



# BUSINESS RULES

## Major Case Management Supplemental Information

### Abstract

This document is designed to give guidance regarding the conduct of a CRA criminal investigations major case.

Note: the contents of this document need to be applied to the specifics of each individual major case.

Criminal Investigations Program

# BUSINESS RULES

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## REVISIONS

These Business Rules are subject to change and modification as deemed necessary by the investigation team. Revisions from a previous version of the Business Rules will be noted here and will include the date, section and content that was revised.

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## PURPOSE

The purpose of these business rules is to provide a set of major case management guidelines that follow major case management principles and meet the requirements for investigative information management within a team environment. These guidelines are required to ensure that all investigative team members provide their investigative information in a manner that maximizes the search and retrieval features of the file management system. This will facilitate an efficient, accurate disclosure of the file material to PPSC counsel.

## DISCLAIMER

THE ROLES AND RESPONSIBILITIES OUTLINED IN THESE PROPOSED BUSINESS RULES ARE RECOMMENDATIONS ONLY BASED ON WHO NORMALLY WOULD ASSUME THIS ROLE.

ADDITIONALLY THE PROCESSES OUTLINED IN THIS DOCUMENT ARE RECOMMENDATIONS ONLY AND ARE TO SERVE AS GUIDANCE FOR THE DEVELOPMENT OF THE ACTUAL BUSINESS RULES FOR EACH PARTICULAR MAJOR CASE.

## ROLES AND RESPONSIBILITIES

In every defined major case investigation a command triangle shall be formed consisting of the functions and responsibilities of a major case manager, primary investigator, and file coordinator.

In a large or complex investigation, the investigative functions of a major case manager, primary investigator, and file coordinator may be performed by different individuals. Alternatively, in a small or less complex investigation, one person may be responsible for more than one function.

Depending on the size and scope of the investigation, determine who will perform the following roles and ensure that there is clear documentation of the roles and responsibility along with the reporting structure.

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It is probably best to create a team organizational chart in addition to assigning the roles as outlined below (note these roles do not all have to be performed by separate individuals but all of the tasks outlined in each of the roles need to be assigned to someone).

To ensure effective governance of a major case, it will be necessary at the inception of the case to identify individuals and create specific roles and responsibilities for the following positions. Be specific as possible.

- A. Management Team
- B. Case Manager (CM)
- C. Primary Investigator(s) (PI)
- D. File Coordinator (FC)

Depending on the size and scope of your case it may also be necessary to identify individuals and create specific roles and responsibilities for the following positions. Again be specific as possible as to their roles and who exactly in the command triangle they report to.

- E. Affiant
- F. Evidence Manager
- G. Interview Coordinator
- H. Field Investigators

## COMMUNICATION

Communication is a key element in conducting successful Major Cases and therefore business rules need to be established to ensure that communication is on-going and timely.

Regular meetings where teams can share their progress, challenges and any best practices is an important aspect when working in a team environment. Keeping everyone in tune with the investigation will prevent feelings of uncertainty and misunderstandings about the direction of the case and the importance of their assigned tasks. One suggestion on how to effectively communicate may be to utilize the concept of a “daily scrum”<sup>1</sup>

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<sup>1</sup> A daily scrum is where command triangle members including the affiant meet daily or as required to briefly discuss any real time investigation findings and the coming day work. This is an opportunity for key members of the investigation team to quickly address case related issues or results and collectively make decisions immediately affecting the direction of the investigation. Meetings should be held in the morning and should be no longer than 15 minutes.

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## INVESTIGATIVE TEAM MEETINGS

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Investigative team meetings are an essential tool and play a vital part in the command triangle's ability to effectively run any major case investigation. They allow the command triangle to set out clear goals for the investigation while providing team members with clear assignment of responsibilities.

