



Safety and Justice

A RAND INFRASTRUCTURE, SAFETY, AND ENVIRONMENT PROGRAM

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TECHNICAL REPORT

Understanding Forfeitures

An Analysis of the Relationship
Between Case Details and Forfeiture
Among TEOAF High-Forfeiture
and Major Cases

Amy Richardson, Noreen Clancy

Sponsored by the Treasury Executive Office for Asset Forfeiture



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Summary

The U.S. Department of Treasury Executive Office for Asset Forfeiture (TEOAF) provides management oversight of funds collected through nontax forfeitures into the Treasury Forfeiture Fund (TFF). The forfeitures deposited into this account are those that result from law-enforcement actions against criminal enterprises, such as drug cartels, terrorist organizations, and individual embezzlers, by agencies that are currently, or were historically, part of the U.S. Treasury. High levels of forfeiture from the prosecution of these crimes serve to punish the individuals involved, help to dismantle the operations associated with the crime, may deter others from engaging in similar crimes, and provide funds to support future investigations among participating agencies, including the Internal Revenue Service Criminal Investigation division (IRS-CI), the U.S. Department of Homeland Security's (DHS's) Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), and the U.S. Secret Service (USSS).

Major-Case Initiative

While some of the TFF reinvestment is guided by regulation, TEOAF also has discretion over a portion of the fund to support investigations. In 2002, TEOAF created the major-case initiative, a discretionary fund to support significant investigations with forfeiture potential. Major cases are individually selected by TFF member agencies from all those cases with revenue potential of more than \$100,000. Major cases receive targeted and, as needed, continual support from TEOAF. The amount of major-case funding distributed has varied since its inception from \$2.9 million in 2002 to \$5 million in 2005. Distribution of the funds is allocated across four government entities: IRS-CI, ICE, CBP, and the USSS.

Study Purpose and Methodology

The purpose of this research is to identify any common patterns that exist between characteristics of an investigation, including funding sources, and higher levels of forfeiture. This information will assist TEOAF in understanding and evaluating the major-case funding program and to refine its funding strategies in the future.

We examined samples from two sets of cases: cases that produced the highest forfeitures and cases that received major-case funding. We examined both sets of cases to explore the relationship between the level of forfeiture from each case and various factors of a case, such as

level of funding, number of investigative hours, and the type of case, to identify characteristics of a case that are associated with higher levels of forfeiture.

For the high-forfeiture sample of cases, RAND requested case details from IRS-CI and the USSS on the 15 highest-forfeiture cases that closed in each of the five years between 2002 and 2006. For the sample of cases that received major-case funding, RAND requested information from IRS-CI and the USSS on all cases that closed in those years that received funding from the major-case initiative. Although we requested the 15 highest-forfeiture cases for each of the five years for each agency, we received 65 cases from IRS-CI and 29 cases from the USSS.

The quantitative analysis was supplemented by interviews with agents from IRS-CI and the USSS.

Analysis

Total contributions to the TFF come from comparatively few forfeiture cases. For IRS, one-third of the total amount forfeited into the TFF between 2002 and 2006 came from just eight of the 844 cases.

Based on our analysis of a sample of high-forfeiture cases, few factors are associated with this high level of forfeiture. Among the high-forfeiture cases examined, the number of hours spent working a case and the presence of major-case funding are both factors associated with a higher level of forfeiture. The level of forfeiture does not appear to be getting higher or lower over time, and it does not seem to be related to the involvement of other federal, state, and local agencies, except possibly the Federal Bureau of Investigation (FBI), where involvement is somewhat associated with relatively higher levels of forfeiture. High-forfeiture cases are investigated across many field offices but concentrated in New York and Miami for IRS-CI cases and in Los Angeles for USSS cases. Nearly all high-forfeiture cases include tax evasion, money laundering, and fraud, but this is also the case for IRS-CI and USSS investigations more generally.

Our subsample of major cases for which we received data was much smaller—11 IRS-CI cases and four USSS cases. The average forfeiture value for the 11 IRS-CI major cases in our analysis is \$1.9 million, while the average value of all IRS cases in our sample is \$328,000, indicating that major cases have a higher average value than IRS-CI cases overall. The four USSS major cases produced an average forfeiture value of \$788,000, compared with \$88,248 for all USSS cases in our sample, again indicating that major cases have a higher forfeiture value on average than USSS cases overall.

Higher levels of major-case funding do not appear to be associated with higher levels of forfeiture. There does appear to be an association between the forfeiture value of IRS-CI major cases examined here and the presence of other funding sources either from TEOAF, such as joint-operations funding, or from another source. All four of the USSS cases had received other funding support, so we cannot determine a direct association between major-case funding and forfeiture amount.

Working major cases does seem to take appreciably more time than working regular high-forfeiture cases: 8,900 hours versus 3,600 hours for IRS-CI and 1,250 hours versus 449 hours for the USSS. However, there does not appear to be a relationship between the forfeiture value and the number of hours worked on the case. Also, for IRS-CI major cases, there does appear to be an association between use of a confidential informant and a high level of forfeiture.

In many ways, the set of major cases examined looked very similar to the set of high-forfeiture cases. The types of cases, the level of agency collaboration, the presence of victims, and the success rate in convictions are similar across the two data sets. Yet, the field offices that pursued the greatest number of major cases (Seattle for IRS-CI and New Orleans for the USSS) are quite different from the field offices that produced the greatest number of high-forfeiture cases (New York for IRS-CI and Los Angeles for the USSS). This may be attributed to individual agents who were aggressive at pursuing major-case funding, or it may be because larger field offices have an easier time finding the funding they need without requesting TEOAF funds, or both.

Recommendations

Overall, the major-case funding process appears to function fluidly with good relationships between TEOAF and the law-enforcement agencies. Based on our analysis of cases and our interviews with case agents, we recommend modifications to the major-case funding process to make it more transparent and efficient. For example, it may be impractical for the many thousands of law-enforcement agents to be familiar with the major-case funding process and when it may or may not be appropriate for a case. However, if the small subset of supervisory agents is well versed in major-case funding, they can appropriately advise the agents under them. The RAND team also suggested that TEOAF begin to track more formally, through a database system, the cases it funds. Future analysis of the effectiveness of major-case funding will be hampered by the lack of connection between funding and forfeiture information and case details.

A prototype database was developed to track cases receiving major-case funding and to connect details of each case to forfeitures and other outcomes, such as convictions. This database should provide TEOAF with the information to better understand and evaluate the major-case funding program. The data should also allow TEOAF to quickly identify trends in forfeitures over time and across agencies and make adjustments to its management process as necessary.