

DEPARTMENT OF INVESTIGATION

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ACQUISITIONS

DETECTION AND PREVENTION OF FRAUD
BY CITY EMPLOYEES ON PUBLIC ASSISTANCE

ANALYSIS AND CORRECTIVE RECOMMENDATIONS

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Corruption Prevention & Management Review Bureau
New York City Department of Investigation

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INDEX TO ACRONYMS

CAD	-	Concealed Assets Division
CFIU	-	Client Fraud Investigation Unit
CPMRB	-	Corruption Prevention and Management Review Bureau
DA	-	District Attorney
HRA	-	Human Resources Administration
IG	-	Inspector General
IM	-	Department of Income Maintenance
IMC	-	Income Maintenance Center
OOS	-	Office of Operations and Support
PA	-	Public Assistance

DETECTION AND PREVENTION OF FRAUD BY CITY EMPLOYEES ON PUBLIC ASSISTANCE

MANAGEMENT SUMMARY

INTRODUCTION

This Administration has repeatedly expressed its concern that City employees meet high standards of conduct and that those who engage in corrupt or criminal activity, or any serious misconduct, be promptly identified and appropriately penalized. The Department of Investigation is charged with ensuring that this policy is complied with by all City agencies.

The problem of fraud committed by City employees who conceal employment income in order to gain public assistance is of particular concern to this Department. The nature and magnitude of this problem have been revealed by the Human Resources Administration's (HRA) computer matches of public assistance rolls and City payrolls. For example, between January 1975 and May 1977, the HRA Inspector General's office (IG) determined that 805 City employees discovered through such matches had fraudulently concealed income to gain public assistance. The attendant dollar amount of fraud alleged was approximately \$3.2 million.*

BACKGROUND

Public assistance recipients are responsible for reporting all income to the Department of Social Services. Intentional concealment or misrepresentation of such information constitutes a fraud for which an individual may be charged with larceny and related offenses.

*During the same period, the IG's office also determined fraud in 97 cases relating to State employees and 51 to Federal employees, representing an alleged theft of an additional \$800,000.

Since 1975, the HRA has been systematically conducting computer matches of public assistance (PA) rolls with payroll records to identify City employees whose public assistance grants are not budgeted for employment income. The identities of individuals thus matched are referred to local Income Maintenance Centers (IMC) for appropriate action on overbudgeted grants: rebudgeting, closing or recoupment, and review for fraud. When such a review discloses possible fraud on the part of the recipient/employee, the procedure has been for the Center to refer the case to the IG's Concealed Assets Division (CAD) for criminal investigation. Those cases in which the CAD makes a determination of fraud are referred to appropriate District Attorneys (DA) for possible criminal prosecution and the City employing agencies for possible discipline. The Collections Unit of the HRA's Office of Legal Affairs is responsible for taking civil action to recover public assistance overpayments, independent of or pursuant to restitution ordered by the Criminal Courts.

In this Department's periodic monitoring of the criminal and disciplinary disposition of these cases, it became apparent that many flaws existed in the process for substantiating fraud and for effectively penalizing offenders through criminal or administrative means. The result has been that many offenders have not been properly identified or penalized. The failure of City government to deal with this problem further encourages such fraud since potential offenders and recidivists will not be deterred if there is no penalty.

In response to historical problems in the investigation of such fraud, and to provide relief for the HRA IG whose other operations have been severely impeded by the client fraud caseload, the HRA (with the Department of Investigation) has reorganized the investigative function. Accordingly, the IG is responsible for investigating HRA staff fraud as mandated by Executive Order #16; the responsibility for investigating all other client fraud has been shifted from the IG to the newly created Client Fraud Investigation Unit (CFIU). Much of the investigative staff from the IG's office, including that of the entire CAD, has been incorporated into the CFIU.

To ensure the success of this effort, the Bureau of Corruption Prevention and Management Review in the Department of Investigation conducted this analysis to identify weaknesses in the procedures relating to the HRA's detection, investigation and referral of alleged concealed employment fraud, and in the policies and managerial approaches affecting these procedures. The analysis extended to the eventual disposition of cases by District Attorneys and City agencies. This was accomplished by means of interviews with personnel in HRA and District Attorney offices; observation of working procedures, analysis of case documents and review of written procedures in HRA, and analysis of case dispositions.

Draft copies of this report were forwarded to HRA's Administrator, the New York City District Attorneys, and the Deputy Mayor for Criminal Justice. Their responses or suggestions are included in this final report, as appropriate. HRA's response is contained in Appendix G.

SUMMARY OF PRINCIPAL FINDINGS AND CORRECTIVE RECOMMENDATIONS

A. Issue:

Preliminary reviews for fraud, conducted by the Department of Income Maintenance (IM), were reviewed for content and quality. They appear frequently to be so superficially conducted that offenders may not be identified or reported. Poor quality in the initial case reviews by IM may preclude criminal investigation and punitive action. Following the March, 1977 City payroll computer match, a total of 756 cases were referred to Income Maintenance Centers for review. The Centers' subsequent reports of case findings were incomplete in at least 234, or 40% of the cases. While the Centers reported fraud in 47, or 6% of the cases, only 14 were reported as received by the Concealed Assets Division. The remaining 33 cases reportedly referred by the Centers but not received by the CAD appear to have simply fallen out of the system.

Recommendation:

Management in Income Maintenance must exercise stricter implementation of established review procedures regarding suspected fraud cases. In this connection, IM staff should be better trained to identify possible fraud, their work output should be effectively monitored, and tracking controls should be instituted to ensure that all suspected fraud cases referred to the Centers are promptly and appropriately disposed of.* In response to a draft of this report, HRA indicated that it has conducted further analysis and is moving to identify and correct these procedures and performance problems.

B. Issue:

Once fraud is suspected, further investigation requires close cooperation between IM and the investigative units. Flaws in the policies and methods for transmitting, processing and maintaining essential PA documents and case files have resulted in delayed or stymied criminal investigations and prosecutions.

Delays have been largely due to the failure of IM units to transmit materials promptly, if at all, to the CAD, as well as to an historical lack of initiative by the IG's office to make full use of its authority and capability to obtain such materials. In some instances PA files have been so incomplete as to be rendered useless as criminal evidence, or have been discovered lost or missing.

Recommendation:

Management must reemphasize to relevant IM units the importance of timely retrieval and transmittal of public assistance transcripts, checks, files and other evidence to the fraud investigation units, and must effectively supervise staff to ensure compliance.

*It should be noted that our study did not include an examination of IM procedures, but was rather a review of the end product of these procedures - the determination and referral of possible fraud to the CAD.

The Department of Income Maintenance should establish or improve the arrangements for the designation and effective use of IM liaisons responsible for making such data promptly available to staffs of the Client Fraud Investigation Unit and the IG's office, including the Court Liaison Unit. HRA investigators should go directly to IM Centers, when necessary, to review case materials and make photo-copies as needed. This should be standard procedure for major cases. When original documents are required by the District Attorneys, HRA Court Liaison staff stationed in each DA office should make full use of IM liaisons to obtain such materials promptly for the DA's.

IMC staff should be trained more adequately as to the proper entering of information on documents and the maintenance of files, and their work should be closely supervised. Files should be stored in locked cabinets with accessibility only to appropriate personnel. The investigative units should establish an effective system for reporting to IM management on the completeness and accuracy of information provided, and submit quarterly summaries of such reports to the HRA Administrator.

In response to a draft of this report, the Administrator of HRA indicated that IM staff will be better trained and instructed on these points and that steps are being taken to alleviate IM's huge records management problem.

C. Issue:

Even though HRA policy gives high priority to the investigation of concealed government employment offenders, this priority was not reflected in the work output of the client investigation process during the period of our review. In the nine month period ending September 1978, of the average monthly intake of 657 concealed assets cases, 37% were related to concealed employment. However, of the average number of cases referred to the District Attorneys each month (the output), only about 15% of these were concealed government employment cases. These figures suggest a failure to operationalize agency investigative priorities.

Recommendation:

HRA in its reorganization, restructuring and redefinition of its investigative function must establish effective criteria for case priorities reflecting HRA, DA and Mayoral policy and must translate these priorities into investigative practice. HRA should also institute a system for the effective division of labor through greater specialization of work assignments among investigators and between investigative units so as to ensure increased productivity. The separation of HRA employee fraud from other client fraud investigations is a useful first step in this direction.

HRA responded that "In the past year, OIG has realigned its priorities structure on a new City-wide emphasis on employee fraud..." We welcome HRA's attention to such priorities, but emphasize the need for the effective operationalization of the stated priorities.

D. Issue:

The DAs reported to us that criminal investigation case reports prepared under current procedures have often failed to meet even such basic prosecutorial standards as the statute of limitations.

In a sampling of criminal dispositions of 161 concealed government employment fraud cases referred to the District Attorneys for prosecution during a three-month period ending in March 1976, 105, or 65% of these cases were not prosecuted for reasons including the following: insufficient evidence of criminal wrongdoing; expired statutes of limitations; low amounts of fraud claims, often due to miscalculations of claims; and because recoupment or restitution actions had begun or were completed.

Much of the problem stems from failure to train investigative staff adequately and to monitor work output, as well as from the historical failure of HRA to reach agreement with the DAs on criteria regarding priorities and standards for case referrals for prosecution.

Recommendation:

HRA should ensure that a comprehensive and current manual of procedures for criminal investigations be prepared for use in the client fraud investigation units. Investigative staff should receive training in the investigation of criminal cases and in report-writing.

HRA's recent initiation of meetings with the Deputy Mayor for Criminal Justice and the DAs is a step in the right direction. These meetings should recur periodically in an effort to establish, update and communicate criteria for case priorities, quality standards for case preparation and appropriate means for the efficient processing of cases. Based on such criteria, the HRA procedures manual would provide guidelines for the selection of priority cases for investigation and contain checklists for investigators indicating priority criteria for pending case investigations.

These measures can only be effective if ongoing staff work is adequately supervised. HRA has responded that it will be preparing an investigative manual for use in the investigative units.

E. Issue:

HRA has not in the past monitored the disposition of its cases by the DAs, the Criminal Courts, the employing agencies and the HRA itself so as to evaluate the effectiveness of its investigative output.

Recommendation:

The HRA's Court Liaison Unit should keep detailed records of criminal case dispositions and review such dispositions periodically to determine: 1) why certain cases were rejected for prosecution, and 2) if proper internal administrative actions have been taken, e.g., recoupment or restitution by civil action. Regular monthly reports on the percentage of cases accepted or rejected with the attendant reasons should be distributed to the investigative units and the relevant commissioners.

F. Issue:

The Collections Unit of the HRA's Office of Legal Affairs reported to us that it has not been pursuing collections via civil action even when restitution has been ordered by the criminal courts. Such inaction has been due partly to pending litigation regarding HRA's practice of taking Confessions of Judgment from alleged fraud offenders, and to the significant understaffing of the unit in which one professional has been charged with the full responsibility for collections on all fraud accounts.

Recommendation:

The Collections Unit should be made viable by increasing staff as needed. The cost/benefit ratio of this function should meet Mayoral and Office of Management and Budget criteria for budget expansion.

Confessions of Judgment should still be sought (at least in those cases where restitution has been ordered by the Court) until litigation is resolved. The language in Confession of Judgment and Promise to Pay forms (restitution agreements) should be amended to advise offenders that the signing of such documents will not preclude further criminal and/or disciplinary action.

HRA replied as follows: "We also agree with your findings that our process of collecting from recipients who have been ordered by a court or voluntarily agreed to make restitution needs improvement. We have added temporary manpower to the Collections Unit in the Office of Legal Affairs to facilitate computerization of an accounts receivable system which should eliminate the in-house collection problem. Where we do not receive payments, we will take civil action to enforce judgments or agreements that have been made."

Per agreement between HRA and the Department of Investigation, Confession of Judgment and Promise to Pay forms have been amended as proposed.

G. Issue:

The decision to prosecute a case criminally is dependent on the individual prosecution policies and priorities of the DAs and on the quality of case referrals.

Recommendation:

Each DA should, to the maximum extent possible, formulate in-house guidelines as to prosecution policies and priorities and communicate them to HRA so that HRA can supply the DAs with appropriate case referrals.

H. Issue:

City agencies have neither conducted timely administrative reviews of, nor applied stringent or uniform penalties to concealed employment fraud cases. Our review of case dispositions by City agencies revealed that a disciplinary proceeding may last from 6 months to over a year, and at the end of the process only a small percentage of fraud offenders are disciplined in any manner. Of the 805 case dispositions reviewed, only 52, or 19%, were disciplined: 26, by suspension, probation and/or fine; 22, by dismissal and 4, by official reprimand.

Recommendation:

City agency heads should strictly implement the Mayor's policy and guidelines regarding the proper treatment of fraud offenders as mandated in his memorandum of October 13, 1978.* As in past years, the Department of Investigation will be monitoring case dispositions and will render reports to the Mayor.

CONCLUSIONS

Despite the large number of suspected offenders initially identified by computer matches, the case follow-up process has been largely ineffective. This is demonstrated most clearly by two key findings: first, of those targeted by the computer match procedure, only a fraction are correctly referred and properly investigated for fraud; second, of those which are criminally investigated and are alleged to have committed fraud, only a small percentage

*Appendix A of this report contains a copy of the Mayor's memorandum.

are either prosecuted or disciplined. Unless modified, the system will not provide any meaningful deterrent against future, similar conduct.

In summary, our study shows that management in all entities involved in the process has not until recently given sufficient attention to dealing effectively with this high priority category of City employee misconduct. The problem has in the past been aggravated by poor coordination of effort among such entities, i.e., the Human Resources Administration, the District Attorneys and the employing agencies. Our findings are supported by those of other studies previously conducted at both State and City levels.*

Recent initiatives by HRA to redesign the client investigation structure and to increase coordination with the DAs should begin to improve matters. The Mayor's recent memorandum** to City agency heads mandating attention to these cases should also help greatly. An effective process, however, will depend on correcting the system problems described in this report. HRA's response to our draft demonstrates a comprehensive understanding of the problems; as mentioned in the relevant sections of this report, HRA has taken several initiatives to improve the process.

Of course, more efforts should be made to prevent frauds in the first place. In this connection, HRA has recently instituted a front-end fraud control system in which the names and social security numbers of new City hires are computer-matched against City public assistance rolls to identify recipients whose grants are not budgeted for employment income, and to rebudget their grants appropriately.

*Appendix B of this report contains a listing of relevant audits and reports of which we are aware.

**Appendix A of this report contains a copy of the Mayor's memorandum.

DETECTION AND PREVENTION OF FRAUD
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ANALYSIS AND CORRECTIVE RECOMMENDATIONS

I. INTRODUCTION

This Administration has repeatedly expressed its concern that City employees meet high standards of conduct and that those who engage in corrupt or other criminal activity, or any serious misconduct, be promptly identified and appropriately penalized. The Department of Investigation is charged with the responsibility of ensuring that this policy is complied with by all City agencies.

