

What is Asset Tracing?

A Primer on “Following the Money” for Integrity Practitioners and Policymakers

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To put it simply, asset tracing is the process by which investigators “follow the money.” Investigators trace assets by conducting financial investigations, during which they determine a subject’s assets, examine the revenue generated by criminal activity, and follow its trail.

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Asset tracing provides many benefits in white collar cases, including in public corruption cases. First, these investigations help to prove the crime by providing valuable evidence. Such evidence can corroborate informants and undercover officers, identify new witnesses for trial, and corroborate witness testimony. Second, asset tracing helps to generate new leads for the investigation, potentially leading to additional targets and/or charges. Third, tracing results in the identification of assets subject to forfeiture in connection with the crime. Asset forfeiture can have a huge impact in criminal cases, particularly when it is used to seize significant assets from criminal organizations. In effect, asset forfeiture takes the profit out of crime. A financial investigation can also turn up evidence that is useful at sentencing. Finally, financial investigations can help in the process of restitution, returning money and property to victims of crimes.

A financial investigation should be considered at the beginning of a criminal case, and should be conducted in conjunction with other aspects of the investigation. It can take a long time to gather financial documents via subpoena and if you wait until the investigation is well underway the records may be of little or no help. One of the biggest challenges in a case where there are significant assets is linking the assets to the criminal activity. Asset tracing helps to establish this link by looking at the “paper trail.”

Why is Asset Tracing Particularly Important in Public Corruption Cases?

Asset tracing is important to any white collar investigation, but is particularly vital in corruption cases. Public corruption crimes are typically money-driven crimes. A CEO bribing a legislator in exchange for the legislator’s help with a pending bill, a mid-level government clerk stealing money at work, a procurement official putting a thumb on the scale of the bidding process in return for a kickback: all of these individuals are motivated by the money. To prove these crimes, investigators must figure out where the money came from; it’s also often quite helpful to show where the money went, particularly since the lengths corrupt officials will go to hide their ill-gotten gains can be powerful evidence in and of itself. Sometimes the important evidence revealed by a financial investigation is not an “asset” at all. For example, public corruption crimes sometimes involve bribes in the form of no-show jobs or fraudulent consulting agreements. In these type of cases, a lack of records normally seen in business will be valuable evidence.

Criminal proceeds can be physical assets or fungible commodities. Even where the proceeds are in the most simple form – cash – that money will likely be deposited somewhere, and often this results in a series of complex financial transactions (which may also constitute a separate crime of money laundering), including wire transfers and the use of shell corporations. Criminals obviously use these methods to prevent law enforcement from identifying and tracing the profits of their crimes. Common public corruption crimes such as bribery, bid rigging, public theft, illegal campaign contributions, and the receipt of illegal gratuities can be difficult to track because the proceeds are typically transferred around, often in the names of relatives or associates, and/or are converted into various assets.

Corrupt officials are also more likely than the average defendant to be first-time offenders, to hire high-powered defense lawyers, and to try their cases in the “court of public opinion” (i.e. the press) as much as in the courtroom. As a result, trials against public corruption defendants may be particularly challenging, and may benefit by evidence of unexplained wealth, or “consciousness of guilt” evidence shown by the hiding of assets.

Case Studies: Silver and Skelos

Two recent examples of cases in which financial investigations were conducted successfully involved former public officials Sheldon Silver and Dean Skelos. Sheldon Silver, former Speaker of the New York State Assembly, was convicted in late 2015 of corruption offenses and was sentenced in 2016 to twelve years in prison. A \$5.3 million forfeiture money judgment was also entered against him, which represented [Silver’s ill-gotten gains from his corrupt schemes](#). That money judgment was the result of the thorough financial investigation, which uncovered, among other things, eight bank accounts controlled by Silver in six different financial institutions; seizure warrants were obtained for these assets, which totaled approximately \$3.8 million.

