

ASSET FORFEITURE: A DOI PERSPECTIVE

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DOI OVERVIEW

DOI oversight authority



What we investigate:

Corruption

Conflicts of interest and unethical conduct

Gross mismanagement and incompetence

Who we investigate:

City agencies, officers, and employees

Persons or entities doing business with the city

Persons or entities paid by or receiving money from or through the city or its agencies.

DOI powers under city charter



- Subpoena witnesses and documents
- Take testimony under oath
- Examine or take any documents prepared, maintained, or held by any City agency
- Compel City employees to cooperate fully and answer questions concerning their performance of official duties or dealings with the City
 - Similar arrangements apply to City contractors.
- Grant immunity to City employees
 - Uncooperative City employees may be subject to disciplinary action
- Can review asset declarations, statements of interest, etc.

FORFEITABLE ASSETS



“Following the money”

- Many DOI cases involve forfeitable assets
E.g. allegations involving vendor fraud or bribery
- To seize assets, need to catalog “tainted” assets and the rationale for their seizure.

Hypothetical investigation



- Allegation: vendor paying kickbacks to obtain and maintain contract with Agency
- Obtain vendor's financial records
 - Financial Management System (FMS) shows City payments to vendor.
 - From this bank information, can review deposits and disbursements.
 - Where are the disbursements going? And where do they go from there?
 - Expenses? Other customers, clients, suppliers?
- **Check vendor's** business and registration records
 - Who controls the entity?

Hypothetical investigation



- Look for suspicious patterns
 - Checks issued to owners or CASH
 - High volume of ATM withdrawals
 - Checks issued in round numbers or check structuring
 - Payment for a safe deposit box

Cataloguing tainted assets



- Why important
 - Not immediately apparent how assets are moved or utilized in criminal scheme
 - As investigating agency, DOI does not have final say over which assets seized.
- Remember that this is an iterative process
 - As new assets discovered, review previous accounts and transactions.

Cataloguing tainted assets



- As investigation draws to a close, DOI will create a chart detailing all tainted assets identified and the rationale for that determination.
- Expansive definition of eligible assets
 - Even \$1 of criminally derived money taints the entire account into which it is deposited or moved.
 - Any criminally derived funds used to purchase real property makes the entire property eligible – even if tainted funds used to pay for mortgage, maintenance, or renovation.
 - Database searches (e.g. Lexis Nexis, ACRIS) used to identify assets belonging to individuals and trace whether tainted money used to obtain them.
- This is not the end of the inquiry
 - Catalog prepared to aid prosecutor's determination of which assets to seek forfeiture for.

EQUITABLE SHARING

Other requirements for equitable sharing



- DAG 71 Forms
 - A separate DAG-71 must be filed for each asset, not just for the total amount or even just for assets within the same category.
 - The chart of forfeiture-eligible assets we prepare for the prosecutor is helpful here.
- Segregation of Funds
 - The receiving agency cannot co-mingle forfeiture funds with other agency funds.
 - DOI uses a specific accounting code for forfeiture funds.
 - This system allows DOI to track all expenses tagged with the forfeiture code.
- Reporting and Auditing
 - Yearly equitable agreement and certification form
 - DOJ audit and a program audit by an external auditor.

Eligible expenditures



- Must be for law enforcement purposes
 - Investigations, training, equipment, etc.
- Examples:
 - NYPD Mobile Camera Equipment.
 - DOI surveillance equipment upgrade
 - Cabling and equipment for new unit
 - Support for DOI investigations and new initiatives
- In the end, we're *investing* back into the agency – using forfeiture funds to support existing investigative efforts and to allow us to innovate.



Thank you!