The problem of fraud committed by City employees who conceal their employment income in order to gain public assistance illegally is of particular concern to this Department. The nature and magnitude of this problem have been revealed by the Human Resources Administration's (HRA) computer matches of public assistance rolls and City payrolls. For example, between January 1975 and May 1977, the HRA Inspector General's office (IG) determined that 805 City employees discovered through such matches had fraudulently concealed income to gain public assistance. The dollar amount of fraud alleged was approximately \$3.2 million.*

Public assistance recipients are responsible for reporting all income to the Department of Social Services. Intentional concealment or misrepresentation of such information constitutes a fraud for which an individual may be charged with larceny and related offenses.

Since 1975, the HRA has been systematically conducting computer matches of public assistance (PA) rolls with payroll records to identify City employees whose public assistance grants are not budgeted for employment income. The identities of individuals thus matched are referred to local Income Maintenance Centers (IMC) for appropriate action on overbudgeted

*During the same period, the IG's office also substantiated 97 cases of fraud by State employees and 51 by Federal employees, representing an additional \$800,000 in alleged fraud.

grants: rebudgeting, case closing, recoupment, and/or review for fraud. When such a review discloses possible fraud on the part of the recipient/employee, the procedure has been for the Center to refer the case to the HRA Concealed Assets Division (CAD) for criminal investigation. Those cases in which the CAD makes a determination of fraud are referred to appropriate District Attorneys (DA) for possible criminal prosecution, and to City employing agencies for possible discipline. The Collections Unit of the HRA's Office of Legal Affairs is responsible for taking civil action to recover public assistance overpayments, independent of or pursuant to restitution ordered by the Criminal Courts.

In this Department's periodic monitoring of the criminal and disciplinary dispositions of these cases, it became apparent that many flaws existed in the process for substantiating fraud and for effectively penalizing offenders through criminal or administrative means. The result has been that many offenders have not been properly identified or penalized. The failure of City government to deal with this problem further encourages such fraud since potential offenders and recidivists will not be deterred if there is no penalty.

In response to historical problems in the investigation of such fraud, the HRA (with the Department of Investigation) has reorganized the investigative function. Accordingly, the IG is now responsible for investigating only HRA staff fraud as mandated by Executive Order #16; the responsibility for investigating all other client fraud has been shifted from the IG to the newly created Client Fraud Investigation Unit (CFIU). Much of the investigative staff from the IG's office, including that of the entire CAD, has been incorporated into the CFIU.

To ensure the success of this effort, this Department's Bureau of Corruption Prevention and Management Review (CPMRB) conducted this analysis to identify weaknesses in the procedures relating to HRA's investigation and referral of alleged concealed employment fraud, and in the policies and managerial approaches affecting these procedures. The analysis extended to the eventual disposition of cases by District Attorneys and City agencies. This was accomplished by means of interviews with key personnel in HRA and District Attorney offices; observation of working procedures, analysis of case documents and review of written procedures in HRA, and analysis of case dispositions.

Draft copies of this report were forwarded to HRA's Administrator, the New York City District Attorneys, and the Deputy Mayor for Criminal Justice. Their responses or suggestions are included in this final report, as appropriate. HRA's response is contained in Appendix G.

II. BACKGROUND OF COMPUTER MATCH AND CASE REFERRAL PROCESS

Pursuant to New York State Social Services Regulations Part 348, the New York City Department of Social Services (DSS, a part of HRA) is mandated to detect and investigate all cases of alleged public assistance (PA) fraud and to refer to appropriate prosecutorial agencies those cases wherein "reasonable grounds exist to believe that fraud was committed".

Computer Match System

In July 1974, the DSS Office of Operation Support (OOS) began a preliminary check of concealed government employment fraud offenders by matching the names and social security numbers appearing both on PA rolls and government payrolls. Since January 1977, such matches have been conducted quarterly on all City mayoral and certain State employees, annually on certain city non-mayoral employees and by special arrangement on employees of certain Federal agencies.

Preliminary Case Review

Public Assistance clients who appear on government payrolls are notified by the Department of Income Maintenance to appear for an interview at either the OOS or a local Income Maintenance Center (IMC),* and to bring their three most recent employment paystubs. The OOS or the appropriate IMC estimates the amount of PA overpaid, and processes appropriate budget modifications, and/or recoupments, or case closings so that overpayments do not continue. Where fraud is suspected or found referrals are made to the Concealed Assets Division (CAD) for investigation. In the current system, referrals relating to HRA staff are sent to the IG; those relating to non-staff clients are sent to CAD. Clients who fail to appear for the interview are removed from the public assistance roll.

*OOS handles computer case reviews when a computer match results in a small number of "hits". According to our interviews with OOS staff, when the number exceeds approximately 300, the cases are referred to relevant IMCs. Since the IMCs have the clients' PA files, this latter procedure seems to us the most logical one. However, as described below, the IMC review process has not worked well.

Case referrals for fraud investigation have been submitted either on a Refund Summary form by the IMCs or on a Questionnaire form (similar to the Refund Summary) by the OOS. These forms include the following information: the estimated amount of income concealed, the period of concealment, the length of time the client was on public assistance (supplied by IMCs which have access to PA files, but not by OOS), the client's statements upon interview, the action taken and the current status of the case. The entire process from detection to referral for investigation is to be completed in approximately one month.

Criminal Investigations and Referrals

All Questionnaires or Refund Summary reports are sent to the CAD. Upon receipt of such reports, a CAD caseworker verifies the subjects' names and social security numbers and verifies employment information based on weekly and quarterly payroll information from the City Comptroller for mayoral employees and from individual employing agencies for non-mayoral, State and Federal employees. The CAD also conducts a bank clearance survey. The Division's clerical unit requests PA files from the IMCs and transcripts of public assistance from the DSS Division of Accounting. These transcripts are evidence of PA payments made to clients as of the date of the alleged concealed employment.

Upon completion of the employment verification and receipt of the clients' PA files, the practice has been for a unit supervisor to assign the cases among the Division's 29 investigators. CAD investigators determine whether PA overpayments are due to fraud and/or administrative error and calculate the amount and period of overpayment. The evidence to sustain their determination is generally contained in the documents in the clients' PA files, the transcripts of public assistance, the employment survey information and bank clearance reports. Further evidence is sought out by investigators in client interviews and from additional sources as needed.

When a criminal investigation is complete, a unit supervisor reviews the investigative report for completeness and accuracy and then refers those reports in which fraud has been found to the Director of the Division. The Director rules on the sufficiency of the criminal investigations and decides which of the reports should be referred to the District Attorneys. The Court Liaison Unit (historically part of the IG's office) keeps records of case transmittals to the DA, and tracks the case dispositions by the DAs and Courts.

Until recently, copies of these investigation reports relating to government employees also had been forwarded to the Department of Investigation for referral to appropriate employing agencies for possible disciplinary action. (Under new procedures, HRA investigative units will make such referrals directly to the agencies.)* The Department is responsible for monitoring administrative case dispositions by City employing agencies. Copies of all investigative reports substantiating fraud and/or administrative error are also referred by the CAD to the IMCs with recommendations for comprehensive budget actions or case closings, and to the OOS for follow-up action on the IMCs' implementations of such recommendations.

Processing of Cases for Prosecution/Follow-up Action

The District Attorneys receive the investigative reports of fraud, and base their decision about whether to initiate prosecution, reject the case, or return it for further investigation, upon these reports. If prosecution is being considered, the District Attorney will request from the Court Liaison Unit the relevant PA files as well as case evidence files prepared by HRA investigators. Following Court action, HRA's Court Liaison staff in the District Attorney offices transmit case disposition forms, as well as PA files and Court Orders for restitution, to HRA's central Court Liaison Unit. That unit logs the DA and Court dispositions and is responsible for referring Court Orders for restitution to the IG's office, where defendants should appear to sign Confessions of

*See Appendix F for Commissioner of Investigation Lupkin's memorandum of January 19, 1978 to City agency IGs regarding this new procedure.

Judgment and Promises to Pay (claims for restitution) and make arrangement for restitution. The unit is further responsible for referring active PA cases for recoupment action to HRA's Department of Income Maintenance, and referring inactive PA cases which were not prosecuted or were not convicted to HRA's Collections Unit for civil prosecution. The Collections Unit is responsible for filing Confessions of Judgment with the Supreme Court and enforcing restitution.

Processing Of Cases For Employee Discipline/Follow-up Action

City agencies are required to conduct administrative reviews of all alleged fraud cases regarding their offender employees, and to take disciplinary or other administrative action, as appropriate, pursuant to their responsibility under New York State Civil Service Law Section 75 and the New York City Charter, Section 1116. Agencies must also notify the Department of Investigation of any actions taken in this respect, pursuant to Executive Order #16.

The Mayoral Memorandum issued October 13, 1978 (Appendix A) outlines City-wide policy for the proper and effective disciplinary or other administrative handling of such cases.

III. FINDINGS AND RECOMMENDATIONS

A. HRA Department of Income Maintenance

Problems in IM Operations As They Impact On Criminal Investigations*

1. Case Reviews and Referrals by Income Maintenance Centers of Possible Fraud

The Department of Investigation performed a review of how Income Maintenance Centers disposed of 756 cases resulting from the March 10, 1977 NYC payroll computer match. Based on this match, we have concluded that the product of their efforts has been less than adequate. Since the reorganized client fraud investigation function will depend greatly on IM work for its success, these problems must be corrected if the new program is to bring any improvements. The following is a summary of our findings:

After removing from the computer printout those cases which were not budgeted for employment income, 756 cases were referred to the IMCs for review, budget action and/or referral to the IG. A review of the case Questionnaires revealed that the IMCs made the following determinations on these 756 cases:

NEW YORK CITY PAYROLL MATCH of March 10, 1977

Preliminary Case Review by IMCs

<u>CASES</u> <u># / %</u>	<u>IMC DETERMINATIONS</u>
47/6%	Possible fraud (as determined by IMCs)
263/35%	Client did not appear for interview
205/27%	Budget correct
37/5%	Administrative error
12/2%	Case closing
39/5%	Cases previously closed
153/20%	No action required (mismatch etc.)
Total 756/100%	

*It should be noted that our study did not include an examination of IM procedures, but was rather a review of the end product of these procedures - IM reports on the determination and referral of possible fraud to the IG.

- o Of the 47 cases where the IMCs determined the possibility of "fraud", Refund Summaries were not received by the CAD for 70% of these cases as of 9/5/77, approximately 6 months after detection by computer match.

The following is a breakdown of the IMC dispositions of these alleged fraud cases:

<u>CASES</u> <u># / %</u>	<u>IMC DISPOSITIONS</u>
14 / 30%	Refund summaries were sent to and received by the CAD.
9 / 19%	Questionnaires indicated that Refund Summaries were sent to the CAD but the CAD reported no receipt as of 9/5/77.
24 / 51%	Questionnaires indicated fraud but no indication was given of referral to the CAD.
Total 47 / 100%	

The Questionnaires for the 263 cases where the IMCs indicated that "client did not appear for an interview" were for the most part incomplete, even in regard to data available from files. Based on the information provided on these Questionnaires, it appears that the IMCs either superficially conducted preliminary reviews for fraud or failed to record and report their findings and actions to the OOS and the CAD. The apparent lack of attention to investigating these cases seems to be that since current DSS procedures require that the IMCs close all cases where clients fail to appear, the closing of the case will end the fraud. However, if these cases are closed without any further review and referral for investigation, concealed employment offenders who do not contest the closing or do not reapply for public assistance will not be penalized for their past behavior, nor be required to make restitution. Since the fraud alleged may be in the thousands of dollars, restitution must obviously be pursued.

The following is a breakdown of the IMC dispositions in these 263 cases as reflected on the case Questionnaires:

<u>CASES # / %</u>	<u>IMC DISPOSITIONS</u>
225 /86%	No information was provided other than client's failure to appear for an interview/No referral to CAD was indicated.
6/2%	Case closing initiated by Center
3/1%	Employment income not reported/No referral to CAD indicated
6/2%	Refund Summary submitted to CAD
8/3%	Employment income reported /No budget change
15/6%	Employment income reported/Budget changed
<hr/> Total 263/100%	

- o In the 225 cases where the IMCs indicated that clients did not appear for an interview, the Centers did not further explain their findings or actions as required on the Questionnaire form, i.e., whether employment income was or was not reported, whether PA rebudgeting had been necessary and whether such action had been taken; and if and when a client's case was closed for failure to appear, in line with current IM policies. Without these data, it is not possible to determine whether any or all of these 225 cases should have been referred for investigation and possible prosecution.
- o In the 6 cases where the IMCs indicated case closings, they did not explain the reasons for such closings.
- o In 3 cases the IMCs indicated that employment income was not reported, yet they did not choose to refer those cases to the IG.
- o In the 6 cases where the IMCs reported sending Refund Summaries to the CAD, only 3 such referrals were reported as received by the CAD as of 11/4/77.

HRA performed its own survey of the March 10, 1977 match case activity in response to our draft report, and found that in 56% of the cases requiring a referral to CAD, the referral was not made.

The above findings indicate that HRA has not provided for a monitoring of the computer match process to ensure that IMCs properly review and refer cases. Since our survey of the March 10, 1977 match, the OOS apparently recognized that IMC procedures were inadequate and attempted "corrective" action. However, instead of exercising stronger control over IMC activities, the corrective action consisted of transferring the problem to the CAD. Accordingly all Questionnaires which indicated public assistance overpayments or a client's failure to appear for an interview were sent directly to the CAD without preliminary review for fraud. (See Appendix C) This measure has aggravated rather than alleviated the problem of concealed government employment case referrals as follows:

- o The CAD has received a substantial increase in workload due to the referral of such Questionnaires. Whereas the March 1977 match resulted in the referral of 14 Refund Summaries to the CAD, the July 1977 match resulted in referral of 787 Questionnaires.
- o The CAD workload per case has also increased because most of the Questionnaires contain minimal information regarding the client's case and the possibility of the client's concealment of employment. Therefore, the CAD has had to do the preliminary case review work prior to investigation. This work should have been done by the IMCs.

The magnitude of the computer matches as compared to the subsequent minimal or inadequate referrals to the CAD suggested that personnel were not performing effective or complete preliminary reviews. The attempt by the OOS to compensate for this failing by referring incomplete and, at times, irrelevant Questionnaires to the CAD is counterproductive. This practice would certainly impede the chances for success of the new Client Fraud Investigation Unit, if not utterly drown it in useless paper.