Dean Skelos, former Senate Majority Leader of the New York State Senate, was convicted along with his son Adam Skelos of corruption offenses in 2015 and was sentenced in 2016 to five years in prison. The defendants were also jointly ordered to forfeit \$334,120, representing their ill-gotten gains, which went to Adam Skelos. The financial investigation found and seized \$299,581 from a bank account in Adam Skelos’s name, and Adam’s residence in Rockville Centre is also subject to forfeiture based upon traceable proceeds attributable to the violations that were diverted towards expenses connected with the property.

These cases are good examples of how powerful financial investigations can be. Not only did they result in forfeiture orders, but in each case, and particularly the Silver case, the evidence uncovered was used to prove the primary case as well – eight bank accounts in six banks implied a desire to hide assets that was utilized by the government at trial.

Conducting a Financial Investigation

Financial investigations can be divided into two stages. The first stage is the gathering of financial information. An investigator should develop a target’s financial picture by gathering all relevant obtainable information about what assets the target possesses or is connected to. This information is then used to create a financial profile for a target that can be analyzed.

The second stage of a financial investigation is the analysis stage. By analyzing a subject’s financial information, investigators hope to determine the source of all income, legitimate or illicit, and the disposition of such income. This analysis will help to establish what assets are connected with the crime in question and often identifies other accounts or asset records to subpoena. One general rule of thumb when analyzing financial records is to trace money forward from the scheme, and backwards from the asset. In other words, when looking at criminal conduct, start there and watch where money moves going forward. When looking at an asset, like a house, go backwards to trace the money that went into the asset to find where it came from.

Gathering Financial Information

There are three categories of relevant financial information: open source, restricted, and protected. Which category a piece of information belongs to dictates how easy it is to acquire. Investigators should try to gather as many of the below as possible, resources permitting, obviously emphasizing those that appear to be more important and/or potentially fruitful to the particular investigation.

- Open source records: available to the public. No expectation of privacy.
- Restricted: information that is only available to law enforcement.

- Protected: documents that are not open to public inspection – a subpoena or search warrant is required to obtain protected information.

Open source records refer to those records which are open to public inspection. They are typically maintained by public officials such as a court or county clerk. The following are examples of open source records:

- Real estate records – buyer/seller information, the identity of closing attorneys and title companies, property tax information, building permit requests, and lien info.
- Civil court records – information regarding bankruptcy proceedings, divorce proceedings, estate/probate records, the uniform commercial code index, and the judgment index.
- Licensing records – information regarding marriage licenses, professional licenses, and birth/death records.
- Criminal court records – such records provide information about a target’s criminal record, potential aliases, co-defendants, witnesses, arresting officers, and attorneys.
- Internet – some records can be found online at websites such as: www.searchsystems.net, <http://publicrecords.searchsystems.net>.
- Commercial database services – These services purchase lists and information and may provide up-to-date information on names, addresses, businesses, phone numbers, and similar information. These commercial database services typically charge fees.
- In corruption cases involving public officials, there may be useful information to be found in their required financial disclosures and campaign-related filings.

Restricted records are generally available to the law enforcement community. Law enforcement database systems, investigative reports, and lead information are the primary sources of restricted information. Examples include:

- AFML (Asset Forfeiture and Money Laundering) Online
- DMV records
- Utility company records
- Trash pull or cover
- Information from Mail cover
- Confidential sources – state, local, or foreign agency, or any private institution or individual that provides information on a confidential basis to law enforcement in the course of an investigation.
- Law enforcement database systems and intelligence centers

Protected information is intelligence that is not open to public inspection. These documents require some sort of service of process, such as a subpoena or search warrant. Such records investigators may wish to examine include:

- Business records (bank account information, insurance companies, brokerage firms, credit card companies, credit bureau checks, attorney files, accountant files, etc.)
- Telephone/cable records
- Information related to the receipt of government benefits
- Grand jury testimony
- Tax returns and related tax information

Federal Reserve Wire Transfer Information

Because this information is protected, investigators must use various legal processes to obtain it. For example, an administrative subpoena is required for business records from cable companies, insurance companies, and so on. For accountant information, attorney files, and other company information, a search warrant will be necessary, and sometimes high-level approvals are required before issuance of such a warrant. Other mechanisms such as grand jury subpoenas, court orders, and Title III orders may also be used.*

- Administrative subpoenas – To obtain, for example, business records from real estate agents, title companies, cable companies, insurance companies, brokerage firms, and credit card companies.
- Search warrants – To obtain targeted company files, accountant files, attorney files.

