>• Witness accounts: neighbors, building manager/supervisor, etc</li> <li>• If there’s a child, Emergency Contact Card from the child’s school</li> <li>• Property Deed</li> </ul>
Unreported Income	<ul style="list-style-type: none"> <li>• Monthly statements reflecting earned/unearned income: paystubs, court order/agreement for child support/alimony payments, bank account statement(s) throughout fraud period</li> <li>• Employer’s W-2s for entire fraud period</li> <li>• Signed and dated application/recertification(s) with completed income section</li> <li>• Employer affidavit (Payroll Inquiry Form, BFI-130)</li> <li>• Voluntary Statement (refer to <a href="#">Section IV, Investigative Methods: Client Interviews and Voluntary Statements</a>, for more details)</li> </ul>

<p>Child Not in Home</p>	<ul style="list-style-type: none"> <li>• School records, including the child’s address</li> <li>• Court agreement, in case of divorce or separation</li> <li>• Record from the Administration for Children’s Services (ACS)</li> <li>• Witness statement, e.g. neighbor or building supervisor; include name and age of the child and information as to where the child may actually reside</li> <li>• Voluntary Statement</li> <li>• Medicaid Profile</li> </ul>
<p>Aid in Two Locations</p>	<ul style="list-style-type: none"> <li>• Rental agreement/mortgage/deed for residence other than address listed in WMS</li> <li>• Proof of residence/ownership from other jurisdiction, i.e. phone/utility bill, employer paystub, mortgage</li> <li>• Print outs from EZ-Pass showing client’s commute to/from residence not listed in WMS</li> <li>• Witness account citing client’s absence at reported residence; this may come from a neighbor/person living at WMS-reported address</li> <li>• Voluntary Statement</li> </ul>



HELPFUL TIP: Be creative and try to gather as much evidence as possible.

For tips on additional information that may strengthen the case, refer to [Section III, Investigative Methods: Compiling Documentary Support](#).

Upon review of the requested information, it may be determined that the documentation cannot be obtained, e.g. a neighbor will not speak with the Investigator to confirm a person lives in the household or an employer refuses to verify the client’s employment. If this occurs, the Investigator should discuss with his Supervisor an alternative track for the case.<sup>3</sup> Remember, the Prosecution Unit M-I and M-II are available for consultation and can put you in touch with an ADA who can subpoena employment records.

If the requested information is obtainable, the Investigator gathers the necessary documentation and, once approved by his Supervisor, re-submits to the DA Liaison. The DA Liaison examines the newly added information and, if acceptable, will refer the case to the DA.

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<sup>3</sup> If the case is referred for an alternative track, such as IPV or Civil Litigation, the Investigator is to inform the DA Liaison, update IRIS to reflect this change and submit the case packet to the appropriate unit.

When a case is submitted to the DA there is the possibility that the DA Liaison will follow up with the Investigator regarding additional information requested from the DA's office, known as a Conditional Rejection.

### ***Responding to a Conditional Rejection***

The ADA issues a Conditional Rejection when he believes there is the potential for prosecuting the case, but that additional information is needed. **This is not a rejection of the case.** The ADA will explain to the DA Liaison the reason for the requested information and how gathering this requested documentation will improve the case. The DA Liaison communicates this explanation directly to the Investigator.

When a case is returned to an Investigator for a Conditional Rejection:

- The Prosecutions Unit M-I reassigns the case in IRIS to the Investigator.
- The case is re-added to the investigator's queue with the screen "Case Update."
- The DA Liaison sends an email to the Investigator and the Investigator's Supervisor indicating the Conditional Rejection and Follow-Up screens have been updated to reflect the status of the case and are pending action from the Investigator.
- The case package is returned to the Investigator with a completed Conditional Rejection (Form BFI-206X (E)).
- Upon receipt, the Investigator updates IRIS indicating they has received the referral package.

The Investigator has between **7 and 30 business days** to resolve to the Conditional Rejection; this includes, but is not limited to:

- Discussing the case with his Supervisor and/or the DA Liaison
- Contacting the DA Liaison and ADA if further clarification is needed (always start with DA Liaison)
- Determining if the requested information can be obtained, and, if available, gathering the documentation.

Recognizing the varying timeframes for collecting documentation, the Prosecutions Unit M-I determines the IRIS due date (i.e. the date by which the Investigator is expected to submit the requested information) and updates the 'Notes' section accordingly. The Investigator is to refer to the IRIS due date upon receipt of the case to confirm the timeline by which they expect to complete the request. If the case is not resolved within the allotted timeframe, the Investigator is locked out of the case in IRIS and must obtain permission from the Supervisor to extend the Conditional Rejection response period.

In addition to commonly requested documents (refer to [Section III, Investigative Methods: Compiling Documentary Support](#), for a comprehensive list of information to collect), the ADA may ask for added information to explain any gaps in services and more hours of surveillance to be completed.