In response to our draft report, HRA indicated that it will be dealing with these issues, and, "IM Programs and the Director of Fraud Investigations will work out mutually acceptable procedures to eliminate the duplication, assign responsibility and streamline procedures."

Recommendations: To Improve Preliminary Reviews for Fraud and Referral Procedures

- o The current practice of sending unreviewed, unevaluated, incomplete Questionnaires or Refund Summaries to the client fraud investigation operation must stop.
- o Managerial staff in the IMCs should be held accountable for ensuring that all computer match cases received by the Centers are properly reviewed for a determination of possible fraud, that the Questionnaires submitted to the OOS are complete and that Refund Summaries are accurate, fully complete and promptly submitted to the client fraud investigative units on all cases where fraud is suspected. The IMCs should conduct preliminary case reviews on all computer match cases. The OOS should not be involved in conducting some of these reviews as currently done, but rather should monitor the process.
- o For this process to be at all effective, the Office of Income Maintenance must establish and promulgate to the IMCs clear guidelines as to what such reviews entail. These guidelines should include criteria for determining possible fraudulent activity.
- o It will be necessary to institute continuous monitoring of IMC work by IM management, and case tracking controls. In this connection the OOS should perform quality control functions and should reject incomplete or otherwise inadequate preliminary case reviews received from IMCs and return them for rereview. All questionnaires received by OOS must indicate the IMCs' determination regarding the possibility of fraud and must note the date when Refund Summaries were referred to the investigative units. Refund Summaries relating to HRA staff fraud should be sent to the IG; those relating to all other client fraud should be sent to the Client Fraud Investigation Unit.
- o The OOS should report monthly to the Center Directors, the Commissioner of IM and the HRA Administrator regarding the number, the percentage of and the reasons for rejected referrals by IM Center.

HRA responded to the issues as follows:

"Upon receipt of your report, the Division of Income Maintenance Programs ("IM Programs") reexamined its operating instructions to IM personnel and the practices and controls of its Office of Operations Systems ("OOS") as they relate to handling computer matches. It became apparent that instructions to IM personnel were not as clear as they should have been. We have revised the instructions to insure that staff clearly understands its responsibility to (i) secure collateral verification from an employer of the amount of concealed income, (ii) compute the amount of funds wrongfully obtained from public assistance, (iii) take recovery action by reducing public assistance payments where assistance continues and (iv) record clearly all of the actions connected with each investigation for use as evidence in possible fraud prosecutions. The revised instructions also make it clear that IM staff has a responsibility to refer fraud cases to the HRA Inspector General ("Inspector General") promptly and with as much detail as is possible."

HRA did not agree with our recommendation that OOS monitor the referral process, but preferred an audit of match activity. We believe that quality control is a constant, not an intermittent, requirement, and emphasize the need for ongoing monitoring. OOS seems to us the logical party to perform this function, but IM Management might choose to locate this function elsewhere.

2. Maintenance and Referral of IM Documents

If the initial case review and the evaluation of the Questionnaire or Refund Summary shows presumptive fraud, it becomes necessary to examine documents from the client's PA file to locate physical evidence. According to the DAs and the Director of the CAD, the recording of information in public assistance files and the maintenance of these files have often been so inadequate that the documents were rendered useless as criminal evidence. Public assistance files and other evidence such as checks and transcripts of public assistance have either not been regularly transmitted in a prompt manner to the CAD and DAs or have not been locatable by IM.

- o IMCs often take up to a year to transmit PA files to the CAD, or fail to respond to requests for files altogether.
- o With respect to PA checks and transcripts, the additional problem of depleted staff in relevant IM units is reportedly responsible for some of the delay.
- o Our review of client information as forwarded by IM revealed that IM personnel often improperly entered information in client files or failed to enter required information:
 - Public Assistance Applications and Face to Face Re-certification forms have, at times, been entered into the files unsigned by clients or caseworkers or have been simply missing from files.
 - Public Assistance forms have been signed with an "X"; unnotarized, or when notarized, have often not been done so in the presence of the client, thereby making such forms useless as evidence.
 - Clients' oral or written notifications of changes in employment status and income have often not been entered into the clients' PA files. Appropriate budget alterations therefore do not take place and clients may later be mistakenly investigated for having concealed employment income. This is discovered only when prosecution commences, leading to much time wasted.
 - Dispositions of fair hearings have not been regularly placed in PA files. This may cause the DA to receive an alleged fraud case that has already been resolved at a hearing.
- o Communication between fraud investigation staff and other DSS units has been so flawed that the DAs have been advised by the IG to subpoena evidence such as original PA checks and transcripts of public assistance from IM to ensure the timely receipt of such evidence. In the absence of a subpoena, the DA may wait up to a year to receive documents vital for prosecution.

Recommendations: To Improve the Maintenance and Referral of IM Documents

- o Management must take measures to ensure the proper maintenance and timely referral of DSS records to investigative staff. In this connection, staff should be better trained in the proper processing and maintenance of such records. Training should include awareness of the function of both the IG and the Client Fraud Investigation Unit, and the responsibilities of IM staff in regard to these units. IM management should establish or improve upon the arrangements for the designation of liaisons in relevant units of the IM, including the IMCs, to be responsible for the timely transmittal of documents to the investigative units. Court liaison staff stationed in the DA offices should make full use of such liaisons in obtaining materials for the DAs.
- o As part of regular management reporting, the investigative units should periodically report problems in this regard to the IM Commissioner and the HRA Administrator. Each instance of a missing or incomplete client file should be reported, and this should be collected and reported monthly by IM Center.
- o An appropriate response to limited staff resources in relevant IM units would be a prioritization of work and possibly an operational review to discover productivity improvements. It is essential that staffing problems not be allowed to delay the client investigation process. (Recent IM procedural improvements are reported to have sharply reduced client visits and staff overwork in the IM Centers. The resultant saving in staff time should obviate the problems reported to us during the study period.)
- o PA files should be stored in locked cabinets with accessibility only to appropriate personnel.

In response to our draft report, HRA acknowledged the existence of these problems but viewed them as a component of its general and enormous records management problem. The Administrator stated, "We recognize that we need to take another approach to records maintenance, and shortly we will test the use of microfilm record to replace our paper files at one IM Center".

B. The Concealed Assets Division (CAD)

Procedural Problems Affecting the Investigation and Referral of Concealed Government Employment Fraud Cases as Conducted to Date

Pursuant to the recent reorganization of the investigative function within HRA, the investigation of HRA staff fraud would remain with the IG. The investigation of all client fraud (including fraud by government employees) would be handled by the newly created Client Fraud Investigation Unit (CFIU). The CAD, formerly a part of the IG's office, is now incorporated into the CFIU.

Our study of the CAD suggests system and procedural problems that must be corrected in order for both investigative units to function more effectively. It should be noted that most of the problems we found in client fraud investigation should have been addressed in the regular supervisor/investigator relationship.

1. Delays in the Initiation and Completion of Criminal Investigations

Delays in the initiation and completion of criminal investigations have resulted in enormous case backlogs and consequently, in the referral to the DAS of many cases for which the statutes of limitations have run out. The delay and backlog problems can be expected to pose problems for the new unit.

In June 1977, the backlog of pending and unassigned concealed assets cases in the CAD was over 15,000. As of September 1978, the backlog had risen to 20,961. Of these, more than 4,000 and as many as 7,000 are estimated to be concealed government employment case allegations.* According to our calculations, the proportion of the backlog which is made up of government employee cases has consistently increased each month. To an extent, the overall case backlog may be due to reported staff losses. The increasing backlog of high priority cases, however, is not clearly due to attrition but to problems in investigation methods, priorities, etc., as described below.

*The CAD does not keep records of pending cases by category of assets concealed. We therefore calculated the backlog of concealed government employment cases by taking the average percent intake of such cases, 37%, and taking that percent of the total backlog of all concealed assets cases. The 37% figure includes cases relating to non-governmental employees; however, according to a supervisor in the CAD, these cases make up a very small proportion of the total concealed employment case intake.

The delay in investigating concealed government employment cases has, to a large extent, resulted in non-prosecutions because statutes of limitations have often run prior to referral to the DAs. Our sample of criminal case dispositions by the DAs revealed that an average of 25% of the cases which were not prosecuted were rejected because they were stale.*

a) Low Output of Concealed Government Employment
Case Investigations by the CAD

The output of each investigator in the CAD averaged out to approximately one completed case investigation per day, regardless of the scope of investigative work required for the different types of concealed assets cases. In response to our draft, HRA reported that investigator productivity has increased by 14% from 1974 to 1977. However, an investigator's output still includes an average of only two completed concealed government employment cases per month.

The low output of concealed government employment cases is unwarranted for two reasons: 1) this category has been high priority, and 2) the investigation thereof generally does not require field work or extensive information gathering by investigators. Investigators generally need only review and assess case information provided to them in a package consisting of the recipient's case records, a refund summary report from the IMC (or Questionnaire from OOS), an employment background report, and a bank clearance report. Additionally, the investigators must interview the subject and write up an investigative report on the case.

b) Failure to Operationalize Priorities on Concealed Government
Employment

In our interviews with the Director of the CAD and his staff supervisors, they indicated that, in general, case priorities have been made on the basis of their individual judgment and that formal case priorities had not been promulgated in writing.

*Refer to Section III, C of this report.

Our analysis suggested that concealed government employment cases have not been given priority attention over other types of concealed assets cases. This is borne out by the investigative output of the CAD. For example, during the nine month period ending in September 1978, the average monthly referrals to the DAs of completed investigations of concealed assets cases was 332. Of these 52 concerned concealed government employment fraud. While 37% of the input into CAD related to concealed employment cases, only 15% of the output related to concealed government employment cases.

Concealed government employment cases have not been adequately sifted for priority status prior or subsequent to assignment for investigation. Rather, unit supervisors have routinely assigned such cases whenever the case background information was compiled, regardless of the seriousness or the time-period of the alleged fraud.

In its response to our draft report, HRA indicated that indeed these cases were high priority and every investigator had been assigned to these cases in the past year. The figures quoted above, however, demonstrate that HRA's approach has not led to effective operationalization of the stated priority.

c) Inefficient Investigative Reporting

Reporting of criminal findings is generally unclear, yet redundant and lengthy, resulting in wasted time and effort on the part of supervisors. The staff and supervisors report no training in expository writing.

d) Failure to Ensure Timely Access of Documents

In the past, the IG's office had written repeatedly to certain IMCs in a generally unsuccessful attempt to arrange for the timely delivery of PA files needed for investigations to proceed. Notwithstanding IM's failure to ensure the prompt referral of files, there has been a lack of initiative by the IG's office to make full use of its authority and capability of securing PA documents.

Recommendations: To Expedite Criminal Investigations

- a) A number of investigators should specialize in and work primarily on concealed government employment fraud cases. (Such specialization exists for the investigation of concealed Unemployment Insurance Benefits cases.) An effective division of labor should encourage better performance monitoring with quicker case processing, increased output and greater uniformity in case reporting. Output should, of course, be closely monitored by unit supervisors.

The recent separation of HRA staffs fraud from client fraud investigations is clearly a useful first step in specialization of function.

- b) The Director of the new Client Fraud Investigation Unit and the IG should promulgate in writing and revise as needed guidelines regarding priority standards. Priorities should be based on the prosecutorial policies of the District Attorneys. In this connection, representatives of the DA offices and the HRA should meet regularly, under the auspices of the Deputy Mayor for Criminal Justice, to review case priorities and adjust as necessary. The recently initiated meetings with the DAs and the Deputy Mayor are welcomed as a promising initiative in this direction.

To ensure the translation of announced priorities into actual practice by the investigative units, a unit supervisor should sift and categorize cases in order of importance. The following criteria may be appropriate:

- dollar amounts of fraud most readily prosecuted by the DAs (the amount of fraud alleged may be estimated from the Refund Summary or Questionnaire, the employment survey report and the transcript of public assistance);
- approximate duration of alleged fraudulent activity;
- whether or not restitution or recoupment has been made;
- whether there is a prior record of public assistance fraud;
- client appearance or failure to appear for an interview at the investigative unit concerning the alleged fraud.

A checklist of these or additional priority criteria should be distributed so that investigators may better determine which cases to expedite. The Directors of the investigative units should regularly review the caseloads of individual investigators to ensure that established priorities are being applied.

- c) Investigators should be trained to write concise, clear and complete reports. The reporting format should be revised as proposed in the recommendations in section 2 below.
- d) IM management should establish or improve the arrangements for the designation and effective use of liaisons in each IMC and in other relevant units of IM, to be responsible for making documents promptly available to the investigative units. Investigative staff should go directly to the Centers when necessary to review case materials and make photo-copies as needed. This should be standard practice with any major case. When original documents are needed by the District Attorneys, HRA Court Liaison staff stationed in each DA office should make full use of IM liaisons to obtain such documents.

Problems in attaining information should be reported in the management reports of the investigative units, and regular feedback on delayed or "unlocatable" files or documents should be provided to the IM Commissioner and the HRA Administrator.

2. Inadequate Criminal Case Report Writing

In the course of our study we reviewed over 800 investigative reports and read closely over 60 of them for content, clarity and utility. We found that HRA's criminal investigative reports are often incomplete, imprecise, unclear and disorganized, making it difficult for prosecutorial and administrative agencies to act. Investigators have tended to use DSS jargon and code numbers in their reports when referring to DSS forms, client status and case actions. They often report identical information verbatim in different subdivisions of their reports; the resulting product is redundant and frequently confusing. Investigators often omit relevant information or do not indicate that certain information is unavailable.

Recommendations: To Improve Criminal Investigative Reporting*

Investigators should be trained and given guidelines on how to write organized, succinct and comprehensive reports. In establishing such guidelines, the following points should be considered:

- o In addition to using names rather than numbers for DSS forms, a listing indicating the names and purpose of such forms could be supplied to each DA office and updated periodically.
- o Reports should show clearly the progression of fraudulent activity in chronological order and contain all facts relevant to intent, and to the commission of the crime.
- o Information in the body of the report should be subdivided into clear-cut categories without overlapping of information between these categories. The conclusion of the report should not repeat previously stated information; rather, it should provide a synthesis and clarification of facts and a statement of recommended case action.
- o The investigative reporting format should be revised to ensure greater uniformity, comprehensiveness and concision. In this connection a preprinted form for reporting concealed government employment fraud should be developed on which investigators could fill in or check-off information which is common to all such cases. This format should include the following:

Employment information -

- the name and address of the employing agency and numerical identifying code for City agencies;
- the borough in which the client is employed;

*Attached as Appendix H is a sample format for a standard investigation report for welfare fraud cases as proposed by Detective Salvatore Giunta of the Bronx District Attorney's office. This format is comprehensive and would serve as a useful guide for HRA in its development of a reporting format.

