

Multi-Agency Partnerships and Investigations

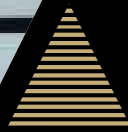
DEBORAH WITZBURG





Deborah Witzburg

- Inspector General for the City of Chicago
- Certified Inspector General
- Recovering prosecutor



Objectives

- Identify strategies and best practices for conducting multi-agency and multi-jurisdictional investigations

- **Information sharing:** giving information to other agencies, asking for information from other agencies
- **Joint investigations:** identifying the objectives and limitations of a joint investigation with another agency
- **Lead agency/task force cases:** when your agency is part of a team investigation
- **Working with law enforcement:** from pitching your case through the criminal trial



Considerations

Benefits and Challenges

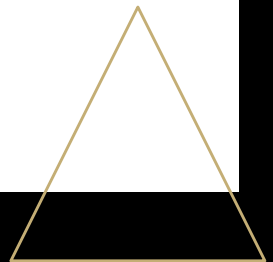
(Is this a good idea?)





Benefits of Multi-Agency Work

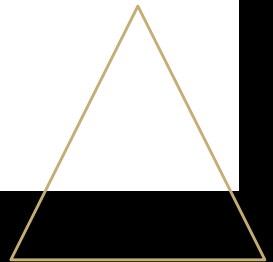
- Shared interests: a vendor/contractor/employee/etc. in common
- Broader access and authority
 - Access to information/records/etc.: partners may have access you don't have
 - Partners may bring jurisdictional reach beyond your own
- Pooled resources, shared workload
- Communication: no crossed wires, no reinvented wheels
- Lasting collaborations
 - One-off investigations can lead to ongoing partnerships
- Force amplification
 - Relationships with law enforcement agencies in criminal matters are *critical* for administrative OIGs





Challenges, Generally

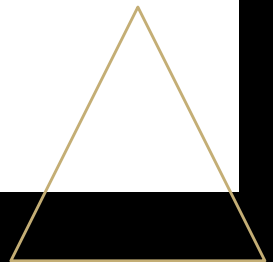
- Playing well in the sandbox
 - Good communication
 - Established trust
 - Clearly stated *and shared* objectives
- Staying in bounds
 - Making sure that working with another agency does not cause you to violate your own rules
- Keeping an eye on the ball
 - Is a partnership/joint initiative working *for everyone?*





Challenges Unique to Criminal Cases

- When to approach a prosecutor
 - Early on, for horizontal involvement?
 - At the end, with the strongest case built?
- Contingency planning if your case does not get prosecuted
- Trade-offs
 - Risk of ongoing harm while a criminal case gets built
 - *(Potentially) divergent interests and equities*



Putting a Good Idea into Practice

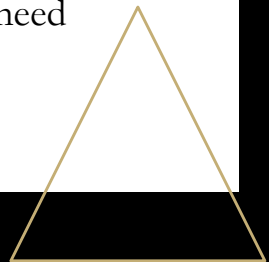
*(Once we're sure it's a good
idea)*





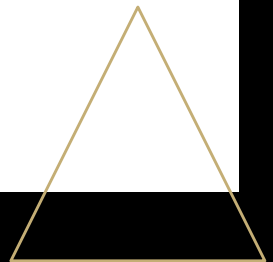
Information Sharing


- One agency helping another by providing critical information
- For example:
 - An individual formerly under your oversight now works for a different government entity; the OIG overseeing that entity wants to know whether the individual was ever the subject of one of your investigations
 - Another OIG calls with fraud concerns regarding a common vendor
- No matter how minor, *any* information sharing requires forethought
- Clear communication is key
 - What, exactly, is the requestor seeking?
 - Uneven familiarity with operational realities: you might know better than your counterpart what they need



Shared Information: Terms and Use

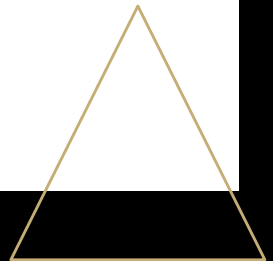
- Will the information you're sharing be kept confidential?
 - Is the agency with which you are sharing legally and practically able to maintain confidentiality?
- How can the information you're receiving be used?
 - Described in a report?
 - Included as an exhibit?