Listed below is a general guide to organizing and conducting investigative team meetings:

1. All team meetings will be led by a member of the command triangle;
2. A meeting planner or agenda should be prepared listing items to be discussed and team members that will address the items identified;
3. In order to monitor the progress and flow of the investigation; investigative team meetings should be held at least once a week. New tasks may be identified and assigned as a result of the team meetings;
4. All meetings should be mandatory and attendance at the meeting recorded;
5. Team members listed on the agenda should come to the team meetings prepared with all available reference material with them to properly report on the status of their assigned tasks;
6. Team members should participate actively and ensure they know the goals of the investigation;
7. A scribe must be identified to record minutes of the team meeting. The minutes should contain the various strategic decisions made during the course of the specific team meeting;
8. Investigators may **ONLY** note the date, start time and end time of the team meeting, the name of the scribe taking notes for the team meeting, and any tasks that are assigned to them;
9. The minutes (notes) will be forwarded to all members of the command triangle who will review them for accuracy;

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## SENIOR MANAGEMENT BRIEFINGS

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1. The case manager is responsible for briefing senior management regarding the overall progression and direction of the investigation. The briefing will also highlight significant new results to-date;
2. Meetings should be held regularly to ensure any major problems or risks are identified early on;
3. These meetings will also attempt to address and resolve major issues identified in the investigation;
4. The case manager will also bring forward requests for approvals regarding major anticipated investigation expenditures or major investigative actions being contemplated.

## ELECTRONIC COMMUNICATION

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Electronic mail messages are communications created, sent or received on an electronic mail system and include any attachments transmitted with the message and the associated transmission and receipt date. Email messages include those sent or received internally or externally.

Emails have become second nature as a means of communication within organizations, including the CRA. As a result, consideration must be given to the effective information management within an investigation in order to satisfy disclosure obligations.

## GENERAL DRAFTING GUIDELINES

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1. All electronic communications should be authored in a professional manner with a view to eventual disclosure;
2. Any email that contains evidentiary content or corporate information must be captured and recorded on the file;
3. In the case of internal communications, it is the original sender's responsibility to ensure that the email is converted to a .pdf document (or hard copy printed and scanned into .pdf if Adobe not available) and submitted to the FC, or his or her designate, as an electronic document and included in the file;

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4. In the case of external communications that are sent to or received from an agency or person outside of the investigative team, it is the investigative team member's responsibility to ensure that the email is converted to a .pdf document (or hard copy printed and scanned into .pdf if Adobe not available) and submitted to the FC, or his or her designate, as an electronic document and included in the file;
5. When an email chain is created (i.e. an email has been forwarded or there is a reply), investigators only need to submit a single email document when the correspondence is concluded. The document will contain all emails in the chain.
6. Do not mix operational and personal messages within an email;
7. Members of the investigative team must not use electronic communications to relay corporate information;
8. All members of the investigative team will forward their vetted and un-vetted case related emails to the person identified to handle disclosure in PDF format once a month. These will be archived in the case filing system for future disclosure.

### SMS TEXT-BBM MESSAGES

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1. Mobile phone text messaging (SMS) is not secure and is not approved for communicating corporate information or for record-keeping purposes;
2. Operational and administrative content is not to be relayed on Text Messages, Blackberry PIN Messages, or Blackberry Messenger unless absolutely necessary;
3. If operational or administrative information must be relayed over text message, both the sender and recipient are to copy the content of the message verbatim in their notebook;
4. PIN-to-PIN messaging is not approved for any protected communications and will not be used for transmitting corporate information;
5. BBM messaging should not be used for communicating any corporate information unless absolutely necessary;
6. If BBM must be used to transmit corporate information, it will be the responsibility of the originator to capture the content of the message and provide the same to the FC for retention on the file.

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7. Text messages, Blackberry PIN Messages and Blackberry Messenger transmissions that do not contain operational or administrative content in regards to the file do not need to be retained.

### INVESTIGATIVE WORKFLOW

#### TASK MANAGEMENT

In order to maintain control over the task assignment, all major cases must utilize a **task log** which is to be maintained by the FC. A **task log** is a chart that documents all tasks within the investigation. All task assignments are individually numbered and assigned by the FC. Team members will in turn prepare a report on the progress and results of each of their assigned tasks and submit these back to the File Manager.