- whether the agency is a City, State or Federal agency;
- the name of the person to contact for payroll information;
- the employment title of the client/employee.

Public Assistance Information -

- total period on PA and dates of fraudulently obtained PA funds;
- the amount of fraud alleged;
- if the case is active, the date PA benefits were budgeted;
- if the case is closed, date of closing, the closing code number and the reason for closing;
- if and when recoupment was initiated, the date, issues and rate of recoupment;

Referral Source -

- if the case is a computer match case, the date of such match and the date the Refund Summary or Questionnaire was received.

3. Poor Quality of Criminal Case Investigations

In our interviews with the District Attorneys, they reported that criminal investigative reports referred to them by the CAD generally do not meet prosecutorial standards. Such reports have not always been factually accurate or comprehensive. An inaccurate investigation may result in an injustice to the subject who may be erroneously suspected of fraud, or, conversely, may thwart prosecution of the guilty.

In the majority of case referrals, HRA's Court Liaison staff in the DA offices must check such reports against the information in PA files, must often conduct supplementary work involving the gathering of additional evidence to determine if, in fact, fraud was committed, and must recompute the claims for fraud. All of this work should have been performed prior to referral to the DA offices. Our review of criminal case dispositions disclosed that 74% of the cases which were not prosecuted were rejected largely because of inadequate referrals, i.e., insufficient evidence of fraud, expired statutes of limitations,

and problems in the computation of claims for fraud.* This happened even though these reports passed through the CAD supervisors and the Director of the unit. Many of the rejections were made by the HRA's Court Liaison staff stationed in the DA offices. Their criteria for case review and those of the DAs should certainly be available to the Directors of the investigative units.

a) Insufficient Criminal Evidence Developed and/or Reported

HRA's investigative reporting format calls for detailed information arranged under such categories as "Misrepresentations & Concealments", "Admissions", "Computation of Claims" etc. However, our review of investigative report content and our discussions with the DAs indicated that CAD investigators often neglect to gather, develop and/or report admissible, competent or persuasive evidence to support a criminal case. Examples of this include:

- o Showing proof that a client failed to report certain employment information, but not going further to indicate evidence of client's intent to commit the crime of larceny by misrepresentation or concealment, i.e., client's misrepresentations or omissions on Public Assistance Applications or Face to Face Recertification forms, or in written or oral statements made to IM personnel or to investigators.
- o During the interview with the client, failing to question clients or request documentation from clients relevant to the commission of the crime. Questions most frequently omitted include:

Did the client sign IM forms or make statements on other relevant documents which are not available to the investigator?

*Refer to Section III, C of this report for criminal case dispositions. It should be noted that in some of these instances, cases were rejected for prosecution because of individual prosecutorial policies and standards of the DAs. Notwithstanding this, a large part of the problem rests with the investigative process as it has been operating.

Was the information client supplied true at the time such forms were signed or such statements were made?

Were there any misunderstandings on the part of client while entering such statements?

Was the client employed during the alleged period of fraud; where, under what title, and at what salary?

When did the client initially apply for PA and for recertifications of need for PA?

When and to whom did the client intentionally misrepresent his/her employment situation?

How, when and to whom did client disclose his/her employment?

- o Failing to gather exculpatory proof from clients, i.e., copies of letters client may have written to the IM to notify the agency of employment. (Consequently, after a client is arrested and brought to court, the DA may be confronted with the client's proof of notification of employment.)
- o Failing to explain what admissions, if any, were made by clients, how such admissions bear on their criminal intent, and whether statements made at the interview conflict with prior oral or written statements made to the investigator or other HRA staff, as may be noted in the client's PA file.
- o Failing to obtain proof of client's identity, i.e., originals or photocopies of PA or employment photo identification cards, or original handwriting exemplars.
HRA has responded that, "This responsibility may best be left with the District Attorneys who are able to request or subpoena such information as needed."
- o Referring investigative reports to the DA indicating that the client's whereabouts are unknown. (If the client is employed, an address should be obtainable from the employing agency.)

- o Neglecting to state precisely the evidence on which claims of fraud are based and whether partial evidence and suppositions are relied on. In this connection, an investigator may make a claim of fraud on the basis that there is no indication in client's PA file that client reported employment income, but the investigator may fail to mention the fact that the file does not contain all relevant records needed as proof for the entire period for which fraud is claimed.
- o Failing to supply sufficient evidence of client's employment or names of witnesses who can attest to such employment.
- o Not indicating the names of witnesses available to testify regarding client's misrepresentations or concealments.
- o Not ensuring that PA checks for the period of alleged fraud are available. (Original PA checks are needed for pre-trial hearings.)
- o Not clearly distinguishing a criminal claim, where there is proof of intent to misrepresent employment information, from a civil claim, where there is no proof of criminal intent and/or there are indications that public assistance overpayment is due to administrative error.
- o Computations of claims are often inaccurate or unclear. Examples of deficiencies noted in such computations include:
 - The amount of fraud claimed may be based on estimations of client's income from employment and public assistance without adjustments for interim changes in client's employment and PA status during the period.
 - The claim of fraud may include a period for which the statute of limitations has run out when the case is referred for prosecution.
 - Claims often are not precisely itemized or explained.

In HRA's response it is stated that "HRA, in differentiating between fraud and non-fraud, makes a clear attempt to distinguish a criminal claim. In computing the dollar amount of claims against clients, I note that our claims are based upon a composite of criminal and civil overpayments of public assistance, which is indicated under the heading "Computation of Claims". For those District Attorneys who continue to have a problem understanding our claim computations, we have liaison workers located in the respective District Attorneys' offices who can supply all necessary explanations."

Our review of HRA's investigative reports, we believe, supports our statements that claims are not clearly presented. Criminal claims as well as other evidence should be adequately developed and reported by investigators in the case reports sent to the DAs. This would obviate the need for Court Liaison staff in the DA offices to duplicate this effort, and would facilitate the processing of cases.

b) Lack of an Investigative Manual

There is no comprehensive written investigative manual in use in the CAD, or available for the proposed Client Fraud Investigation Unit. Investigators have relied on a collection of loose sheets of instructions, many of which are outdated. Consequently, the scope of work completed among investigators lacks uniformity.

In response to our draft, HRA's Administrator indicated that a project to develop such a manual had been initiated but was later suspended. "I will request that OIG, together with the Bureau of Client Fraud Investigations and the Office of Legal Affairs, revive the project and see it through completion."

c) Lack of Supervision and Training

Training and supervision of investigative staff have been inadequate. This is reflected in the poor quality of reports as described above. Training consists of sporadic on-the-job training by unit supervisors.

All of the preceding findings point to an apparent widespread failure of supervision, since the reports are reviewed by supervisors, the priorities are set by them, and the inter-unit communication issues are their responsibility.

d) Failure to Monitor Results of Investigative Work

Neither the Inspector General nor the Director of the CAD has regularly reviewed or monitored the DA reports of prosecutorial actions or the problems found in CAD investigations. Consequently, there is no measurement of work-effectiveness, and no prioritizing of case investigations and referrals based on changing DA needs and policies. Investigators are not kept informed as to how their individual cases are disposed of by the DA.

Recommendations: To Improve Reporting of Fraud

Since the fundamental product of the newly created Client Fraud Investigation Unit will be fraud reports, attention to these issues can be expected to be pivotal in the success of the new program.

a) Evidence

- o Supervisory staff should review investigative reports for accuracy, sufficiency of criminal evidence and dates of statutes of limitations to determine those reports to be sent directly to the DAs, those requiring further documentation or investigation, and those to be referred only for recoupment or restitution through civil action.
- o Those cases which are considered appropriate for referral to the DAs should be screened by a supervisory staff member who has knowledge of criminal law, and who can make appropriate case determinations in accordance with the prosecutorial standards and priorities of the DAs. (Once staff training and supervision are upgraded substantially, this requirement may become superfluous.)
- o The evidence file sent to a DA should be comprehensive so that the DA can assess the nature, quality and sufficiency of the available evidence. In this connection, all available evidence as well as the unavailability of relevant information should be noted in the investigative report. The evidence file should include, but not be limited to, the following:
 - identifying information on client, i.e., an employment or PA photo identification card (original or copy), and a signed statement by the client indicating that he/she is the subject of the investigation;

- copies of all documents pertaining to the alleged fraud;
 - copies of PA checks cashed or statements as to the availability of the checks, as well as corroborative evidence such as client's confession or handwriting exemplars showing that the checks were cashed by client/defendant;
 - copies of client's employment records or affidavits signed by the employer;
 - transcripts of interview statements signed by client and witnesses thereto;
 - copies of any documents supplied by client regarding client's culpability or lack thereof;
 - copies of Fair Hearing dispositions, if applicable.
- o In those instances in which HRA investigators are unable to obtain needed evidence, management in the investigative units should arrange with DAs for assistance, including the possible use of DA subpoena powers. HRA, however, should make every effort to obtain evidence independently where possible.
- o In their interviews with clients, investigators should do the following:
- recreate the facts of the alleged crime and ask questions relating to the crime;
 - transcribe the client's statements and have client sign the transcript in the presence of a witness;
 - indicate how the client was identified as the offender.
- o Fraud claims should be accurately and clearly presented so that they may be understood by all entities receiving the investigative reports, i.e., the Income Maintenance Centers, the District Attorneys, and the employing agencies. Fraud claims should be computed and presented as follows:
- When incentive allowances are applicable, the true claim of fraud should be computed as the difference between the amount of PA the client would have been entitled to had such incentives been budgeted in his grant, and the total amount of PA received during the period in which employment was concealed. The following formula should be used:
 - 1) $PA\ received + Net\ Wage = Total\ Income\ (A)$
 - 2) $Net\ Wage - Budgetable\ Income = PA\ Entitlement\ (B)$
 - 3) $(A)-(B) = \underline{Fraud\ Claim}$

- Computations should be broken down by 6 month periods to correspond with public assistance recertifications of need.
- Concealments and misrepresentations should be documented for each such 6 month period.
- Criminal claims should be computed separately from civil claims.

b) Investigative Guidelines

- o In compiling an investigative manual, HRA should ensure that the following information is included:
 - the nature and scope of investigative work to be completed for criminal, administrative and civil referrals, with checklists containing information to be reviewed in order of importance;
 - methods to be used for gathering and developing criminal evidence;
 - policies for prioritizing cases with checklists containing criteria for determining important cases;
 - current Departmental rules and regulations, and State and City laws and regulations relating to welfare investigations and referrals;
 - current Departmental policies and procedures for processing actions on PA clients.

c) Staff Training and Supervision

- o Training programs with special emphasis on methods for gathering and developing evidence should be conducted for investigative and supervisory staff. Input from the DAs and HRA's Office of Legal Affairs would be essential. Investigators might be assigned to work in the fraud unit of a DA's office for a month as part of training. An exchange program among offices could be arranged whereby investigators would rotate duties with Court Liaison staff.

- o Investigative work must be adequately supervised and the supervision itself must be closely monitored.
 - o Investigative reports which do not meet established standards should be returned to the responsible investigator for further review. Reports should be forwarded to the DAs only when they meet DA and HRA requirements. Internal management reports should track how many "acceptable" reports are produced by each worker and each supervisory unit. The percentage of cases rejected by the DAs should be similarly tracked and reported. The directors and supervisors of the client fraud investigation units should use these reports in their supervision of investigative work. Further, for those cases rejected by the DAs, analysis should be made of the reasons given. This analysis will be useful in supervision and in training, and will also provide a check on each DA's operating policies. As investigative work improves, DAs should become more willing to prosecute and the percentage of cases rejected should diminish. If it does not, then the analysis of rejections should provide an agenda item for a meeting with appropriate DAs in order to reach better agreement on prosecution policy.
 - o It is critical that first line supervisors of the investigative units be trained and become more attentive to prosecutorial policies, relevant laws and DSS (including IM) forms and procedures.
- d) Monitoring Effectiveness of Investigations
- o Supervisors should receive and systematically review summaries of the final disposition of case referrals (in the courts and employing agencies, and in the collection function) in order to monitor the effectiveness of case investigation and preparation. Such a review would help to detect problems in investigative work which result in case rejections, and aid in the establishment of case priorities. A summary and assessment of findings pursuant to such reviews should be included in HRA's Management Plan and Report system.

- o The Court Liaison Unit should prepare and publish monthly summaries of case dispositions to include the following information broken down by investigator: the number of prosecutions, the number of rejections and the reasons for such rejections.

C. District Attorneys, City Employing Agencies and the Human Resources Administration

Problems in Disposition of Cases: Criminal
Prosecution, Employee Discipline, and
Restitution

1. Criminal Prosecution

Our review of the criminal dispositions of 161 cases of alleged concealed employment fraud referred to the District Attorneys by the CAD in a three-month period ending March 1976* indicates the following:

- o Approximately 35% of the cases referred were the subject of prosecutions although this percentage varied among the five counties, ranging from more than 50% in one county to none in another.
- o The remaining 65% of the cases were not criminally prosecuted for the following reasons:
 - 28%, small amount of fraud claim;
 - 25%, time-barred by the statute of limitations;
 - 20%, insufficient criminal evidence;
 - 20%, restitution or recoupment actions were initiated or completed;
 - 6%, subjects were not locatable;
 - 1%, administrative error by HRA.

There are numerous variables involved in the decision of whether or not to initiate prosecution. Each of the DAs makes that decision on a case-by-case basis and attaches different weights to the variables. This is to be understood, given the constitutional independence of the offices, varying constituencies and somewhat differing prosecution priority philosophies. Uniformity among the DAs in the exercise of this function is neither possible nor appropriate. What is possible is for each DA to communicate his requirements to HRA so that HRA can supply the DAs with the objective information needed for prosecutorial decisions. This includes:

*Statistics on criminal dispositions were extrapolated from DA records by HRA Court Liaison staff. The 1976 statistics were chosen because ultimate disposition can require months or even years. Data for one DA office cover a three-month period ending July 1976.

- The dollar amount of the fraud. Because our study showed a far greater likelihood of criminal prosecution if the total amount of money exceeded the \$250 threshold that separates a felony and a misdemeanor, it would appear that HRA normally would need to make a detailed investigation of cases referred only where the amount of money involved is more than \$250. The law does not require that every referral be thoroughly investigated.
- Whether the individual holds a government job and what it is.
- The amount of time that has passed between the date of the fraud and referral and reasons for any substantial delay.
- The individual's prior history with HRA (whether there have been prior frauds by the individual).
- The individual's personal and family condition.
- Whether restitution or recoupment has been made or initiated.
- The nature and quality of the evidence.
- The presence or absence of negligence or wrongdoing by public agencies or employees.

