



ASSET RECOVERY

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Topic Outline

1. Asset Categories and Types
2. Asset Recovery – Case Management, Plan and Process
3. Practice and Strategies
4. Case Studies
5. Challenges and Key Recommendations



What is an asset?

- International Financial Reporting Standards (IFRS) framework definition:
- *“An asset is a resource controlled by the enterprise as a result of past events and from which future economic benefits are expected to flow to the enterprise.”*
- In Financial Accounting:
- *“An asset is a resource owned or controlled by an individual, corporation or government with the expectation that it will generate a positive economic benefit.”*



What is an asset?

- *The practical definition that everyone can understand is:*
- An asset is:
 - anything of value that is owned
 - anything owned that has exchange value
 - anything that can be used to produce positive result

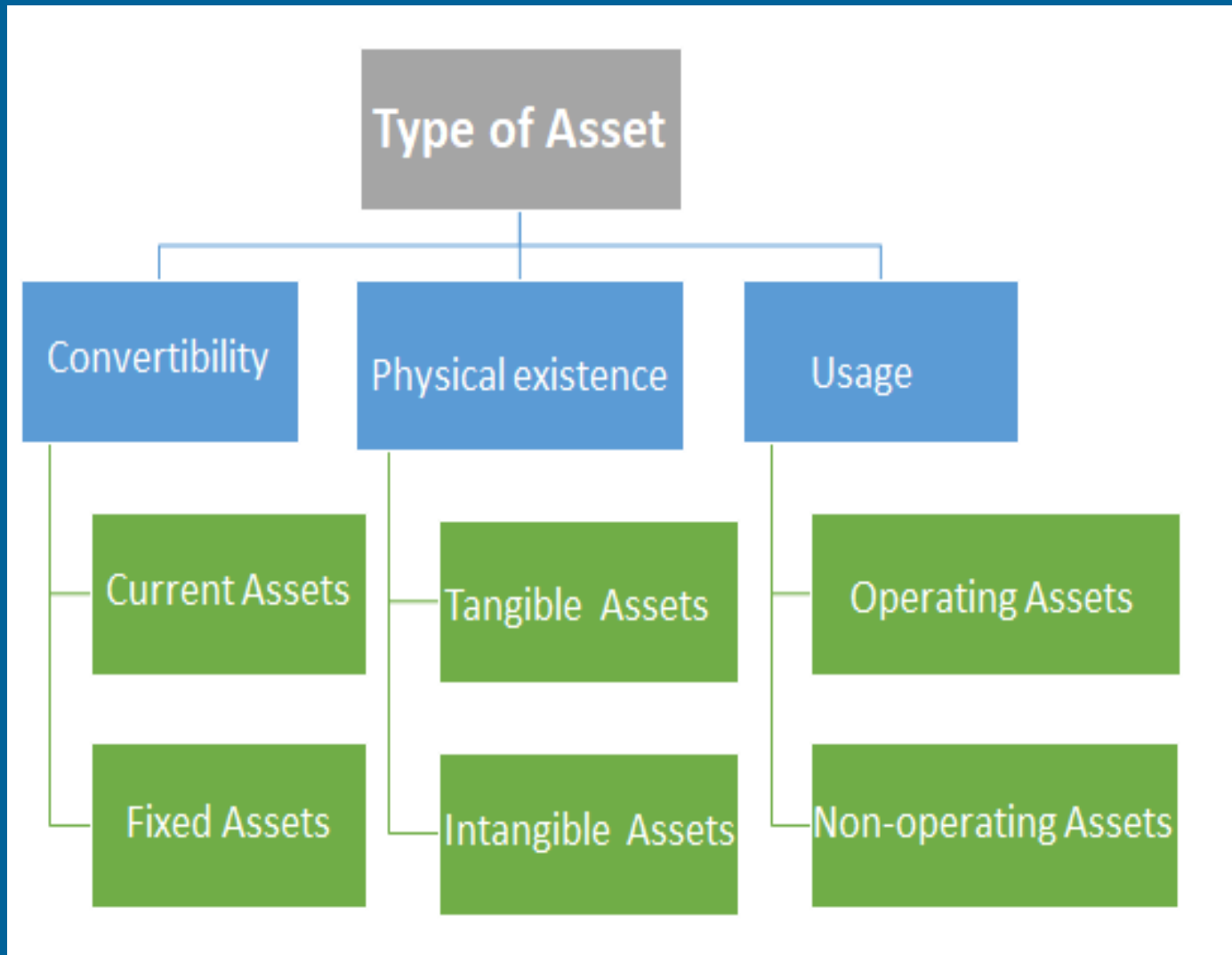


Key Properties of Assets

1. Ownership – Assets represent ownership that can be eventually turned to cash.
2. Economic Value – Assets have economic value and can be exchanged or sold.
3. Resource – Assets are resources that can be used to generate future benefits.



