**Start**

**Financial Investigations**

Financial profit is a key driver for most, if not all, types of organized crime.

Given the increasing risk of penetration of the legal economy by serious and organized crime, financial investigation is a vital tool of a modern and effektive respons to criminal threats.

You follow drugs, you get drug addicts and drug dealers. But you start to follow the money, and you don’t know where the f\*\*\* it’s gonna take you.

**Today´s agenda**

1 Introduction, about why it is import

2 Financial investigations, and how to prove criminal activity

3 The Report and how the report can be designed.

Lester Freamon, follow the money

**1 Introduction – why?**

A financial investigation is an analysis of

* where money comes from,
* how it moves, and
* how it is used.

But why do we do it? Of course, it helps us to identify, trace, seize and confiscate proceeds of crime.

But also ….

* Targeting top management of criminal organizations – taking the money – it hurts
* Finding evidence regarding the investigated crime – other crimes? - The link between where the money comes from, who gets it, when it is received and where it is stored or deposited, can provide proof of other crimes or criminal activity.
* Crime prevention - profit is the most common motive for crime – taking the money removes an instrument of future crimes
* Preventing infiltration of dirty money into legal economy
* Upholds the rule of law and the principle that people should not profit from their crimes.

**The sooner the better**

The faster the tracing of assets derived from crime is, the more effective the confiscation and recovery of criminal profits can be.

In an early stage - the prosecutor (or the person in charge) has to think about the possibilities to recover proceeds of crime.

It is very important to be fast, the assets are changing very fast. For money you can buy – boats – houses – cars – apartments in Marbella and so on. If possible, use intelligence.

There are of course different ways to approach proceeds of crime.

Under Swedish legislation, proceeds of crime can be recovered through a number of measures and prosecutors would opt for the most appropriate tool in the particular case.

As a prosecutor or police officer – learn and use your toolbox.

In every case you receive - Ask yourself the questions:

* Has the suspect earned anything from the crime?
* Can the suspect have proceeds of an offence that is the gain from other crimes and can they be confiscated by i.e. an extended confiscation?
* Are there any claims for damages? This question concerns all crimes, even if the investigated crime did not lead to gain.
* Could the money laundering act be used and can there be conditions for confiscation under that law?
* Are there conditions for a company fine?
* Should a financial investigation be conducted? If so, what type and how should it be done?
* In what way should the assets be secured? Are interim decisions required?
* Use your toolbox

Missing opportunities for action? If so, is it possible to inform other agency’s about the assets? Other debts?

In Sweden – the debt collecting authority is called The Enforcement Authority. Is it possible to inform them about assets found during the investigation?

In the event of a tax violation, you can ask yourself if is it possible to inform the Tax Agency (IRS)?

Ask yourself those questions immediately when you receive a new case. The sooner the better.

**Authority cooperation**

Tackling proceeds of crime are a shared responsibility of the authorities.

Proceeds of crime must be approached based on what is most effective in the individual case.

Cooperation matters - we are usually best together - Take advantage of each other's skills.

In order to achieve a good result, it is important to develop the ways - the routines - how the authorities cooperate together.

It doesn't matter which authority acts.

Important: Be aware of the different evidential requirements in the different processes

This means that you should strive for good cooperation between the authorities in all cases.

This means better utilization of resources - the right authority does the right thing.

If possible, share intelligence.

Tax/IRS – LEA/Police – Judiciary – Custom

Swedish authorities consider depriving criminals of their assets to be a penalty equally dissuasive as imprisonment, and therefore priorities tracing and confiscating assets as an important part of the penalty for crimes.

**2 Financial investigation**

As mentioned before - a prosecutor should decide as early as possible in a preliminary/pretrial investigation whether a financial investigation should be conducted of a suspect's assets and always in the following situations:

If it is expected that the suspect in the judgment will be subject to an extensive payment obligation in the form of damages, corporate fines or confiscation

When the crime being investigated could lead to extended confiscation

When the financial investigation could be useful as evidence of the criminal offence

**Prosecutor´s instruction**

To succeed - it is often necessary to start gathering information as early as possible. In Sweden it is the prosecutor who is in charge of the investigation.

So, what do you do? Give instructions as early as possible.

* What kind of a financial investigation?
* The purpose, i.e. for which legal institute is the financial investigation intended to be used, e.g. different forms of confiscation?
* Which economic conditions should be highlighted in particular?
* Which persons should be covered and what time period?
* What follow-up analyses should be done?
* Timing: At what stage do you make the financial investigation during the criminal investigation – timing? You do not want to ruin the criminal investigation.
* Is there a need to quickly secure property? Risk of evasion?
* Information through secret coercive measures (telephone tapping)?
* Interrogation of the suspect - timing - what questions?