A task assignment form will be used by the FC to administer all aspects of the investigation. A task action report will be used by the investigator or other personnel to write a detailed description of all actions taken with respect to the assigned task.

Note: The business rules established by the FC will determine the form and format for these tasking documents. For cases utilizing major case management software, these documents will be generated by the software. For other cases, particularly those not involving other agencies, it may be sufficient to use T2020 Memos for File when assigning tasks or reporting on the actions taken.

#### RESPONDING TO TASKS (TASK ACTIONS)

The investigator will work on the task and document their investigative activities in a task action report. If an investigator is not assigned the task but completes work to help with the task, he/she will need to identify the assigned Task number and submit a separate task action report. The "Action(s) Taken" should be written in third person, past tense and in a professional manner in order to facilitate the efficient drafting of an Information to Obtain (ITO) or Affidavit.

If documents, exhibits, or multimedia are seized/collected as part of the Task, this fact must be mentioned in the task action report. Documents referenced should be listed clearly at the bottom of the Task action report in a format established in the business rules.

In addition to the above, obtained documents should also be recorded on a **document submission spreadsheet**. This spreadsheet also must be submitted to the FC at the conclusion of the Task and will assist him/her in making entries in



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the documents intake / exhibit register. Information received by the Investigator in electronic format will be described in the Task action report and submitted to the File Coordinator as is.

## DOCUMENTS OBTAINED WHILE PERFORMING TASKS

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How investigators are to submit documents that are referenced in a **task action report** will be established in the Business Rules. The following outlines a typical process:

- **Electronic Document Storage:**
  - Electronic documents will be saved using a naming convention and format established in the Business Rules. For example:  
  
**Task #-Date-Document Type-Title**  
  
 For a CPIC check of John DOE conducted on March 4, 2012 in relation to Task 14 and saved in pdf format, the file name would be:  
  
**T14 -2012-03-04-CPIC-John DOE.pdf**
  - All electronic documents referenced in a **task action report** will be securely stored in a location determined by the File Coordinator. To maintain the integrity of the filing system, only the File Coordinator or designate will make entries or modifications to this filing system. All other members of the Investigative Team may only view the files.
- **Electronic Document Submission and Review:**
  - When a **task action report** is completed, the Investigator will submit the related electronic documents to the File Coordinator in a manner established by the FC (secure email, USB, placement on shared drive, etc).
  - The FC will be responsible for moving the documents into the appropriate electronic file folders.
- **Hardcopy Document Submission and Review:**
  - When a **task action report** is completed, the Investigator will submit the hardcopy document(s) to the File Coordinator in a file folder that is clearly labeled. It will typically include:
    - The associated **task** and **task action report**
    - The date of submission

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- The submitting Investigator's name
- The number of pages of the hard copy document
- Once approved by the FC and PI the file folder will be scanned by the File Coordinator and filed into the appropriate folder in the electronic database.
- The original hardcopy report will be filed in a secure location by the FC.
- **Task Review and Conclusion:**
  - The FC is responsible for monitoring both the hardcopy and electronic intake.
  - Once submitted material has been reviewed by the File Coordinator, it will be forwarded to the PI for review. If the PI:
    - is satisfied that the task is complete, he or she will give the documentation to the FC for scanning and filing;
    - is not satisfied that the task is complete, he or she will author a **task assignment form** that provides direction on what needs to be completed. This form will be provided to the investigator through the FC so that he or she may complete the required work.
  - Once a task is concluded, the FC will update the Task Ledger accordingly.

## DOCUMENT AND EVIDENCE MANAGEMENT

All documents collected shall be managed in accordance with the filing system set out in this standard and includes electronic documents managed in an electronic filing system.

**Disclosure** is a copy of the evidence that the PPSC and investigative agency have collected to prosecute the case. It is given to the defence because it is their constitutional right to know the evidence that will be used against them.

There is a general duty on the part of the PPSC to disclose all relevant information gathered during the investigation of an accused including all evidence which may assist the accused, even if the PPSC does not propose to adduce it. Both the investigative agency and the prosecution service share responsibility in fulfilling the PPSC's obligation to disclose. It is an ongoing continuous legal obligation.