Based on review of the requested information, it may be determined that the documentation cannot be obtained/is not available. If this occurs, the Investigator is to discuss with his Supervisor an alternative track for the case and it is to be sent to the appropriate division.<sup>4</sup>

Once the requested information is obtained, the case package is reviewed by the Investigator's Supervisor and re-submitted to the DA Liaison. The DA Liaison relays the newly added information to the ADA and, if acceptable, the DA will move forward with prosecuting the case.

### ***Responding to a Case Rejection***

The ADA or DA Liaison rejects the case because the evidence is insufficient. In this instance, the case is returned to the Investigator to determine an alternative track for the case, such as IPV or Civil Litigation. Once an alternative track for the case is decided upon, the Investigator is to complete the necessary forms (e.g. Transmittal of Request for Administrative Disqualification Hearing, Form DSS-4422, for an IPV case), submit the case to the appropriate division, and update IRIS accordingly.

In some scenarios where the case is rejected by the ADA, there is the opportunity for the Investigator to speak directly with the ADA regarding the case. The Investigator should contact the DA Liaison to confirm the date in which they will visit with the ADA and request to attend the meeting to discuss the specific case. The ADA welcomes Investigators to such meetings; face-to-face interactions provide an opportunity to discuss questions, explain improvements and help the Investigator to better understand the needs of the case. From this meeting, the Investigator can determine concrete next steps for moving forward, i.e. gathering additional information or pursuing an alternative track with the case.

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<sup>4</sup> If the case is referred for an alternative track, such as IPV or Civil Litigation, the Investigator is to inform the DA Liaison, update IRIS to reflect this change and submit the case package to the appropriate division.

## APPENDIX I: GLOSSARY OF TERMS

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**Absent Parent in Home:** client is suspected of not reporting the presence of an absent parent in the home. This includes step-parents.

**Adjudication:** a final judgment in a legal proceeding (i.e. judgment following prosecution of a case).

**Affidavit:** a written statement confirmed by oath or affirmation, for use as evidence in court.

**Beyond a Reasonable Doubt:** the standard of evidence required for prosecuting a case of alleged fraud, in which the totality of the evidence presented must prove that a claim or argument is true to the extent that there can be no doubt in the mind of a reasonable person.

**Case Closure:** after a case has been prosecuted or suspended and no further action is to be taken by the DA or HRA, it is considered closed. This is not to be mistaken for "Suspension of Benefits," wherein a client's benefits are suspended by HRA.

**Certified Documents:** documents which have been certified as "true copies of the originals" by a person authorized to do so within the agency/ entity responsible.

**Child Care Fraud:** client is suspected of improperly receiving child care payments or reporting a false provider.

**Child Not in Home:** client is suspected of applying for/receiving benefits for a child not present in the client's place of residence.

**Conditional Rejection:** after the Prosecution Division has brought a case to the Assistant District Attorney (ADA), the ADA may return the file for Conditional Rejection when any gaps in evidence, errors in case assembly or other weaknesses are identified. A statement outlining the required remedy will be directed to the DA Liaisons for review with the referring unit and is to be remedied by the investigator for resubmission to the District Attorney's office.

**Corrective Action:** a request submitted by the DA Liaison to the Investigator before a case is referred to the ADA, specifying gaps in documentary support, errors in case assembly or other items to be corrected.

**Household Composition:** client is suspected of receiving assistance for an ineligible dependent or has not accurately reported the correct number of persons living in the household.

**Person in the Household:** client is suspected of failing to report or concealing a spouse, partner, parent, sibling or other adult member of the household in hi(s)her PA application or subsequent recertification(s).

**Report of Interview:** the Investigator's written report of interview with a client, obtained in lieu of a voluntary statement, in cases where client declines statement.

**Unearned Income:** client is suspected of not reporting receipt of child support, alimony, interest on assets, or other recurring unearned income.

**Unreported Assets:** client is suspected of having one or more of the following assets: real estate, vehicles, boats, motor homes, non-recurring monetary holdings, etc. These assets are only relevant to cash assistance cases.

**Voluntary Statement:** the client's written admission, including description of wrongful act, reflection of intent and acknowledgement of understanding program rules.

## APPENDIX II: EVIDENTIARY STANDARDS

Standards	Definitions	Applicable
1. Preponderance of Evidence	The “Preponderance of the Evidence” standard means the totality of the evidence presented must prove that it is more likely than not that a claim or argument is true.	The standard of the Preponderance of the Evidence applies in most civil cases and Fair Hearings
2. Clear and Convincing Evidence	The “Clear and Convincing Evidence” standard means the totality of the evidence presented must prove that a claim or argument is substantially more likely than not to be true.	The standard of Clear and Convincing Evidence applies in some civil cases and is utilized at Administrative Fraud hearings
<b>3. Beyond a Reasonable Doubt</b>	<b>The “Beyond a Reasonable Doubt” standard means the totality of the evidence presented must prove that a claim or argument is true to the extent that there can be <u>no doubt</u> in the mind of a reasonable person.</b>	<b>The standard of Beyond a Reasonable Doubt applies in criminal cases.</b>