Making a Record

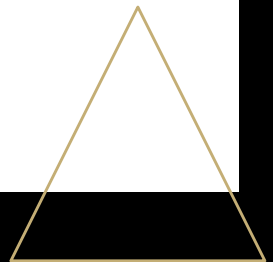
- When you're sharing:
 - Open a case number, document information shared
 - Make a clear record of your agency's posture
 - Law enforcement/outside agency assist?
 - Joint/parallel investigation?
- When you're being shared with:
 - Put agreed terms of use in writing
 - Keep aware of chain of custody considerations
 - Be clear about what you're requesting
 - Ensure your request is well-informed





Ongoing Assessment

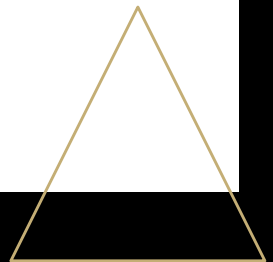
- Inter-agency nexus
 - What is bringing agencies together?
 - Common subjects/vendors/etc.
 - Common set of facts
- Does the nexus survive fact-finding?
 - Partnership is not a life sentence
- Cost-benefit analysis on a joint effort is not a one-time task
 - Equities change, priorities evolve, people and issues fall away
- Division of labor: who is responsible for what, as work proceeds?





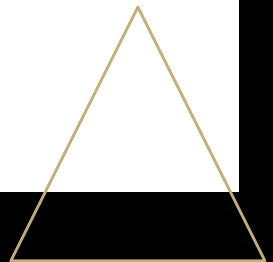
Task Forces: Costs and Benefits Multiplied

- Like partnerships, but more so
 - Even larger pool of resources, even more hands on deck, even larger potential impact
 - ...but diminished decision-making authority, potential need for larger agency investment
- Where the stakes are higher, we have to get structure right
 - A team of equals?
 - A lead agency?
 - Channels to keep principals informed



Leader of the Pack: A Lead Agency

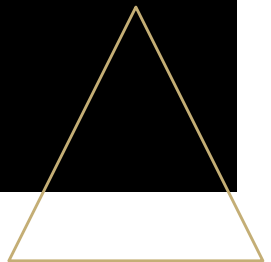
- Who, why, and for what purpose?
- Individual OIGs/task force members direct information and records to the lead agency
- Lead agency distributes assignments to task force members





Partnering with Prosecuting Agencies

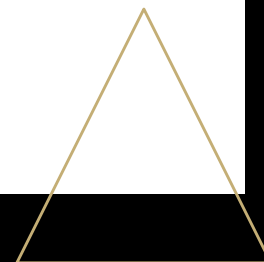
OIGs rely on prosecuting agencies' authority in criminal cases





Partnership of Necessity: Good News and Bad News

- Successful prosecution can have a deterrent effect much larger than that of an administrative case
- Prosecutor is very much in the lead
 - OIG answers questions, conducts additional investigation at the Prosecutor's request
- Once a case is pitched to a prosecutor, administrative action may be put on hold
 - Risk of ongoing harm
 - Not all harm is created equal
 - Different stakeholders, different equities
- Timelines for prosecution decisions can be...lengthy...while the conduct continues



Former CPD officer charged with cheating his way out of parking tickets, moving violations

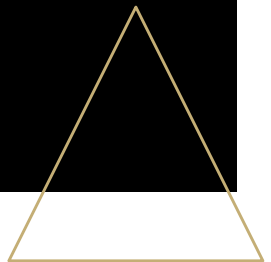


By CBS Chicago Team
January 31, 2023 / 11:19 PM CST / CBS Chicago



Chicago Police Department

Former Chicago Police Officer
Facing Felony Charges



Know Your Prosecutor

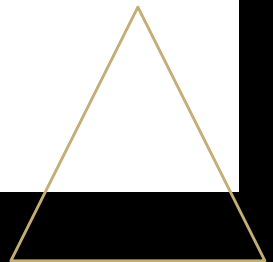
- Certain agencies for certain cases
- Jurisdiction
- Institutional priorities
- Minimum dollar thresholds





Garrity Issues, Real and Imagined

- *Garrity*, abridged
- Prosecutors are very reluctant to take cases with *Garrity* issues
 - ...Or things that might even faintly resemble *Garrity* issues
 - Prosecutors may give *Garrity* concerns a wider berth than does the actual legal protection
- Practical considerations
 - Be careful with information sharing
 - Discussing interviews
 - Sharing evidence derived from compelled statements
 - Drop subjects?
 - Set up a taint team?



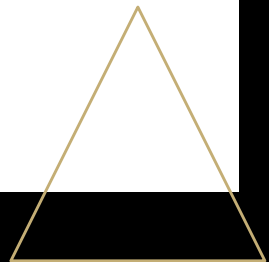


Oliver North: A Cautionary Tale

- North gave nationally televised, compelled testimony; subsequent convictions were reversed because witnesses at the criminal trial may have been affected by watching compelled statements on television