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The purpose of disclosure is two-fold:

- to ensure that the accused knows the case and that they are able to make complete answers and a complete defence, and
- to encourage the resolution of facts in issue including, where appropriate, the entering of guilty pleas early in the proceedings

Basically, whether electronic or not

- Disclosure is a right
- Must be meaningful
- Must be searchable

Disclosure should be ready by the time the referral is sent to the PPSC, who now want disclosure in electronic format which, for the most part, thrills judges and Defence counsel who did not like receiving the numerous binders of material. Now it can be done on one memory stick.

### EDISCLOSURE SYSTEM

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**eDisclosure** is the term used to describe the electronic disclosure of all relevant case related material including seized paper records (scanned), digital evidence, internal records (tax returns), audit material, investigator work product etc.

When building an evidence-management database, with a view to eventual disclosure, it is important to keep the final product in mind. As a general rule, evidence should be well-indexed, sortable and searchable.

The FC will ensure that there are standardized procedures to promote uniform quality and control standards for the case. The approach to disclosure, including the software package to be used, will be outlined in the business rules and operational plan. The approach to be applied will be consistent with the principles in the "Major Case Management" (MCM) and will ensure that it:

- Assists investigators and PPSC (i.e. investigative counsel) to begin building the disclosure brief early in the pre-charge stage so that it is substantially ready or complete once charges are approved or laid;
- Involves the use of electronic disclosure in a standard format, known as the "Major Case Management Brief" and the same standard search software for use by all parties, whether PPSC or defence;

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- Development of a standard disclosure brief should put an end to the uneven practices, between investigators and eventually offices etc. which presently exist and often can cause delays in responding to defence requests for disclosure; and
- Use of a standardized approach will help ensure that the initial disclosure brief and subsequent disclosure packages will contain all materials relevant to the investigation.

### VETTING

It is essential that investigators vet all materials (notes, reports, etc.) that may include sensitive information before they are provided to the PPSC. Individual investigators know if they have sensitive information in their notes and where it's located, The PPSC doesn't. If the investigator doesn't highlight the material for redaction then there is a good chance it will be inadvertently disclosed to the defence. This can have drastic consequences.

For consistency, Investigators should consider standardized vetting codes for their investigations. The following are recommended codes:

#### **V1 — PRIVILEGED INFORMATION**

This category includes the various privileges that might exist such as solicitor-client privilege when an investigator communicates with a PPSC attorney for the purpose of seeking legal advice then the content of their communication is protected by solicitor-client privilege. This category would also include Informer Privilege or public interest privilege.

A summary of the types of privileges that may be included in this section is as follows. *Please note that some of the privileges rarely apply to CRA cases.*

**Solicitor-client privilege:** confidential communications between a solicitor and a client related to the seeking of lawful legal advice. The privilege is held by the client.

**Litigation privilege (also known as “work product privilege”):** this privilege is not restricted to solicitor and client communication. It expands beyond the solicitor-client relationship to include “...communications between a solicitor and third parties...Its object is to ensure the efficacy of the adversarial process and not to promote the solicitor-client relationship. And to achieve this purpose, parties to litigation, represented or not, must be left to prepare their contending positions in private, without adversarial interference and without fear of premature disclosure.”

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**Public interest privilege:** government records and information may be protected from disclosure where the public interest in preserving the confidentiality of the information prevails over the public interest in seeing that litigants have access to all relevant evidence.

**Settlement negotiation privilege:** a class privilege protecting discussions that are made in the course of settlement negotiations and for the purposes of settlement. These discussions are not intended to be disclosed or used against the parties should the negotiations fail. The privilege is jointly held by both parties.

**Informer privilege:** a duty on the part of the PPSC to protect any information that risks revealing the identity of a confidential informant. The privilege protects “any information which might tend to identify an informer.”

### V2 — THIRD PARTY INFORMATION

Under this category you vet out information that is not permitted to be used publicly, or disseminated to third parties, or disclosed without the consent of the party which provided it.