* Some of these categories of information have additional requirements depending on the circumstances.

- Grand jury subpoenas – To obtain grand jury testimony, bank records, medical records.
- Ex Parte Court order – To obtain pen registers and trap & trace devices, tax returns and related tax information.
- Title III order – To obtain wire intercepts, email intercepts, and certain phone data.

In cases where search warrants are used to collect documents, investigators should always consider issuing simultaneous grand jury subpoenas to compel production of the documents that are the target of the search warrant. This is done for two reasons: (1) to obtain documents that might have been missed in the searches; and (2) it guards against the defendant producing later-fabricated documents at trial.

Case Study: Wiretaps

Wiretaps are frequently used in public corruption and other white collar cases to obtain evidence, and can be very helpful when it comes to tracing assets. For example, wiretap calls can help identify assets. In a recent case, an investigator working on a financial investigation gained access to an active wiretap on several cellular telephones. The investigator was given summaries of pertinent intercepted conversations, which included discussions of the subjects' assets and some of the ways the subjects hid the proceeds of the crime, or converted the proceeds from money into other assets, including sports memorabilia, collectable coins/currency, collectible comic books, high end liquors, wines, watches, and gold and silver bars. A spreadsheet was created by the investigator, which included the wiretap information such as the date, time, call number, parties, any assets described and the money laundering mechanisms used. This data was then correlated to financial records obtained via grand jury subpoena. Where logically indicated from the date sequence and amount of funds described in a particular conversation, the financial transactions were mapped into the spreadsheet. This information was then used in affidavits in support of seizure warrants for the accounts, the vehicles, the personal storage vault and the residences of certain of the subjects of the investigation. This led to identification of co-conspirators, and the concealment schemes and money laundering schemes being used. At the same time, assets of the subjects were identified through open source databases and correlated to the proceeds.

In this particular case, the following property was seized: two real properties (total appraised value over 1 million dollars), two vehicles, \$1,879,000 total U.S. currency (cash), \$2,973,000 in funds in bank accounts, a Hermes purse, various sports memorabilia, collectable comic books (estimated value over \$2,000,000), collectable wines and liquors, several watches (estimated value \$130,000) and collectable coins/currency (estimated value \$167,000).

Organizing an Analysis of the Financial Documents

After gathering this information, it is necessary to determine the source of the asset, whether the asset was obtained legitimately or illicitly (through some sort of illegal activity), and the disposition of the asset. This involves a thorough analysis of the following:

- Assets: money, securities, real estate, vehicles, other valuable items.
- Sources of income: all funds obtained and their place of origin. Sometimes corrupt officials will deposit funds into real or fictional third party accounts which they later draw money from.
- Asset acquisitions: Assets in the names of the target, an alias, or a third party. The use of associates or family members in disguising proceeds is common.
- Expenses: If an individual is illegally receiving cash, tracking expenses will be necessary because there is no digital record of a financial transaction.
- Shell companies, trusts, and non-profit entities: These are commonly used to launder funds. They can serve as vehicles for financial transactions while having no significant assets or operations.
- Professionals: Professionals who aid and assist in laundering of funds, such as accountants, lawyers, and financial consultants.

Often, a thorough investigation will yield thousands of pieces of information which may be difficult to piece together. Organizing these documents in a coherent way will make this information more useful to investigators and will better enable them to identify linkages between various assets and connections between the assets and criminal violations.