**A simplified financial investigation**

When the suspect has no or insignificant income, a simplified financial investigation is often sufficient to prove that the suspect's assets are clearly more likely to result from criminal activity and thus can be confiscated under the extended confiscation rules.

A simplified financial investigation contains the following:

* National registration information
* Public taxation information
* Real estate documentation
* Current debts at the Enforcement Authority (Depts Collecting Authority)
* Corporate activity
* Motor vehicle records
* Bank account records/details – (only on instruction) – you do not want to ruin the ongoing investigation.

In Sweden you can find all this information, except information about bank accounts, in open sources.

**Does it make sense?**

Make it simple – does it makes sense?

Legal financial ability.

The difference between incomes and expenditures/savings.

General indicators:

General indicators constitute proceeds of criminal activity:

1 Unusual incomes

No income or low income compared to normal cost of living

The suspect appears to be living beyond their means

Gambling and lottery gains

2 Unusual debts

Obtaining a mortgage on a relatively low income

Obtaining a loan from unidentified parties

3 Unusual possession or use of assets

A person with low income owns or uses expensive assets (cars, boats, real estates)

A person owns assets located abroad (not declared in their tax return)

4 Unusual transactions

Buying assets (e.g. real estate) far below (or over) market value

**An in-depth financial investigation**

An in-depth financial investigation can contain the following:

* Bank account details (if not done before)
* Analysis of bank statements, cash flows, etc.
* Cash flow to investigate the suspect's ability to have legally acquired money and property
* Investigation of ownership (cars/insurances etc.)
* Calculation of proceeds of crime
* Interview with the suspect (if not done before)

It takes time – be aware of deadlines

**Evidentiary requirements**

What are the evidentiary requirements for property to constitute proceeds of criminal activity?

* Large amounts of money are stored abnormally
* Acquisition of expensive property without normal documentation – receipts – insurance documents
* Lacking of legal financial ability that can explain the property
* The suspect owns the hidden property

**FOTO/movie**

Cash - does it make sense?

What is a normal salary? How do people live?

Many types of crime generate huge amounts of cash. When confronted with cash, be aware of the following indicators that could point at an illegal source:

* Unusual, unclear or unlikely origin of cash
* No supporting documentation
* Cash received from countries with a well-developed financial system
* Cash, amount, denomination, currency do not fit the bearer´s background
* Clear safety risk in method of transportation
* Costs of transportation compared to alternative methods of transport
* Concealed transportation of cash
* Countries of risk (drug producing, ineffective anti-money laundering regulation, strict banking secrecy)
* Cash spent on luxury items

**Real Estate**

Criminals like to invest in real estate. Why? Maybe, nice to own and live in a nice house.

High likelihood that value will increase over time

Opportunity to hide ownership

Possibility to manipulate property prices is interesting (money laundering)

Investigate:

* Purchase: Part of the price paid “under the table”?
* Financing: Loan-back constructions are very common.
* Renovation: Perfect way to launder money
* Selling: Inflated price creates seemingly legitimate profit
* Ownership: Who is actually the owner of the house?

**The interview**

Purpose: You want to show that a suspect possesses money or assets that he/she can not justify - Preparation is important

Good interviews are crucial, because it gives a suspect the opportunity to provide a reasonable explanation and the police and prosecution the opportunity to check the statement

First day - do you have any depts? Have you borrowed money?

Second day - do you have any depts? Have you borrowed money?

Two interviews are recommended. You have to be very clear and write it down. Sooner or later, they will say that they borrowed some money to buy the car/house/jewellery.

Why did someone lend you money when you have no ability to pay it back?

Examples of questions

• How do you support yourself/What do you live on? (Take a few years back in time as well)?

• Where do you have income (salary, business, maintenance support, grants, other income)?

• Where do you live (rent, tenancy, villa)?

• For how long time have you been living there?

• Do you live with someone else?

• Monthly expenditures?

• Do you have any cars?

• Cost of mobile, electricity, insurances etc.?

• Do you have a boat or a summer place?

• Do you own shares or funds?

• Do you own shares or have shares in your own company?

• Do you have any debts?

• Do you have any claims?

• Which banks do you use?

• Have you recently won money on any game or lottery?

• Have you recently received inheritance or gift property?

**The interview**

Communicate with the investigator about the most relevant questions.