For example, a building manager may provide information about a person(s) of interest and then provide his/her contact information. The name of the building manager may be disclosed, but his/her contact information and address should be redacted. Remember that a building manager is just one example, and the same principle applies to any civilian witness who provides information to the investigator.

### V3 — IRRELEVANT or NON-RELATED INFORMATION

*Note this vetting code is to be used sparingly*

This category includes information from non-related investigations or information that would tend to reveal the existence of an ongoing investigation (e.g. into other targets who have not yet been arrested) may be redacted. For non-related investigations the redacted material must be disclosed once that investigation becomes public knowledge.

### THE VETTING PROCESS

Each officer should submit their notes to the FC on a regular, ongoing basis. Before submitting, the individual officer reviews his own notes and highlights the portions that he or she thinks should be redacted. Indicate whether it is V1, V2, or V3.

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The FC or a person under his or her direction will review the codes and confirm the redaction as V1, V2, or V3. The final decision with respect to vetting rests with the PPSC however the File Coordinator is responsible for ensuring the material is pre-vetted. The PPSC will review the proposed redactions.

### CONCLUSION

Vetting requires a balance between (1) the protection of sensitive information and (2) the PPSC and investigator's disclosure obligation. Vetting must be done scrupulously to respect both of these important interests. The trial judge may eventually review the vetting to assess whether it has been done properly. If not, there will be adverse consequences for the prosecution.

### EXHIBITS

All exhibits will be seized and handled in accordance with CRA policy. The process for handling the exhibits needs to be clearly outlined in the business rules set up at the outset of the investigation.

The business rules will need to identify who is responsible for completing the exhibit report/search report and for ensuring the following details have been documented:

- Location of seizure (including site number);
- Date and Time of Seizure;
- Where located;
- Who located and seized;
- Detailed description of each item;
- Authority under which item was seized;

Additionally business rules need to establish who will:

- Secure the exhibit in the exhibit locker/bond room;
- Forward a copy of the exhibit report/ search report to the FC for filing
- File the original exhibit report/ search report and record items in the Document Intake/Exhibit Ledger
- Track movement of the exhibit.
- Ensure that all Form 5.2 – Report to Justice reporting is submitted on time and thereafter prepare Further Detention Order Requests as required.

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## SURVEILLANCE

A new **task** will be generated for each surveillance target. The surveillance coordinator<sup>2</sup> will provide the surveillance team with clear objectives for surveillance as well as target profiles. In addition the surveillance coordinator will be responsible for collecting and reviewing all **surveillance reports** prior to submission to the FC.

- Surveillance Reports – Real Time:
  - One member of the surveillance team will be designated as the “Scribe” and will be responsible for completing the surveillance notes and authoring a collaborative surveillance report.
  - The surveillance report will adhere to the naming conventions identified in the business rules. Surname(s), plate number(s) and full address(es) are to be used in the surveillance report. Do not use general references.
  - If a new vehicle license plate is identified during surveillance, the scribe will conduct a registered owner (RO) check.
- Surveillance Reports – Multimedia:
  - All photographs and video obtained during the course of surveillance will be subject to disclosure. Take only as many photographs or video as required in order to capture pertinent details.
  - Multimedia obtained during the course of surveillance must be referenced in the corresponding surveillance report.
  - The process for handling and submitting Multimedia is outlined below.

## DATA ENTRY AND NAMING CONVENTIONS

Business rules need to be identified for the data entry requirements for any case approved software. The maintenance of these standards will ensure the integrity of the case management investigative data and the triggering database.

Additionally, business rules will be to create naming conventions. These should be established at the outset of an investigation and need to ensure they are aligned with any software requirements such as ringtail. An example of proposed naming conventions is as follows:

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<sup>2</sup> If there is not surveillance coordinator named or designated, then this role will need to be assigned to someone within the investigative team.