Preparation: The Wind-Up to the Pitch

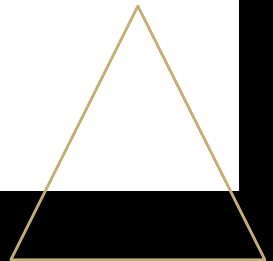
- Setting up a meeting with a prosecutor is the easy (-ish) part
- IGs must demonstrate knowledge of the applicable law...
 - Consult with internal legal advisors
 - Consider each element, relevant caselaw
 - Are there statute of limitations issues?
- ...And a mastery of the facts which establish a crime
 - Know the facts at the center of the bullseye and in the outer rings
 - Bring the right team to the pitcher's mound: appropriate authority and up-close knowledge
- Resource commitment: consider investment required, potentially through a criminal trial





Persuasion: The Pitch

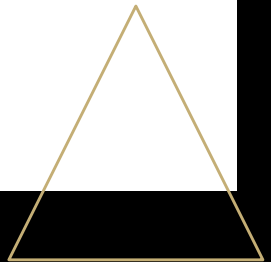
- Connect the dots: apply the law to the facts
- Be mindful of the higher burden of proof
- Provide materials that lay out the case in a clear, concise manner
 - Organize photographs, records, video clips, policy documents, interview/report excerpts, etc.
 - Consider presentation format; sales pitch not kitchen sink
- Disclose “good” **and** “bad” facts
- Discuss/explain relevant agency policies and whether they were followed
 - Poor internal controls or non-compliance may make prosecution harder/less likely





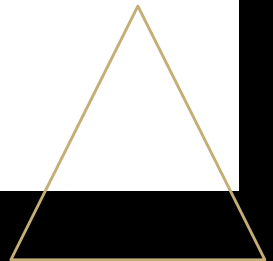
The Pitch, Continued

- Explain where your target fits within the agency
 - Supervisor?
 - Position of public trust?
 - Contact with the public?
- Is the crime ongoing, and are there sensitive risks?
- Consider and emphasize factors which might tip in favor of prosecution even short of a dollar threshold



The Pitch, Continued

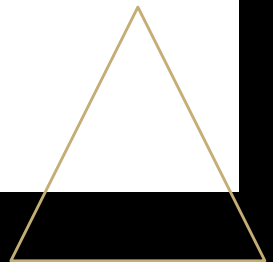
- Convince a prosecutor to add your case to their caseload
 - Most challenging when the institutional relationship is new...or needs rebuilding
 - Anticipate skepticism; be prepared for counterarguments
 - Prepare to answer questions while your case is under consideration
 - Be prepared to conduct more investigative steps before a prosecution decision is made





From Pitch to Prosecution

- Share information with stakeholders *when and how you can*
- Exercise tremendous caution with press releases and public statements
 - Cardinal rule: don't get ahead of the prosecutor
 - When appropriate, use publicly available information
 - Bond proffer
 - Indictment
 - Prosecutor's statements
- Assist with pre-trial preparation
 - Gather documents, interview/re-interview witnesses
 - Testify at grand jury
- Be prepared to testify at trial





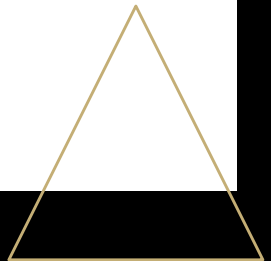
When a Pitch is Not a Partnership

- Your posture may be to simply provide information
- Depending on the sensitivity of the case, you may not learn very much about it
- The value of “valuable assistance”

PRESS RELEASE

Former City of Chicago Alderman Convicted on Federal Racketeering, Bribery, and Extortion Charges

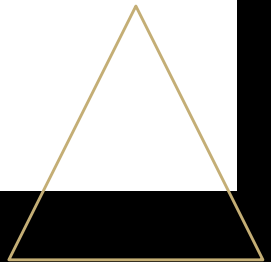
The verdicts were announced by Morris Pasqual, Acting United States Attorney for the Northern District of Illinois, and Robert W. “Wes” Wheeler, Jr., Special Agent-in-Charge of the Chicago Field Office of the FBI. The City of Chicago Inspector General’s Office and the Amtrak Office of Inspector General provided valuable assistance. The government is represented by Assistant U.S. Attorneys Sarah Streicker, Diane MacArthur, Timothy Chapman, and Sushma Raju, as well as Amarjeet Bhachu, Chief of the U.S. Attorney’s Office’s Public Corruption Section.





Short of the Plate: No Prosecution

- Have a contingency plan in place
- Know what evidence will be useable in an administrative case
 - Request permission to use evidence from the criminal investigation
 - Statements to law enforcement
 - Materials secured with grand jury subpoenas
 - Explore possibility of re-certifying records if necessary
- Can you make the case with only that evidence you obtained without the prosecuting agency's involvement?



- Multi-agency and multi-jurisdictional investigation have **enormous potential**
 - Institutional relationships
 - Force amplification
- **Careful planning and thoughtful execution** are vital
 - Consequences of mistakes can be devastating to good cases
 - More is not always better



Conclusions



Thank You!



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