There are three simple methods that are commonly used to organize financial data in criminal cases. They are timeline, link, and money flow analyses. All are useful for organizing an investigation, both for an investigator’s own purposes, as well as for presentation to prosecutors and, ultimately, for use at trial. Timeline analysis is a useful exercise in every case, as it provides an overall picture of the financial investigation. A link analysis can be particularly helpful when there are many subjects, companies, or assets involved, to show the relationship between and among them. For example, with many people involved in a criminal scheme, a link analysis can provide a visual of the hierarchy of the players. Money flow analysis helps to ensure that an investigator is not missing any pieces of the puzzle, by forcing a step-by-step look at how funds move.

Timeline Analysis

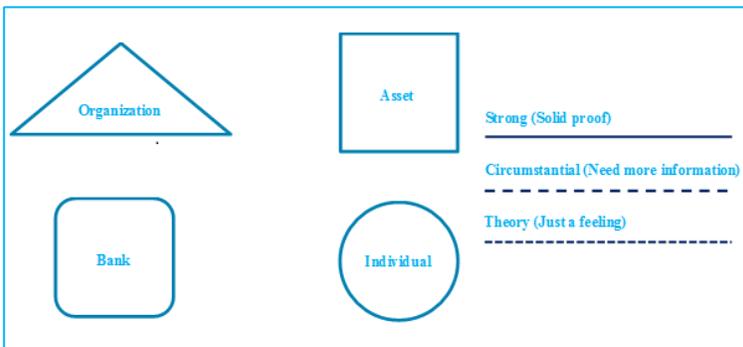
A timeline analysis allows investigators to organize assets chronologically both in terms of when the assets were acquired and when they were used or sold. This analysis typically involves the use of spreadsheet software like Excel. Information in the spreadsheet should include the date, target name, business name, name of the asset, the relevant financial documents, and summaries containing an analysis of the data. Sample analysis below.

Dates	Poss. Target	Business/Bank/Asset	Summary	Document Name
1/2/00	McCorrupt, Jimmy	1235 Money Drive, New York, NY	Jimmy lived in the apartment from 1/2/00-12/30/2010	Case Summary
1/25/01	McCorrupt, Jimmy	1500 Corruption Lane, New York, NY	Purchases Home. Pays with cash.	Case Summary
1/25/01	McCorrupt, Jimmy	1500 Corruption Lane, New York, NY	Gift/Deeds home to Mr. and Ms. Jones	Case Summary
6/17/04	McCorrupt, Jimmy	Gotham Bank	Opens account: checking #12345678, bank official: Bob Lueless	Bank Document
6/17/04	McCorrupt, Jimmy	Gotham Bank	Opens account: savings #12349876, bank official: Bob Lueless	Bank Document
12/10/06	McCorrupt, Jimmy		Arrested for Bribery	Police Report

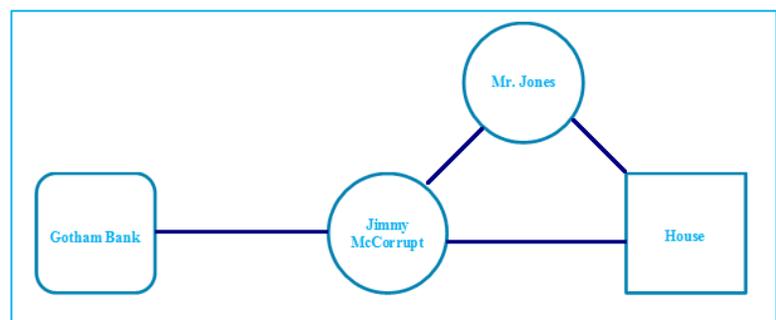
Link Analysis

Link analyses provide a way for investigators to organize a case graphically by collecting information from various sources and visually showing patterns and meanings. It focuses on the relationships between individuals and their assets. The core of any link analysis diagram is the target. This might be a person, place, or a thing. The target does not have to be in the center of the link analysis diagram but should be highlighted in some fashion so that it is easy to follow the links between the target and the assets. The link analysis is best used to see the “big picture” of the case.