HRA is under a legal mandate to refer to the District Attorneys all cases in which it believes fraud has been committed. Social Services Regulation 20.34, Part 348.2, provides that HRA is required to:

- (a) make an agreement with the appropriate District Attorney or other prosecuting official establishing the procedures for referral to such officials of all cases wherein reasonable grounds exist to believe that fraud was committed and (b) file with the department a copy or statement of the agreement with the prosecuting official. (emphasis added)

Many of those cases, experience shows, will be evaluated as not meriting criminal prosecution due to one or more of the above considerations. HRA does not, of course, have the authority to make that decision for the prosecutor. It may happen, however, that professional investigation by HRA on the basis of the foregoing factors will lead to the conclusion in some marginal cases that no reasonable grounds exist to believe that fraud was committed. HRA and the DAs are encouraged to reach some understanding of what that threshold of belief is in order to eliminate unnecessary referrals.

Recommendations:

- o The quality of the HRA investigations should be improved so that referrals are based on competent and reliable evidence. To this end it is laudable that HRA has consolidated welfare fraud investigations under a professional staff headed by a former assistant district attorney, and is taking steps to train investigative staff.
- o The DAs should, to the maximum extent possible, formulate in-house guidelines of prosecution standards and policies and communicate them to HRA. This presumably, would improve the quality of referrals. The recently initiated meetings among HRA, the Deputy Mayor for Criminal Justice, and DAs should prove valuable to HRA in achieving a clear understanding with each of the DAs on their need and priorities.

These parties should meet regularly to discuss their common problems and needs with the objective of establishing policies and procedures for the efficient and effective processing of welfare fraud cases, within the framework of the recognized, inherent and unquestioned authority of each prosecutor to exercise full prosecutorial discretion.

- o HRA should begin immediately to communicate the vital information each of the DAs needs, as outlined above, in order to make prosecutorial decisions.
- o Effective prosecution of welfare fraud cases requires close cooperation between HRA and the DAs. In addition to assigning Court Liaison staff to each DA office, HRA could assign its police-investigators to those DA offices in which there are a large number of cases to assist in post-referral field investigations and other trial preparation aspects of cases.

As mentioned in Section III, C of this report, IM management should establish or improve the arrangements for the designation and effective use of liaisons to be responsible for promptly referring public assistance documents to the DAs through Court Liaison staff.

In instances in which HRA is unable to obtain evidence on cases, the DAs should provide assistance, including the use of their subpoena power when appropriate.

2. Employee Discipline

Table A, which follows, reflects dispositions by City agencies, as of September, 1978 on 805 cases of alleged PA fraud regarding their employees. These cases were referred to the agencies during a 29 month period ending in May, 1977.

Our evaluation of action taken reveals that agencies have neither conducted timely administrative reviews of, nor applied strong or uniform penalties to, offender employees. Much of the problem has been a misunderstanding of, or a failure to discipline such offenders in accordance with, relevant laws and regulations including New York State Civil Service Law, Section 75; New York City Charter, Section 1116; and Executive Order #16. While in the past the Department of Investigation sent letters to agencies explaining these laws and regulations, and suggesting guidelines for the proper discipline of offender employees, most agencies did not act appropriately. Further, the disciplinary measures that were taken were often ineffective.

We found that the initiation and conclusion of disciplinary proceedings have been slow, in some instances taking over a year to resolve. Of the 805 cases referred, 276 were deemed relevant for disciplinary consideration by the agencies. Of these, only 52, or 19%, were disciplined in some manner: 26, or 8.5%, by suspension, probation and/or fine; 22, or 8%, by dismissal; and 4, or 1.5%, by official reprimand. Generally, agencies did require offenders retained in employment to make some restitution under threat of dismissal or other administrative action. Several agencies went so far as to deduct monies from their employees, per mutual agreement, and transmit the monies to HRA. Most agencies did not monitor restitution, even if it had been a condition of continued employment.

In 100 cases, or 36% of the total, in which employees were making restitution or had fully completed restitution, the agencies viewed such action as sufficient penalty. In 9, or 3% of the cases, employees resigned in lieu of discipline.

DISCIPLINARY STATUS/DISPOSITION
BY CITY AGENCY
RE: THEIR EMPLOYEES SUSPECTED OF PUBLIC ASSISTANCE FRAUD*
DUE TO CONCEALMENT OF EMPLOYMENT INCOME

DISCIPLINARY STATUS/DISPOSITION	CITY-WIDE TOTALS #/%
A. TOTAL NUMBER OF CASES BY AGENCY	805
B. DISCIPLINARY ACTION NOT CALLED FOR OR NOT FEASIBLE (agency reply indicates no corroboration of fraud; administrative error by HRA; employee resigned or was terminated prior to referral or administrative action, or referral made to wrong agency).	529
C. CASES OF POSSIBLE FRAUD BY ACTIVE EMPLOYEES	276/100%
D. DISCIPLINARY ACTION TAKEN AS REPORTED BY AGENCY a) Suspension, Probation and/or Fine (most agencies additionally stipulate dismissal if restitution is not made). b) Official Reprimand (restitution generally required) c) Dismissal	52/19% (26/8.5%) (4/1.5%) (22/8%)
E. Action in Lieu of Discipline a) Resignation b) Restitution Required or Implemented	109/39% (9/3%) (100/36%)
F. No Disciplinary Action Taken (includes cases where agency determined that mitigating circumstances exist or where agency failed to act due to lack of prosecution by District Attorneys)	104/38%
G. Disciplinary Hearing or Action Pending	11/4%

* As determined by the HRA IG after initial disclosure through computer matches - January 1975 to May 1977.

In many instances, agencies justified their lack of action by asserting that the alleged misconduct is not within their jurisdiction, since it involves misrepresentation made to an agency (HRA) other than the employing agency. Some agencies viewed the responsibility of dealing with these offenders as being solely within the jurisdiction of HRA, and regarded HRA's immediate corrective action as sufficient, i.e., rebudgeting of client's PA grant and collection of defrauded monies.*

In view of the problems in disciplinary policy and procedure, the Department of Investigation has worked with the Mayor's office to establish clear guidelines regarding the proper disciplinary handling of City employee PA offenders. As a result of this effort, Mayor Koch issued a memorandum** to agencies establishing a City-wide policy to ensure proper, vigorous, and uniform application of penalties to proven offenders. The Department of Investigation followed up the memorandum with a letter to agency heads*** and their IGs, and to the Administrator of HRA**** defining their respective responsibilities.

Recommendations:

- o Agencies, having been given clear and detailed instructions, must now follow them.
- o The Department of Investigation shall monitor the agencies to determine compliance with Mayoral policy, and shall report to the Mayor periodically on the status and disposition of cases by agency.

*The collections function in HRA has been ineffective, as described in section 3 below.

**Refer to Appendix A

***Refer to Appendices D and F

****Refer to Appendix E

3. Restitution

The Collections Unit of the HRA Office of Legal Affairs reported to us that it was not pursuing collections via civil action even when restitution had been ordered by the Criminal Courts. Such inaction has been due partly to pending litigation regarding possible violations of due process in taking Confessions of Judgment* from alleged offenders. The primary problem, however, was reported to be significant understaffing of the unit. Only one professional has been charged with the responsibility for collections on all fraud accounts. The result has been that too few recipient/employees are required to make restitution, and there is no follow-up on those who agree but later default.

The collection of PA overpayments is the mandate and sole responsibility of HRA. Upon filing Confessions of Judgment with the Supreme Court, HRA has the legal right to collect monies due, including the right to seek garnishment of the offender recipients' wages or other income. Since the total amount of overpayments is in the millions of dollars, use of all available means would seem warranted. City or any other agencies should not have to assume this responsibility because of HRA's inability or unwillingness to collect.

Controversy over the procedures used in the past in taking Confessions of Judgment has been a factor impeding employee discipline. The New York City Civil Service Commission recently reversed on appeal two employee dismissals by a City agency. Although the Commission affirmed the agency's finding of guilt in these cases, it ruled that dismissal was unjustified based on the fact that the employee offenders had signed Confessions of Judgment as well as Promises to Pay (restitution agreements) prior to the initiation of administrative proceedings. The Commission implied that the employees were led to believe that their signing of such agreements would preclude criminal prosecution and/or employee discipline.

*A Confession of Judgment, when signed by an individual, is an admission of civil wrongdoing, i.e., the receipt of monies not entitled to. It is not, however, an admission of criminal wrongdoing, i.e., the intention to defraud. Confessions of Judgment may be taken by HRA staff independent of, or pursuant to, orders by the Criminal Courts. Judgments become legally enforceable when filed with the Supreme Court.

Recommendations:

The following recommendations were proposed to the HRA Administrator by the Commissioner of the Department of Investigation in his letter of October 26, 1978 (Appendix E).

- o Considering the importance of the Collection Unit's function in recovering substantial dollar amounts due the City, HRA should give high priority attention to reorganizing and restaffing this unit to make it viable. The cost/benefit ratio of this function should meet Mayoral and Office of Management and Budget criteria for hiring. HRA's Administrator responded, "We also agree with your findings that our process of collecting from recipients who have been ordered by a court or voluntarily agreed to make restitution needs improvement. We have added temporary manpower to the Collections Unit in the Office of Legal Affairs to facilitate computerization of an accounts receivable system which should eliminate the in-house collection problem."
- o All available means for achieving restitution should be pursued. Pending resolution of current litigation, HRA should continue obtaining Confessions of Judgment, at least in those cases which are Court ordered. HRA's Administrator stated that, "Where we do not receive payments, we will take civil action to enforce judgments or agreements that have been made."
- o Confessions of Judgment and Promise to Pay forms should be amended to include a clause which indicates that the signing of such documents will not preclude the possibility of criminal and/or disciplinary action.
- o It is essential that the Collections Unit inform the HRA IG and CFIU of restitution made or defaults in such payments by City employee offenders, so that these investigative units may in turn notify the employing agencies and the District Attorneys for any further action they may deem appropriate.

HRA responded. "...we have modified the forms of Confessions of Judgment and Promises to Pay to provide notice to offenders that such agreements do not preclude the possibility of criminal and/or disciplinary action. We are now in agreement with your office that, given the notice provided in such forms, we no longer need await the start of administrative proceedings before taking Confessions of Judgment and Promises to Pay. We will, of course, maintain close liaison with the Inspectors General of other City agencies and with the District Attorneys in taking Confessions of Judgment and Promises to Pay."

IV. CONCLUSIONS

Despite the large number of suspected offenders initially identified by computer matches, the case follow-up process has been largely ineffective. This is demonstrated most clearly by two key findings: first, of those individuals targeted by the computer match procedure, only a fraction are correctly referred and properly investigated for fraud; second, of those which are criminally investigated and are alleged to have committed fraud, only a small percentage are either prosecuted or disciplined. Unless modified, the system will not provide any meaningful deterrent against future, similar conduct.

In summary, our study shows that management in all entities involved in the process has not until recently given sufficient attention to dealing effectively with this high priority category of City employee misconduct. The problem has been aggravated by poor coordination of effort among such entities, i.e., the Human Resources Administration, the District Attorneys and City employing agencies. Our findings are supported by those of other studies previously conducted at both State and City levels.*

Recent initiatives by HRA to redesign the client investigation structure and to increase coordination with the DAs should improve matters. The Mayor's recent memorandum** to City agency heads mandating attention to these cases should also help greatly. An effective process, however, will depend on correcting the system problems described in this report. HRA's response to our draft demonstrates a comprehensive understanding of the problems, and as mentioned in the relevant sections of this report, HRA has taken several initiatives to improve the process.

Of course, more efforts should be made to prevent frauds in the first place. In this connection, HRA has recently instituted a front-end control system in which the names and social security numbers of new City hires are computer-matched against City public assistance rolls to identify recipients whose grants are not budgeted for employment income, and to rebudget their grants appropriately.

*Appendix B of this report contains a listing of relevant audits and reports of which we are aware.

**Appendix A of this report contains a copy of the Mayor's memorandum.



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

M E M O R A N D U M

October 13, 1978

TO: All Agency Heads
FROM: Mayor Edward I. Koch
SUBJECT: Public Assistance Fraud

I want to reinforce, by direct communication to you, my concern that agency heads ensure the properly vigorous and uniform application of sanctions to any City employee who engages in fraudulent or other corrupt activities in order to obtain payments illegally from the public assistance system.

Since 1975, the New York City Human Resources Administration (H.R.A.) has been systematically conducting computer cross-checks of the names and social security numbers of persons on both public assistance rolls and City payrolls to identify possible fraud by City employees who obtain public assistance funds by concealing employment income. Individuals thus identified have been investigated by the H.R.A. Office of Income Maintenance and the H.R.A. Inspector General. Investigation reports on those individuals alleged to have committed fraud have been referred by that office to the appropriate District Attorney for possible criminal prosecution, and to the Department of Investigation for review and transmittal of case reports to appropriate City agencies for possible employee discipline or other administrative action.

In monitoring the administrative dispositions of public assistance fraud cases by the employing agencies during 1976 and 1977, the Department of Investigation has found that only a small percentage of such cases had been subjected to discipline in any manner whatsoever. Due to the ineffectiveness of administrative

sanctions, the Department of Investigation will be sending to agency Inspectors General lists of those individuals previously referred to them for whom no administrative dispositions were reported by that department. The Inspectors General will be requested to report to the Department of Investigation on what action, if any, has been taken on those individuals to date.

Hereafter, investigation reports of City employee public assistance fraud prepared by the H.R.A. Inspector General's office will continue to be referred to the appropriate District Attorney. The H.R.A. reports should be sent simultaneously to the Inspectors General for agencies in which employees to be investigated are located. The agency Inspector General shall maintain records of all prosecutorial or administrative actions subsequently taken, and shall systematically report the same to the Department of Investigation, which shall in turn report periodically to me on these cases.

In taking these steps I want to make it clear that whether or not criminal prosecution has been commenced or concluded successfully in a given case, public assistance fraud and related offenses constitute grounds for administrative charges against an employee. Where such charges are proven against an employee at a formal disciplinary hearing and the amount of fraud constitutes what would be a felony if successfully prosecuted (\$250 or more), dismissal from government service is a reasonable and appropriate penalty, absent mitigating circumstances. Where mitigating circumstances exist, lesser discipline such as suspension, probation or other penalty is appropriate. I also believe that we should attempt to require restitution in all cases. However, in light of recent New York City Civil Service Commission rulings, claims for restitution should only be made concurrently with, and not before, the initiation of any disciplinary proceedings.

For the purposes of monitoring compliance with the above, agency disposition reports submitted to the Department of Investigation should contain a full explanation of mitigating circumstances in cases where an employee is retained despite substantiation of fraud charges. Furthermore, agency Inspectors General should make arrangements with the H.R.A. Inspector General for attempting to assure that restitution is made.

Finally, I would like to emphasize two frequently misunderstood points concerning the initiation of formal discipline by agency heads in public assistance cases.