Tactical issues for the investigation concerning “right things first”. Experience has shown that questions to the defendant about his possession of assets, a straw-men or among relatives, it might be a reluctance to give a statement overall to the police. Be careful.

Topics:

Family situation

Financial situation suspects, partner, children etc.

Income: Work, inheritances, gifts, business interests, loans, casino profits etc.

Expenses: Food, housing, transport, holidays, gifts, hobbies

Assets: Cars, boats, real estates, saving accounts, stocks, loans etc.

Information about the defendants’ mortgages and claims is crucial when it comes to make “cash flow investigations”. Questions regarding the topic should be conducted very specific and initially of the interrogation.

Focus on details!

**Case: Drug crime**

During an investigation regarding serious drug crime (extended forfeiture), it appeared that the suspect owned a newer car and a big real estate without any mortgages.

A financial investigation of the suspect's finances showed that he received a monthly salary and allowance with a total of 2 000 EUR.

It was clear from the bank statements that he had expenses each month with a total of 1 800 EUR.

During the house search, the police found bills/invoices from credit card companies showing that the suspect spent a lot of money every month on shopping, restaurant visits and trips/holidays.

Each month showed a deficit/loss of between 5 00 EUR and 1 000 EUR.

The financial situation was the same at the time of the acquisition of the car and the real estate.

Therefore, the investigation showed that the suspect must have financed the assets with something other than his legal income.

If no other circumstances emerge, it is clearly more likely that the assets are the result of criminal activity than it is not.

=) confiscation

**The Financial Report**

The main purpose of the financial report is to serve as evidence for the prosecutor.

Keep the financial report on a “sensible level”, meaning not to be too complicated for the court to understand.

Keep it simple.

**General information**

* Family conditions
* Living conditions
* Work position/post
* Engagement in business relations

Must be understandable and have a meaning

If not relevant – don´t include it – keep it simple

**Income, taxes and expenses**

Information from Tax Authority

**Real estate**

* Real estate (an apartment) in Stockholm
* Real estate (house/apartment) in Spain and Estonia
* Hidden ownership??

**Bank accounts**

Often clear information from different banks about financial assets.

* Bank accounts
* Mortgages
* Related accounts

**Calculation Example Income**

All incomes and assets:

* Salary
* Refund tax
* Sell of real estate
* Loan bank
* Selling of AUDI
* Selling of furniture
* SUM Alex
* SUM Maria
* SUM for them together

**Calculation example expenses**

* Rent
* Interest
* Car/Audi/Volvo
* Investments
* Spain/real estate
* Master card
* Paris travel
* Jewellery
* SUM Alex
* SUM Maria
* SUM for them together

**Conclusions**

* In statement 6th of July 2015 Mr Brown has informed that he and his wife Mrs Brown have separate private economy although they live together under the address “Silver Street 2” in Stockholm, with 5 rooms and a kitchen 180 m2.
* They have two children 15 and 18 years old. The 18-year-old boy has the past two years conducted studies in Oxford, UK with school fees of 25 000 British pound. The fees have been paid by the mother from a bank account in UK.
* Mrs Brown hasn’t been working the past 6 years. Her savings, according to herself (statement 8th of July 2015), are all from an inheritance from a cousin who lived in Andorra (pending MLA).
* Mr Brown has stated that he has substantial earnings from commission as an “state agent/coordinator” in the off-shore jurisdiction West Virgin Islands, the last 5 years.
* According to Mr Brown he has paid taxes in West Virgin Islands. He will not involve the bank regarding his accounts, due to the fact it will give him a “bad business reputation” (pending MLA).
* The money (cash) of 150 000 Euro, which has been seized in the family´s premises in a hidden compartment, and the cost´s for the studies in United Kingdom of 25 000 Sterling pound have an unknown origin.
* The real estate in Spain has been purchased in 2014 to a sum of 400 000 Euro with a down payment of cash - 120 000 Euro. Received mortgage of 280 000 Euro in Caixa Bank of Spain. No explanation of how the cash down payment was conducted has been stated by Mr Brown, who owns the real estate together with his wife. Mrs Brown refused to answer all questions regarding the real estate in Spain.
* The real estate in Estonia was bought in 1999 for a sum of 7 000 Euro and it’s not included in the cash flow declaration.

It seems to be the fact that the above sums most probably have their origin from other criminal activities than those officially declared in sources to the state of Sweden**.**

**The end**

* Follow the money
* The sooner the better
* Authority cooperation
* Learn and use your toolbox
* Does it make sense?
* Interview – preparation/timing
* Stop asking questions only when completely satisfied
* The report – keep it simple