Sample Legend

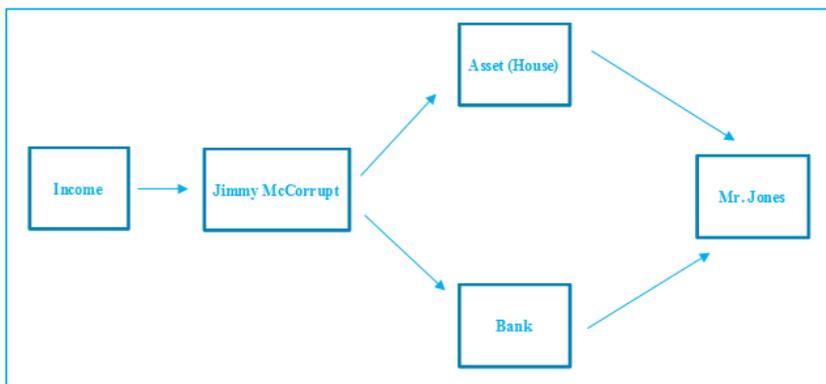


Sample Link Analysis



Money Flow Analysis

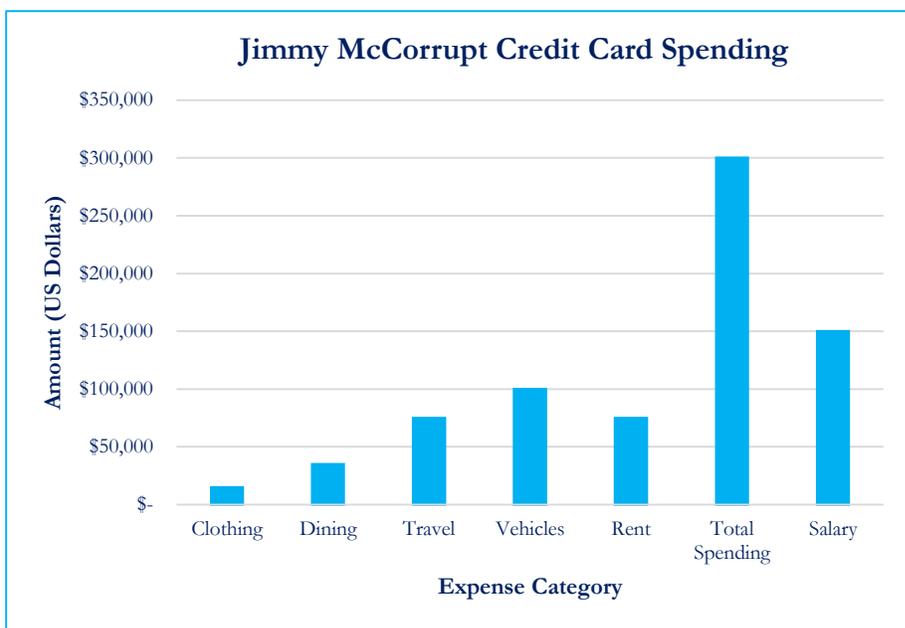
A money flow analysis is a flow chart which allows an investigator to easily follow the flow of money from the moment it enters a financial institution. It continues to trace the money as it moves from entity to entity. The money flow analysis can be considered to be a more detailed subset of a link analysis – the part that drills down on how the money moves.



Lifestyle Spreadsheet/Graph

Finally, many investigators like to create a bar graph visual of a target’s incoming and outgoing funds in relevant years. The investigator would subpoena the target’s credit card bills, separate the line items into categories (i.e. travel, dining, clothing, activities, etc.) and plot them in a bar graph format, up against the target’s salary and any other known legitimate income. This may not be a complete net worth analysis (for example, the target’s spouse’s income would be relevant, as would other sources of income and other spending figures like mortgages, but it is useful as a rough guide to whether the target’s lifestyle outstrips his legitimate income.

Each of these analyses provides investigators a way of simplifying large amounts of financial information into easily understandable data. This makes it easier for investigators to identify anomalies and patterns from thousands of pieces of information. As a result, these techniques will ultimately help investigators identify assets which may be forfeited in connection with crimes.



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