First, it does not matter whether criminal charges have been brought; the administrative hearing can and should proceed. Where criminal charges have been brought but proceedings have not been concluded, the agency should notify the District Attorney who has initiated the criminal charges of its intention to proceed with an administrative hearing and should proceed with its hearing unless promptly requested in writing not to do so by the District Attorney's office. Second, it should make no difference whether an alleged fraud was committed against the employing agency or against another government agency, i.e., the Human Resources Administration. An alleged fraud against the City is a compelling reason for the employing agency to bring administrative charges against its employee.

REPORTS RELATING TO THE HANDLING OF
"PUBLIC ASSISTANCE RECIPIENT/GOVERNMENT EMPLOYEE" FRAUD
BY THE HUMAN RESOURCES ADMINISTRATION

Audit Report on Concealment of Employment Income By Public Assistance Recipients, New York City Department of Social Services; Report No. NYC-9-74, Office of the Comptroller, State of New York.

Supplemental Audit Report on Concealment of Employment Income By Public Assistance Recipients, New York City Department of Social Services; Report No. NYC-21-74, Office of the Comptroller, State of New York.

Audit Report on the Concealment of Employment Income by Public Assistance Recipients Employed by the New York City Health and Hospitals Corporation, New York City Human Resources Administration; Report No. NYC-38-74, Office of the Comptroller, State of New York.

Report on Fraud by Public Assistance Clients Who Conceal Assets, New York City Human Resources Administration; Report No. NYC-26-75, Office of the Comptroller, City of New York.

Report of the Specially Empanelled Third Additional Grand Jury of Queens County of the November 1976 Term on the Investigation of the New York City Welfare System, Queens County District Attorney.

Concealment of Employment Income, Report No. NYC-6-77, Office of the Comptroller, State of New York.

Economic Development Council Study of the HRA Inspector General's Office, Economic Development Council of NYC, Inc., June 17, 1977.

"Report on Welfare Fraud," Bronx District Attorney, presented at a welfare fraud meeting under the auspices of the United States Department of Health, Education and Welfare on July 15, 1977.

APPENDIX B



DEPARTMENT OF INVESTIGATION

130 JOHN STREET, NEW YORK, N. Y. 10038

Telephone: 825-5900

Direct Dial Number 825-

In Reply Refer To

NICHOLAS SCOPETTA
Commissioner

Stanley N. Lupkin
Joseph T. McGough Jr.
Deputy Commissioners

Bruce Brenner
Office of Operations & Support
NYC Human Resources Administration
250 Church Street, 4th. floor, Room 439
New York, N.Y. 10013

November 23, 1977

Dear Bruce:

The attached memorandum summarizes, in rough, our meeting with you on November 18, 1977 relevant to your office's role in the computer matches of City employees on welfare rolls.

Please inform us whether or not your recollection of the points therein summarized square with ours.

Thanks again for your continued cooperation in our study of the system.

Sincerely,

A handwritten signature in cursive script, reading "Chrystyna Obushkevich".

Chrystyna Obushkevich
Analyst
Bureau of Management Review

APPENDIX C (1)



DEPARTMENT OF INVESTIGATION

130 JOHN STREET, NEW YORK, N. Y. 10038

Telephone: 825-5900

Direct Dial Number 825-

In Reply Refer To

NICHOLAS SCOPPETTA
Commissioner

Stanley N. Lupkin
Joseph T. McGough Jr.
Deputy Commissioners

MEMORANDUM

November 23, 1977

TO: Bruce Brenner , Human Resources Administration, Office of Operations & Support(OOS)

FROM: Henry Berzinn, Chrystyna Obushkevich; Department of Investigation, Bureau of Management Review

RE: Joint meeting regarding the OOS's computer match system and follow-up activities on "public assistance clients/City employees".

1. The OOS conducts computer matches and follow-up activities:

- sorts names on computer printout according to those who are budgeted and those who are not budgeted for employment income;
- transmits names of public assistance clients whose incomes are not budgeted to Income Maintenance Centers for review and case action, i.e., case closing, budget modification, recoupment, or no change as appropriate;
- monitors Centers' case dispositions; Center are to reply to the OOS within a month's time via Questionnaires;
- use tracking system to create statistical summary reflecting a six-month period following computer match, which summary indicates monies saved from closed and rebudgeted cases, indicates the number of closed and subsequently reopened cases, indicates projected savings;
- keeps a log of disposition under the following headings:

- "Client did not appear for an interview" - The OOS sends client letter stating that client's case will be closed for failure to appear for an interview; it is the responsibility of the IMC to process the closing.

The problem is that the OOS often is not clear as to what action, if any, was taken by the IMCs, which cases merited referral and which cases actually were referred to the IG. The result has been that the IMCs are responding to the OOS within the prescribed period of one month, but their responses are incomplete and there is no guarantee that they are taking appropriate action.

If the client's case is not closed, the client's name will appear on a subsequent computer match. If the case is closed but not referred to the Inspector General (IG) for investigation and possible referral for criminal prosecution and discipline, appropriate sanctions will not be taken on those clients who have committed fraud.

To remedy the latter situation, the OOS has taken independent action as of July 1977 to send Questionnaires to the IG on all "no shows" who, according to the Questionnaires, had not been referred to the IG.

"Budget correct" - May be a case where a student is attending school full-time and therefore his income is exempt; computer may indicate that there is "no gross pay change", that is, client is working but there is no change in his income since the preceding match.

"No action required" - May be mismatch of client/employee - wrong social security number, public assistance number or employee number. The problem is that dates of birth do not appear on City payrolls so that clients cannot be accurately identified.

The remaining headings are self-explanatory: "administrative error", "fraud", "case closing", "cases previously closed".

2. The OOS budgets income on non-budgeted cases; reviews cases for possible fraud; refers suspected fraud cases to the IG via Questionnaires.
 - o OOS Projections:
 - On the average, 38% of the cases closed are reopened;
 - 62% of "no show" cases remain closed.
3. The following figures reflect the number of clients tapped in recent computer matches (cases not budgeted for employment income):
 - March, 1977 - 756 cases
 - June, 1977 -1,600 cases (large number attributed to summer employees, most of which are CETA; OOS projects that 340 of these cases will remain permanently closed)
 - Nov., 1977 -2,700 cases (many of these are employees who were not working during the summer and who returned to work in the Fall but failed to report this to HRA; ex. Board of Education employees.)



HUMAN RESOURCES ADMINISTRATION
250 CHURCH STREET, NEW YORK, N.Y. 10013

J. HENRY SMITH Administrator/Commissioner

December 5, 1977

Mr. Henry Berzinn
Ms. Chrystyna Obushkevich
N.Y.C. Dept. of Investigation
Bureau of Management Review
130 John Street
New York, N.Y. 10038

Dear Henry Berzinn & Chrystyna Obushkevich:

I received your letter and memorandum of November 23, 1977, concerning our meeting of November 18, 1977.

My comments on the recollection of points as stated in your memorandum are as follows:

- page 1, last paragraph, last sentence should refer only to the submission of refund summaries by the IMC's to the IG.
- page 2, second paragraph - OOS refers to IG all questionnaires which are not only no shows, but any situations where an overpayment is indicated.
- page 2, "Budget Correct" - no gross pay change means client is not working as there was no change in his total gross earnings since the proceeding match.
- page 2, your item 2 - on City Payroll Match IM Centers budget income on non-budgeted cases not OOS. IM Center also reviews cases for possible fraud, submits refund summary and takes recoupment action.
- page 2, OOS Projections - 62% of all cases closed remain closed.
- page 2, your item 3 - the figures stated in June 1977 match (1,600) and the November, 1977 match (2700) refer to the number of cases referred to the IM Centers for review, these are not the actual number of overpayments.

If I can be of further assistance please feel free to contact me.

Sincerely,

Bruce Brenner, Director
Income Clearance Programs



DEPARTMENT OF INVESTIGATION

130 JOHN STREET, NEW YORK, N. Y. 10038

Telephone: 825-5900

Direct Dial Number 825-

In Reply Refer To

STANLEY N. LUPKIN
Commissioner

Philip R. Michael
First Deputy Commissioner

Brian Barrett
Deputy Commissioner

(Sample of Letter Sent to Mayoral Agencies)

October 27, 1978

Re: Discipline of City Employee/Welfare
Fraud Offenders.

Dear (Agency Head)

On October 13, 1978, Mayor Edward I. Koch issued the attached memorandum to all City agency heads defining City-wide policy and guidelines regarding the proper disciplinary handling of alleged City employee/welfare fraud offenders. The Mayor called for the application of properly vigorous and uniform sanctions on all such proven offenders.

In this connection, he emphasized that in the absence of clear and persuasive mitigating circumstances, if charges of such fraud are proven to the satisfaction of the legal standard of proof at an administrative hearing, dismissal from government service is a reasonable and appropriate penalty. This policy is totally consistent with Section 1116 of the New York City Charter which, in pertinent part reads:

Any...officer or employee of the City who shall wilfully violate or evade any provision of law relating to his office or employment, or commit any fraud upon the city, or convert any of the public property to his own use... shall be deemed guilty of a misdemeanor and in addition to the penalties imposed by law and on conviction shall forfeit his office or employment, and be excluded forever after from receiving or holding any office or employment under City government. (emphasis supplied)

APPENDIX D (1)

The Department of Investigation has worked with the Mayor's Office in establishing this policy. As in the past, this Department will be monitoring the disciplinary dispositions of such cases by City agencies and reporting thereon to the Mayor.

To ensure the effective implementation of the policy and guidelines enunciated by the Mayor, the following procedures for the proper review and processing of such cases should be followed by all affected agencies:

With Respect to the Referral and Evaluation of Cases for Possible Discipline:

Hereafter, the HRA Inspector General's office shall directly refer to the IGs of affected agencies, the following information relating to employee fraud: listings containing the names, social security numbers and public assistance numbers of the alleged offenders and the amount of alleged fraud; copies of criminal case investigation reports which are referred concurrently to the District Attorneys, and copies of supporting documentation of fraud. A listing of cases referred monthly to agencies shall also be forwarded to the Department of Investigation's IG Liaison Unit.

The HRA IG's office shall assist agency IG's, as needed, in supplying documentation in support of the alleged fraud. Should the agency find that the information referred does not indicate sufficient proof of fraud, additional supporting information should be requested and received from the HRA IG.

The agency IG is directly responsible for making a determination of the provability of the fraud and for overseeing and ensuring the proper disciplinary or other administrative handling of each case received.

With Respect to Initiating Disciplinary Reviews and Case Actions:

The agency IG shall ensure that an administrative hearing proceeds, if appropriate, regardless of whether or not criminal prosecution has been initiated or successfully concluded. In those cases where disciplinary charges are viable and have been brought but criminal proceedings have not been concluded, the agency IG shall notify the welfare fraud unit of the appropriate District Attorney's office of the agency's intention to proceed with an administrative hearing, and should then proceed with such a hearing unless promptly requested not to do so by the District Attorney's office in writing. The agency IG shall be regularly informed of criminal prosecution case dispositions by the HRA IG upon the District Attorney's notification to that office.

In light of recent rulings by the New York City Civil Service Commission, * all HRA claims for restitution of welfare funds fraudulently obtained by City employees shall be made concurrently with, and not before, the initiation of a disciplinary proceeding. In this regard, the agency IG shall inform the HRA IG of the intention to proceed administratively and shall make arrangements with the HRA IG for the offender employee to sign a Confession of Judgment and a Promise to Pay at that office when appropriate. In the meanwhile, HRA is presently considering revision of the language in Confessions of Judgment so as to make clear that the execution of such a document does not preclude further criminal and/or disciplinary action.

*The NYC Civil Service Commission has recently reversed on appeal, two dismissals taken by a City agency. While the Commission affirmed the agency's finding of guilt in these cases, it deemed that the penalty of dismissal was too severe considering that prior to the agency's initiation of administrative proceedings, the employees had signed Confessions of Judgment and Promises to Pay and were making restitution. Further, the Commission stated that the employees were led to believe that the signing of such documents and the making of restitution precluded disciplinary action by the employing agency.

Note:

A Confession of Judgment when signed by an individual in cases such as these is an admission of civil wrongdoing, i.e., the receipt of monies to which the individual is not entitled. It is not, however, an admission of criminal wrongdoing, i.e., the intention to defraud.

Confessions of Judgment may be taken by the HRA IG staff independently of or pursuant to orders by the criminal courts. Judgments become legally enforceable upon filing with the Supreme Court. When they are thus filed by the HRA, that agency has the legal right to collect monies due them, including the right to seek the garnishment of the offenders' wages or other income.

A Promise to Pay is an informal agreement entered into by an individual and HRA, whereby the individual agrees to make restitution. Unlike a Confession of Judgment, this document is not filed in court.

With Respect to Enforcing and Monitoring Restitution:

Agency IGs shall ensure that those employees who, after a thorough review, are retained by the agency make restitution to HRA. The IG shall also monitor such restitution. Additionally, the IG shall require that such offender employees sign a stipulation acknowledging that the making of restitution does not preclude the agency from taking disciplinary action against the employee, and that failure to make restitution may result in dismissal.

The HRA IG shall refer all collectible accounts relating to City employees to the HRA Collections Unit, in the Office of Legal Affairs, which is responsible for processing the collection of defrauded monies. This unit will enforce such collections. City agency IGs are asked to keep in contact with this unit regarding the status of restitution activities by agency employees.

With Respect to the Reporting of Case Dispositions:

City agency IGs shall keep record of all criminal and disciplinary case dispositions and report same to the Department of Investigation's IG Liaison Unit along with their regular monthly monitoring reports now submitted to that unit. (Special forms for that purpose will be devised and forwarded to each agency IG.) In cases where mitigating circumstances have been deemed to exist and the employee is retained by the agency, a detailed explanation of such circumstances should be indicated.

Reports of final disciplinary case dispositions shall also be forwarded to the HRA IG.

With Respect to Monitoring Discipline:

The Department of Investigation shall meet periodically with the HRA IG and City agency IGs to review developments in this regard and revise procedures, as needed.

The Department of Investigation will endeavor to provide any assistance needed by agencies in carrying out these procedures. Any questions should be directed to Joy Dawson, this Department's Inspector General Liaison, at 825-2899.

Very truly yours,

Stanley N. Lupkin
Commissioner

cc. Agency Inspector General



DEPARTMENT OF INVESTIGATION

130 JOHN STREET, NEW YORK, N. Y. 10038

Telephone: 825-5900

Direct Dial Number 825-

In Reply Refer To
639/76R

STANLEY N. LUPKIN
Commissioner

Philip R. Michael
First Deputy Commissioner

Brian Barrett
Deputy Commissioner

October 26, 1978

Dr. Blanche Bernstein
Administrator
Human Resources Administration
250 Church Street
New York, New York 10013

Dear Dr. Bernstein:

As you know, Mayor Koch issued a memorandum to all agency heads on October 13, 1978, establishing City-wide policy regarding the proper disciplinary handling of City employees who defraud the welfare system.