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<b>Date</b>	Year – month – day (YYYY-MM-DD)
<b>Time</b>	24 hour clock (HH:MM)
<b>Surname</b>	CAPITALIZED for all usage
<b>Names</b>	<ul style="list-style-type: none"> <li>• 1<sup>st</sup> mention – Given and SURNAME (John DOE)</li> <li>• Subsequent mention in the same document – SURNAME only (DOE)</li> </ul>
<b>Date of Birth</b>	DOB 1972-05-16 (YYYY-MM-DD)
<b>Roadways</b>	St., Cres., Blvd., Dr., Crt., Ave., Cir., Ln., Hwy
<b>Directions</b>	N, S, E, W, NE, NW, SE, SW
<b>PO Boxes</b>	PO Box 1234
<b>Postal Code</b>	Capitals, no spaces (A1B2C3)
<b>RR#</b>	entered in street field – RR #1234
<b>Provinces</b>	BC, AB, SK, MB, ON, QC, NL, NS, PE, NB, NT, YT, NU
<b>License Plate</b>	Plate number (no spacing) then space followed by two letter Province abbreviation (ABBA323 ON)
<b>Vehicle Description</b>	Color, make, model, year - (Red Ford Escape 2011)
<b>Naming Electronic Documents</b>	Task #- Date-Document Type-Title (T14 -2012-03-04-CPIC-John DOE.pdf)



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## INTERVIEWING

This standard addresses the process for interviewing witness(es) and accused. An interview is a conversation designed to obtain information on a specific occurrence, incident or event. The purpose of the interview(s) is to gather information to determine whether an offence(s) has been committed, to identify the individual(s) responsible for the commission of the offence(s) and/or to obtain evidence which may assist in the investigation/prosecution.

Your business rules need to identify who is preparing for, conducting and capturing the details of all investigative interview. For example, you will need to establish whether or not you will require an interview coordinator along with what documentation will be prepared for each interview.

Recommendations include:

- **Witness profile summary** – Form used to profile witnesses prior to interviews
- The **interview sequence plan** lists the witnesses you plan to interview, the order of the interviews, the allegations you intend to discuss, and the questions you intend to ask. When witnesses are interviewed sequentially, you should avoid delays between one interview and the next to minimise the opportunity for collusion.

## TEMPLATES

The management of any major case requires that the investigative team establish templates as part of their business rules for the team to utilize. Consistency in the templates being used should be strived for and if new or revised forms are used, all investigation team members will need to be advised. Templates should be created based on the specifics of each major case.

The following list gives suggestions as to templates the command triangle should consider creating when completing a major case.

*Note: where an example exists, it has been hyperlinked into the document.*

- [Monthly Case plan template](#) - The case plan is a written document that includes an estimate of time requirements, the actual time consumed, a work completion date, a review date and the supervisor's comments on review of the plan and the results
- [Disclosure protocol](#) – A detailed plan to handle disclosure. The plan will identify how the disclosure will be managed from the beginning of the investigation until all disclosure requirements are met. It will include recommended redactions or non-relevant documents.

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- **Documents intake / Exhibit register** – To be completed by the exhibit/disclosure coordinator (task could be performed by the File coordinator) once documents are submitted at the completion of tasks or search action is initiated.
- **Document submission spreadsheet** – Used to itemize all documents collected in the course of completing a task. To be submitted to FC once task is completed along with the documents.
- **Interview sequence plan** – Used to coordinate the order of your witnesses you plan to interview.
- **Major case operational plan** – A major case operational plan is the combination of a detailed investigative plan and a prosecution plan and is used to ensure that planning has taken place to account for the complexities of a major case.
- **Surveillance management worksheet** – Summarizes all of the surveillance activities in one report.
- **Surveillance report** – To be completed by any investigator conducting any type of surveillance. Photographs or video taken should be itemized and forwarded with this report.
- **Task assignment form** – Used by the command triangle to assign tasks to any member of the investigation team.
- **Task log** – Used by the command triangle to record tasks assigned to members of the investigation team.
- **Task action report** – A report used by file investigators to document all actions (date/time) regarding an assigned task. [Version 1](#) or [Version 2](#)
- **Witness profile summary** – Form used to profile witnesses prior to interviews.

– END –