In recent years, the efforts of your staff in investigating and exposing such fraud have been an invaluable first step in this process. However, the proper and effective implementation of the Mayor's strengthened policy depends on continued cooperation by and communication among all agencies concerned, i.e., the Human Resources Administration, the Department of Investigation and the employing City agencies. In this regard, I am sending a letter to City agency heads and their Inspectors General outlining procedures for the review and processing of such cases. With respect to the attendant responsibilities of your agency, I am proposing that the following procedures be implemented in your agency:

Transmittal of Information Regarding Alleged City Employee/Welfare Fraud:

The HRA IG should transmit information regarding welfare fraud offenders directly to appropriate agency IGs. (This was previously done through the Department of Investigation). Case referrals should include a listing, by agency, of the names, social security numbers and public assistance numbers of the alleged offenders and the amount of alleged fraud; copies of the IG's criminal investigation reports which are referred concurrently to the District Attorneys, and copies of supporting documentation of fraud. * The list of alleged offenders should also be sent to the

*Case reports relating to State and Federal employees should be sent directly to the heads of the employing agencies.

IG Liaison Unit in the Department of Investigation for monitoring of eventual case dispositions.

In order that the individual agency IGs may make a proper and just evaluation of each case, the HRA IG staff should assist them in determining the existence of fraud, when requested. This would include clarifying any vagueness or inconsistency in reports, and procedures, and supplying additional information supporting fraud, as requested. A supervisor in the HRA IG office should be designated as liaison with the City agencies, to coordinate this assistance.

The HRA IG's office should report all criminal case dispositions received from the District Attorneys to the appropriate agency IGs. Similarly, the agency IGs will be required to forward disciplinary case dispositions to the HRA IG for its records.

The Taking of Confessions of Judgment and Promises to Pay:

In light of recent rulings by the New York City Civil Service Commission, the HRA IG's office should delay taking Confessions of Judgment and Promises to Pay from City employee offenders until such time that the agency IG informs that office of the intention to proceed with an administrative hearing. Arrangements should be made between the HRA IG and agency IGs to ensure that the signing of such documents occurs concurrently with, and not before, the initiation of a disciplinary proceeding.

Confessions of Judgment and Promises to Pay should be amended to include a clause which indicates that the signing of such documents will not preclude the possibility of criminal and/or disciplinary actions against the offender. I have already discussed the need for this amended language with Acting Counsel Joseph Armstrong, as you suggested.

Restitution of Public Assistance Funds Fraudulently Obtained:

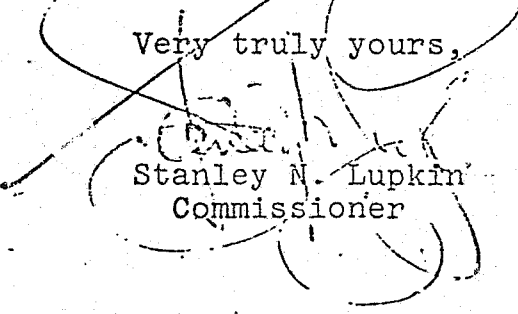
The HRA IG should ensure that all claims for restitution are referred to the HRA Collections Unit in the Office of Legal Affairs for enforcement. This unit is charged with the responsibility for such collections and, upon filing Confessions of Judgment with the Supreme Court, has the legal right to collect monies due the HRA, including the right to seek garnishment of the offenders' wages or other income. Staff in the Collections Unit have reported to us that they currently do not actively pursue collections, even in cases where restitution has been ordered by the various criminal courts. Such inaction is due both to pending litigation regarding the alleged violation of due process by HRA staff in taking Confessions of Judgment from alleged offenders, and to significant understaffing of the unit in which only one professional is currently charged with the full responsibility of collections on all fraud cases.

Considering the importance of this unit's function in recovering substantial dollar amounts due the City, I would suggest that HRA give high priority attention to reorganizing and restaffing this unit so as to make it viable. The cost/benefit ratio of this function should, in my judgment, meet Mayoral and Office of Management and Budget criteria for hiring.

It is also essential that this unit regularly inform the HRA IG of restitution made, or defaults in such payments by offenders so that the IG may in turn notify appropriate City employing agencies and District Attorneys for any further action they may deem appropriate.

I appreciate all your past efforts in this matter and hope that these procedures are acceptable and meet the needs of this program. I would welcome the opportunity to discuss any questions or suggestions you may have with respect to this matter.

Very truly yours,


Stanley N. Lupkin
Commissioner

cc: Federico Costales
Inspector General
Human Resources Administration

Joseph Armstrong, Esq.
Acting General Counsel
Human Resources Administration

Philip R. Michael
First Deputy Commissioner
Department of Investigation

APPENDIX E (3)

/jm



DEPARTMENT OF INVESTIGATION

130 JOHN STREET, NEW YORK, N. Y. 10038

Telephone: 825-5900

Direct Dial Number 825- 5913

In Reply Refer To

639/76R

STANLEY N. LUPKIN
Commissioner

Philip R. Michael
First Deputy Commissioner

Brian Barrett
Deputy Commissioner

M E M O R A N D U M

TO: All Inspectors General

FROM: Stanley N. Lupkin, Commissioner (SL)

DATE: January 19, 1979

SUBJECT: Amended Guidelines Regarding Procedures for the Administrative Handling of Alleged City Employee/Welfare Fraud Offenders

With reference to my recent letter to heads of agencies (copy to IGs) concerning the "discipline of City employee/welfare fraud offenders," please be advised that pursuant to a reorganization of the investigative function within the Human Resources Administration (HRA), the responsibility for investigating non-staff related welfare client fraud has been shifted from the HRA's Office of the Inspector General to the newly created Client Fraud Investigation Unit (CFIU).

If HRA finds that an employee of your agency may be engaged in welfare fraud, a copy of the criminal case investigation report alleging such fraud shall be referred to the Office of the Inspector General directly from CFIU. This new unit will supplant HRA-IG as the HRA liaison on these matters. Accordingly, requests for clarification of information reported and assistance in assessing a case, inquiries regarding criminal prosecution dispositions and administrative disciplinary hearings, etc., should be addressed to the Director of CFIU, New York City Human Resources Administration, 66 Leonard Street, 2nd Floor, New York, New York 10013. That unit may be reached by telephone at 553-6862.

In light of HRA's recent modification of Confession of Judgment and Promise to Pay forms to provide notice to offenders that such restitution agreements do not preclude further criminal and or disciplinary action, it is no longer necessary that such agreements be made concurrently with an agency's initiation of a disciplinary proceeding. Agency IGs shall be notified by CFIU when such agreements are entered into by agency employees; however, agency IGs need not inform that unit of their initiation of disciplinary proceedings.

CC: Director, HRA, Client Fraud Investigation Unit
Agency Heads
Philip R. Michael
Joy Dawson



HUMAN RESOURCES ADMINISTRATION
250 CHURCH STREET, NEW YORK, N.Y. 10013

BLANCHE BERNSTEIN, *Administrator/Commissioner*

Hon. Stanley N. Lupkin Commissioner
Department of Investigation
130 John St.
New York, N.Y.

January 9, 1979

Dear Commissioner ^{Stan} Lupkin:

I have reviewed a copy of your report on Detection and Prevention of Fraud by City Employees on Public Assistance (Ref. 639/76R) which you transmitted to me in your letter dated November 15, 1978, and I share the view set forth therein that much can be done to improve HRA's procedures for investigating fraud and making available to the District Attorneys materials that will be more helpful to them in prosecuting cases.

We are making improvements in our investigative process at the Income Maintenance ("IM") Centers; we are reorganizing the fraud investigation function of the Office of the Inspector General ("OIG") and the Collections Unit of the Office of Legal Affairs; and we expect that the IM Center improvements and the organizational changes, among other things, will enhance substantially our investigations, our collection efforts and our court referrals.

Upon receipt of your report, the Division of Income Maintenance Programs ("I M Programs") reexamined its operating instructions to IM personnel and the practices and controls of its Office of Operations Systems ("OOS") as they relate to handling computer matches. It became apparent that instructions to IM personnel were not as clear as they should have been. We have revised the instructions to insure that staff clearly understands its responsibility to (i) secure collateral verification from an employer of the amount of concealed income, (ii) compute the amount of funds wrongfully obtained from public assistance, (iii) take recovery action by reducing public assistance payments where assistance continues and (iv) record clearly all of the actions connected with each investigation for use as evidence in possible fraud prosecutions. The revised instructions also make it clear that IM staff has a responsibility to refer fraud cases to the HRA Inspector General ("Inspector General") promptly and with as much detail as is possible.

I do not share your auditors' view that an attempt to monitor case actions resulting from the matches by OOS was unsuccessful. Certainly OOS was able to learn from the forms which were returned by IM staff what disposition was made of each case in a match. The procedures were not designed for OOS to monitor whether a fraud case was referred to the OIG.

One of the findings in your report is that there is considerable slippage in IM's efforts to refer fraud cases to OIG. We selected a random sample of 371 of the 756 cases in the March 1977 match that might have required a referral for fraud. We examined 113 case records at the IM Centers and found that 25 cases were referred to OIG by means of a "Refund Summary". We also found that 25 cases did not require a referral to OIG because the person who was working was either a minor or a payee for the family and not in receipt of assistance. Our findings indicate that in 56% of the cases requiring a referral, we did not make a referral to OIG. To correct this performance lag, we will develop an audit of match program activity at the IM Centers to insure that required procedures are understood and followed.

I recognize your auditors' concern with OSS's present practice of handing over to OIG an entire match as a referral for fraud investigation. IM staff is required to investigate the extent of each fraud in order to determine how much to recoup for those cases that remain eligible for assistance payments. Under current procedures, OIG's Office of Concealed Assets ("Concealed Assets") independently gathers data from collateral sources to establish fraud, reviews the entire case record of public assistance and computes the amount of fraudulently obtained public assistance prior to preparing a case for referral to the District Attorneys. There is obviously a duplication of effort. IM Programs and the Director of Fraud Investigations will work out mutually acceptable procedures to eliminate the duplication, assign responsibility and streamline the procedures. The Fraud Investigations Unit will set up a mechanism to screen incoming referrals and to bring to the attention of IM Programs management those referrals that are deficient.

Your auditors recommend that IM Management should institute measures to insure the proper maintenance and timely referral of DSS records to investigative staff. IM management has been emphasizing, and will continue to train staff in, the need to record information properly in the records, to obtain the appropriate evidence and to refer cases promptly to OIG.

We have a huge paper records management problem in IM. There are some 600,000 case record files in our 42 IM Centers, and each file is filled with forms and papers. The problem of filing papers has become severe since we have been required to reduce the number of staff available for filing to keep within budgetary limits. To give you some idea of the magnitude of the problem, for one function alone, recertification, we do about 80,000 interviews a month at 9 sites, and the paper from those interviews has to be shipped and filed in folders throughout 42 IM Centers. We recognize that we need to take another approach to records maintenance, and shortly we will test the use of a microfilm record to replace our paper files at one IM Center. The objective of the test is to determine whether we will be able to locate records more easily and whether we will be able to do away with some of the forms and papers now used.

A major portion of your report deals with the Office of the Inspector General as it was constituted during the period covered by your report and certain procedural problems affecting its operations.

As you note, OIG has some major backlogs in the criminal investigations areas, but to report that such backlogs have been caused solely by delays in the initiation and completion of criminal investigations is to overlook the factors which we feel are more responsible for such backlogs - staff losses and overall increases in case intake.

In 1974, when the current Inspector General took office, the backlog in OIG, Concealed Assets, was 10,615 cases. For the latest complete statistical year, 1977, the backlog was 15,114, an increase of 42% over the 1974 figure. While investigative staff decreased by 28% during the same period, a reduction of only 19% occurred in completions, and through greater selectivity considering the priorities during the same period, dollar recoveries, total collectible dollars, increased 19%. Based on the above statistics, the productivity of an investigator improved by 14% from 1974 to 1977.

In the past year, OIG has realigned its priorities structure based on a new City-wide emphasis on employee fraud, and all investigative staff has been assigned to concealed government employment cases. Deviation from this priority occurs only when information pertaining to concealed government employment cases has not been forwarded to OIG promptly enough to keep investigators busy. (For productivity purposes the Inspector General has, with certain exceptions, ruled out seizure of records, relying on requests for information instead.) We believe that this method of priority assignment of concealed government employment cases will eliminate the generation of "stale" concealed employment cases. With a statute of limitations on criminal fraud cases of five years, no appreciable percentage of concealed government employee cases should present statute of limitations problems.

At present all cases received in OIG are examined in Concealed Assets' review and reject process. Concealed employment cases are separated from other Concealed Assets cases and are assigned and given the highest priority. Of all concealed employment cases, government cases are considered first in the final sift before assignment.

Other cases processed by Concealed Assets in the past year are cases with suspected high dollar value and cases assigned in previous years which are being worked by investigators when concealed employment case data adequate for completion of an investigation is not available.

Concealed Assets presently has twenty one fraud investigators, in contrast to the twenty nine it had approximately four years ago, all of whom have been assigned principally to government employee fraud investigations for the past year.

Notwithstanding our priorities with regard to the handling of City, State, and Federal cases, we agree that guidelines regarding priority standards and criteria for prosecution of fraud cases will be beneficial.

During the period covered by your report HRA's emphasis was on recovering monies, or restitution. Current policies place an emphasis on fraud in the public sector as well as on restitution, thereby requiring a shift in focus as well as priority. In addition, the deterrent effect is highlighted along with prevention.

The Inspector General presently has developed the following priority system for all cases he receives:

- 1) Computer-Match cases which identify City, State and Federal employees;
- 2) FICA Computer-Match cases which identify employees in the private sector; and
- 3) Miscellaneous which includes all other Computer-Matches, such as UIB and Marriage Bureau, referrals from State WIG and Refund Summaries received from IM Centers.

Also, any referrals which indicate a high claim amount or potential publicity are given high priority.

The Inspector General is faced with certain productivity requirements which often conflict with its priorities system, (e.g., the receipt of information for lower level priority cases often occurs more rapidly than that for higher level priority cases). Given the Inspector General's decision to request rather than seize information (a much more time consuming approach on the part of the OIG) the investigators are allowed to work the lower level priority cases while awaiting information on higher level cases in order to accomodate the need for productivity.

We will consider carefully the changes in case preparation that are recommended as appropriate for referrals to District Attorneys. Initial implementation of changed case preparation standards may affect worker productivity, but, as you note, separation of City employee fraud matters from all other fraud, coupled with other changes we propose to undertake based on our findings and some of your suggestions for change in the fraud area, should allow us to make significant gains in all of our investigative work. The ultimate goal is to increase our ability to prepare cases which will allow the District Attorneys to proceed expeditiously while at the same time allowing us to maintain cost effectiveness.

OIG began to examine criminal case reporting needs in February 1978. With an eye towards implementing changes and improvements in HRA's reporting system, staff made visits to the Drug Enforcement Administration and the Department of Housing and Urban Development to study their case reporting systems. As a result of OIG's examination, a project was designed to improve the quality of criminal case reporting. Incidental to this project was the development of a handbook of forms and procedures for criminal case reporting. The project has been suspended temporarily because of loss of analytical staff and the separation of the Bureau of Client Fraud Investigations from OIG. Within the constraints we face, I will request that OIG, together with the Bureau of Client Fraud Investigations and the Office of Legal Affairs, revive the project and see it through to completion. A part of the project may include the reestablishment of a Criminal Committee at HRA.

OIG's criminal investigative reporting is designed to meet the requirements of the District Attorneys and Agency requirements such as conferences in IM Centers, Fair Hearings and justification of recoupment. We attempt to provide justification with prima facie cases, and we are aware that the District Attorneys may have different criteria for prosecution. However, the actual prosecution and selection of cases to prosecute are the concern of the District Attorneys. OIG liaison workers located in the District Attorneys' offices are there to assist in weeding out undesirable cases and to help in the preparation of cases for prosecution.

The Court Referral Unit ("CRU") of OIG and the District Attorneys have been considering a number of forms and formats for investigative reports generated by the various investigative units of HRA, the New York State Welfare Inspector General and the Department of Investigation. Clearly, it would make processing easier and more routine if the great bulk of welfare fraud cases could be referred in a standard format. Again, we will give your recommendations in the criminal investigative reporting area careful consideration. Your recommendations most probably can be applied to modify our currently used Refund Summary so that it can serve as the primary referral document, if coupled with other supporting documents such as a fraud calculation form and a list of available evidence.

In discussing the quality of HRA's criminal case investigations, consideration must be given to the law, rules, regulations, policies, procedures and philosophy which bear upon a social services environment. In certain instances some of the other forces we must consider may appear to be at odds with those standards which are followed in a strictly criminal investigatory environment.

All evidence noted in a case record is recorded in the investigator's report. This information is used to indicate the non-fraud aspects of our claim. Claims are categorized as fraud and non-fraud. Contrary to what is contained in the section of your report titled "Insufficient Criminal Evidence Developed and/or Reported", CAD investigators do extract evidence of misrepresentations from case records when this documentation is available. Material that is available during the investigation is listed and noted in the investigator's report under the heading "Misrepresentations and Concealments". The documentation that is derived from an evaluation of case record material is dependent upon what is found in IM records. We shared with you earlier in this response some of the IM concerns in the record-keeping area.

On the question of indicating evidence of a client's intent, Concealed Assets' investigator's reports identify misrepresentations by DSS form name and/or number and by date under the heading, "Misrepresentations and Concealments". Admissions made to investigators are included under the heading "Admissions".

When clients are questioned or interviewed in connection with matters within OIG's province, the Concealed Assets investigator has already obtained evidence to document the existence of concealment. The purpose of the interview is to confront the client with the evidence at hand and to permit the client to give us any documents which may refute the available information in the case record, or to explain any of the client's misunderstandings of our policies. The results of interviews are reported under the heading "Admissions". Concealed Assets' monthly reports clearly identify the numbers of cases which are reviewed and rejected because of exculpatory proof.

It may be unrealistic for Concealed Assets staff to attempt to obtain photo identification cards, original handwriting exemplars or other identifying information on clients. This responsibility may best be left with the District Attorneys who are able to request or subpoena such information as needed.

Obtaining current home addresses for clients has been a constant problem for us, and it may be that a cooperative effort between us and the District Attorneys, with them requesting such information from employing agencies, will help to alleviate the problem.

The effectiveness of Concealed Assets' reporting is dependent upon the evidence submitted at the time of its investigation. If this evidence is not sufficient to sustain a criminal prosecution, we understand that the District Attorneys have the right and authority not to prosecute. However, even if the evidence is not sufficient for criminal purposes, it may support recoupment and recovery actions.

In its attempts to supply sufficient evidence of a client's employment or the names of witnesses, Concealed Assets is handicapped by its inability to subpoena employment records where the employer refuses to cooperate. We wish to note, however, that successful preliminary hearings have been held on the employment information made available to the District Attorneys.

At preliminary hearings the DSS representative can attest to the availability of public assistance checks as well as show a transcript of public assistance or other available records, such as budget sheets showing the payment of public assistance funds during the period of concealment.

HRA, in differentiating between fraud and non-fraud, makes a clear attempt to distinguish a criminal claim. In computing the dollar amount of claims against clients, I note that our claims are based upon a composite of criminal and civil overpayments of public assistance, which is indicated under the heading "Computation of Claims". For those District Attorneys who continue to have a problem understanding our claim computations, we have liaison workers located in the respective District Attorneys' offices who can supply all necessary explanations. Our computation of claims covers overpayments of public assistance during a specific period of time. Since we cannot predict when the District Attorneys may decide to initiate their actions, there is no way for us to incorporate the statute of limitations approaches. Our claims submitted to the District Attorneys are all larceny cases which may be deliberately reduced to misdemeanors for accomodation purposes. Additionally, at one time fraud claims did not include considerations regarding incentive allowances. As a result of a court decision which required that incentive allowances be considered, it has often been necessary to make changes in claim computations after they have been referred to the District Attorneys.

To insure that your recommendations covering OIG's operations are addressed in a satisfactory manner and because of a certain amount of overlap, I am requesting OIG, the Bureau of Client Fraud Investigations and the Office of Legal Affairs to mount a joint effort to eliminate many of the concerns which you have raised. I trust that they will continue to work closely with your office, the District Attorneys and the Deputy Mayor for Criminal Justice in this effort.

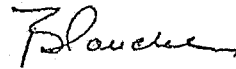
I agree with your findings that HRA has not exercised sufficiently strong measures in taking disciplinary actions against its own employees who have committed welfare fraud. I have given instructions to our Employee Disciplinary Division to take appropriate disciplinary proceedings against HRA employees who have committed fraud, and we will monitor the Hearings Officers to insure that where the fraud constitutes a felony the recommendations contained in the Mayor's memorandum of October 13, 1978 are followed.

We also agree with your findings that our process of collecting from recipients who have been ordered by a court or voluntarily agreed to make restitution needs improvement. We have added temporary manpower to the Collections Unit in the Office of Legal Affairs to facilitate computerization of an accounts receivable system which should eliminate the in-house collection problem. Where we do not receive payments, we will take civil action to enforce judgments or agreements that have been made.

As you know, we have modified the forms of Confessions of Judgment and Promises to Pay to provide notice to offenders that such agreements do not preclude the possibility of criminal and/or disciplinary action. We are now in agreement with your office that, given the notice provided in such forms, we no longer need await the start of administrative proceedings before taking Confessions of Judgment and Promises to Pay. We will, of course, maintain close liaison with the Inspectors General of other City agencies and with the District Attorneys in taking Confessions of Judgment and Promises to Pay.

Your report has been most helpful, and it will clearly facilitate those initiatives we are taking at HRA. OIG, the newly established Bureau of Client Fraud Investigations and the Office of Legal Affairs will work closely with your office in coordinating your recommendations and our initiatives. I trust that the concerns I have shared with you will be helpful in the preparation of the final version of your report.

Sincerely,



Blanche Bernstein
Administrator/Commissioner



RECEIVED
OFFICE OF THE DISTRICT ATTORNEY, Bronx County

MARIO MEROLA
District Attorney

215 East 161st Street
Bronx, New York 10451

DEPT. OF INVESTIGATION
REFERRED TO:

(212) 590-2000

December 1, 1978

Hon. Stanley N. Lupkin
Commissioner
Department Of Investigation
130 John Street
New York, New York 10038

Dear Stan:

A few months ago I spoke with Chrystyna Obushkevich of your office in connection with the preparation of a standard Investigation Report for welfare fraud cases.

I dont know if such a report was ever prepared, so I have enclosed two copies of what I feel is a pretty good report. One of the copies is a blank report and the other is just a sample case. The report can be modified to fit just about any type of welfare fraud case. Additional information may be added if needed and I feel that all copies of pertinent information or documents should be attached to the report by the investigators of H.R.A.

I hope that this will help you in the event that this type of report is necessary. If I can be of any more help, please let me know.

Very truly yours,

Sal

SALVATORE GIUNTA
DIRECTOR
WELFARE FRAUD UNIT
590-2128

SG;ro

INVESTIGATION REPORT

1. INVESTIGATION UNIT INFORMATION:

(a) Unit, (b) Investigator & telephone#, (c) Date case assigned, (d) Date investigation terminated.

2. CLIENT INFORMATION:

(a) Name, (Current address, apt.#, zip code, tel.#, (b) Social Security number/s, (c) Case#, (d) Center & tel.#, (e) Period of Public Assistance, (f) Family composition.

3. FRAUD INFORMATION:

(a) Basis of referral, (b) Amount, (c) Period of fraud, (d) Type of fraud.

4. RESULTS OF INVESTIGATION:

(a) Persons interviewed, (b) Locations visited, (c) Documents obtained, (d) Correspondence, (copies or originals).

5. EVIDENCE OBTAINED:

(a) Employment records, (b) W-2 Forms, (c) Payroll records, (d) Complete case record, (application, W-10C's, face to face interview, in-person interviews, correspondence).

6. BACKGROUND INFORMATION:

(a) Current status, (b) Fair Hearings, (c) Prior frauds, (d) Restitution or recoupment in effect, (e) Residence at time of fraud.

7. PROBLEMS CONCERNING INVESTIGATION OF FRAUD:

(a) Unable to subpoena records, (b) Case record not complete, (c) All checks for period not in file, (d) Poor health of client, etc.

SAMPLE INVESTIGATION REPORT

DATE OF REPORT: _____

HUMAN RESOURCES ADMINISTRATION

INV. UNIT: _____

INVESTIGATOR: _____

TELEPHONE# _____

DATE INV. ASSIGNED: _____

DATE INV. COMPLETED: _____

NAME: _____

CASE# _____

ADDRESS: _____

CENTER: _____

_____ APT.# _____

TELEPHONE# _____

PERIOD OF PUBLIC ASSISTANCE: FROM: _____ TO: _____

FAMILY COMPOSITION: _____

BASIS OF REFERRAL:

RESULTS OF INVESTIGATION:

EVIDENCE OBTAINED:

BACKGROUND INFORMATION:

PROBLEMS CONCERNING INVESTIGATION OF FRAUD:

INVESTIGATOR

SUPERVISOR

LIST OF WITNESSES:

REMARKS:

SAMPLE INVESTIGATION REPORT

DATE OF REPORT: December 1, 1978

HUMAN RESOURCES ADMINISTRATION
INV. UNIT: Conc. Assts. Div.
INVESTIGATOR: John Smith
TELEPHONE# 553-7015

DATE INV. ASSIGNED: 11/30/78

DATE INV. COMPLETED: 12/1/78

NAME: Jane Jones D.O.B. 1/2/33

CASE# ADC 3649078-1 SS# 008-45-0087

ADDRESS: 421 East 138th Street

CENTER: Concourse

Bronx, N.Y. 10453 APT.# 14

TELEPHONE# 960-7925

PERIOD OF PUBLIC ASSISTANCE: FROM: 10/7/67 TO: Present

FAMILY COMPOSITION: Son Herman 6/71

Son James 8/72

Daugh. Mary 2/73

BASIS OF REFERRAL:

This investigation was conducted due to anonymous complaint letter stating that the above named client is employed by the New York City Board Of Education, P.S. 41, located at 149th Street & St. Anns Avenue, Bronx, as an aide.

(Concealed employment)

RESULTS OF INVESTIGATION:

The assigned checked the Public Assistance scanner and verified that the above named client was in fact receiving welfare from center #45, Concourse. The assigned then went to center#45 and reviewed the case record. In the case record, there are three Face to Face forms signed by the recipient, stating that she in fact is not employed. On her application she states that she has not been employed in the past ten years. Also present in the case record are six W-100's stating no change in financial situation. The assigned visited P.S. 41, at 149th Street and St. Anns Avenue and spoke to Mrs. Kaplan, Asst. Principal who referred the assigned to Mr. Davis of the Personnel Section. Mr. Davis gave the assigned copies of payroll records and W-2 Forms for the period, January 4, 1970 to April 10, 1977. Mr. Davis stated he will give the assigned current payroll records some time next week. The assigned also conducted a Motor Vehicle Department check and a bank check, both checks were with negative results.

Client interviewed on this date and stated to the assigned that she is currently employed and that she did not report this to the center because she needed the extra money.

NOTE: (ANY ADDITIONAL INFORMATION)

EVIDENCE OBTAINED:

1. Employment records from P.S. 41, for the period: 1/4/70 to 11/30/78
2. W-2 Forms for the years: 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977.
3. Case record ADC 3649078-1 from center#45 (at Court Referral Unit)
4. Three Face to Face forms dated: 6/5/73, 9/1/75, 3/10/78
5. Six W-100's dated: 1/1/71, 2/2/72, 3/3/73, 4/4/74, 5/5/76, 6/6/78.
6. Application dated: 10/7/67.

BACKGROUND INFORMATION:

This case is currently active at center#45 Concourse.
There are no Fair Hearings in case record
There is no record of prior fraud
Client is still at same address of application
There is no indication of restitution or recoupment in case record.
Client is in good health

PROBLEMS CONCERNING INVESTIGATION OF FRAUD:

For the period of fraud, checks for May and June are not in file (4) checks,
each check is for \$250. totalling \$1,000.
Handwriting analysis has not been done

Signature
INVESTIGATOR

Signature
SUPERVISOR

LIST OF WITNESSES:

1. Mr. Milton Davis, Personnel Director, P.S. 41, Bronx, 149 St. & St. Anns Avenue
2. Mrs. Helen Kaplan, Asst. Principal, P.S. 41, Bronx, 149 St. & St. Anns Avenue
3. Mrs. Mary Green, Caseworker, Center #45, Concourse, 1790 Grand Concourse
4. Mr. Ronald Brown, Teacher, P.S. 41, Bronx, 149 St. & St. Anns Avenue

REMARKS:

The assigned showed I.D. photo of Jane Jones case# ADC 3649078-1, to Mrs. Kaplan, Mr. Davis and Mrs. Green and they all agreed that client is the same person that is employed at P.S. 41 as a Teacher's Aide, and that she has been employed at that school since January 4, 1970 to the present.

END