Classification of Assets





Convertibility

Assets

Acquired/Purchased and Owned, having Value and available to meet Debts, Commitments or Legacies.

Fixed Assets

Purchased for long-term use and are not likely to be converted quickly into cash.



Land



Machinery



Buildings

Current Assets

Either cash, a cash equivalent, or anything which can be converted into cash within one year.



Cash



Bank
Balance



Investments
/deposits



Inventory



Asset Categories and Types



01



LIQUID ASSETS

Cash and cash equivalents

Investments

Real Properties

Personal Properties

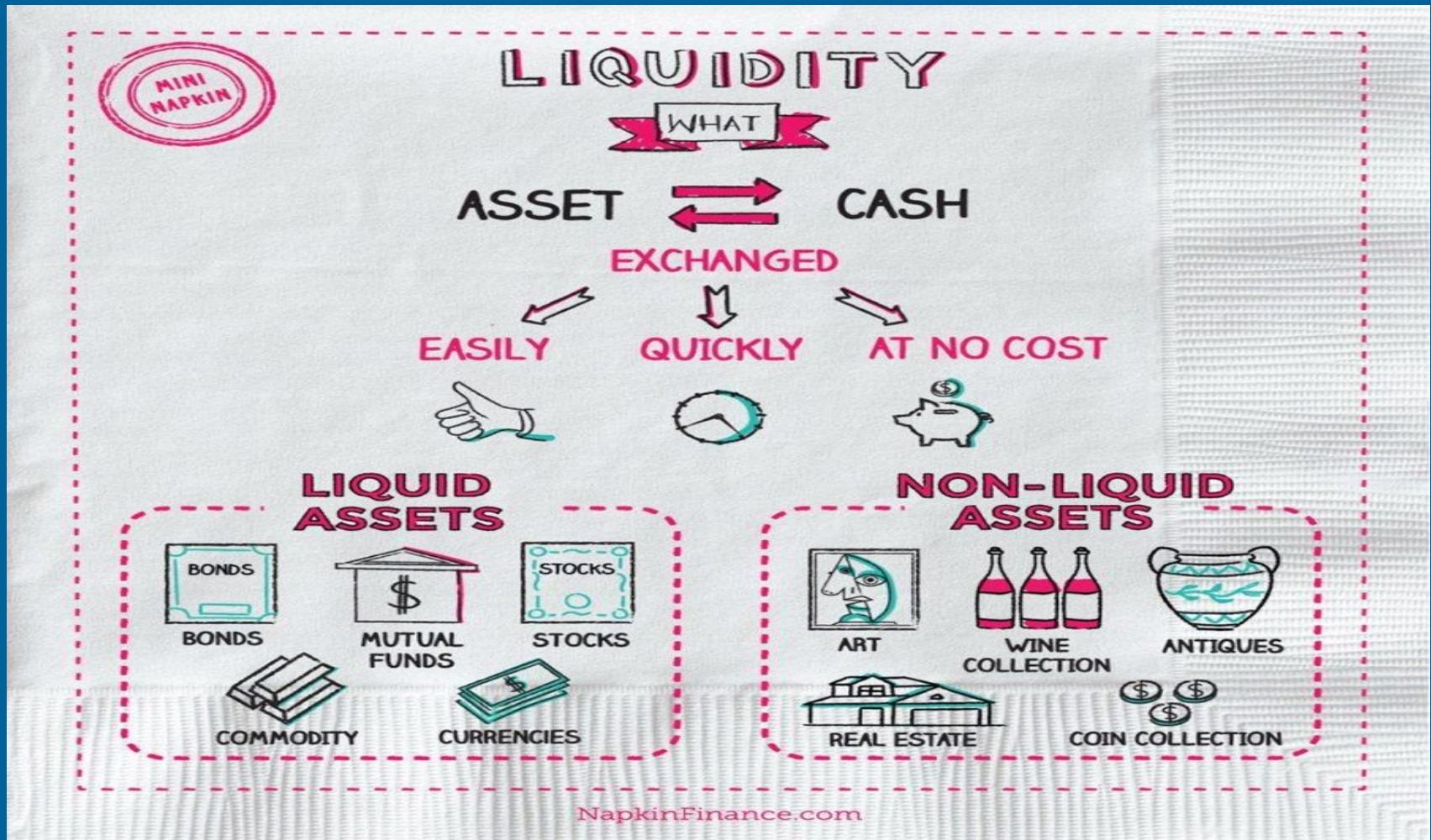
NON-LIQUID ASSETS



02



Liquidity



What is Asset Recovery?

involves multiple
jurisdiction

complicated by
technical, legal and/or
political barriers



process of tracing, freezing,
confiscating, and returning
stolen assets to their
country of origin

complex and lengthy
one



TIMING IS EVERYTHING!



Practical Exercise

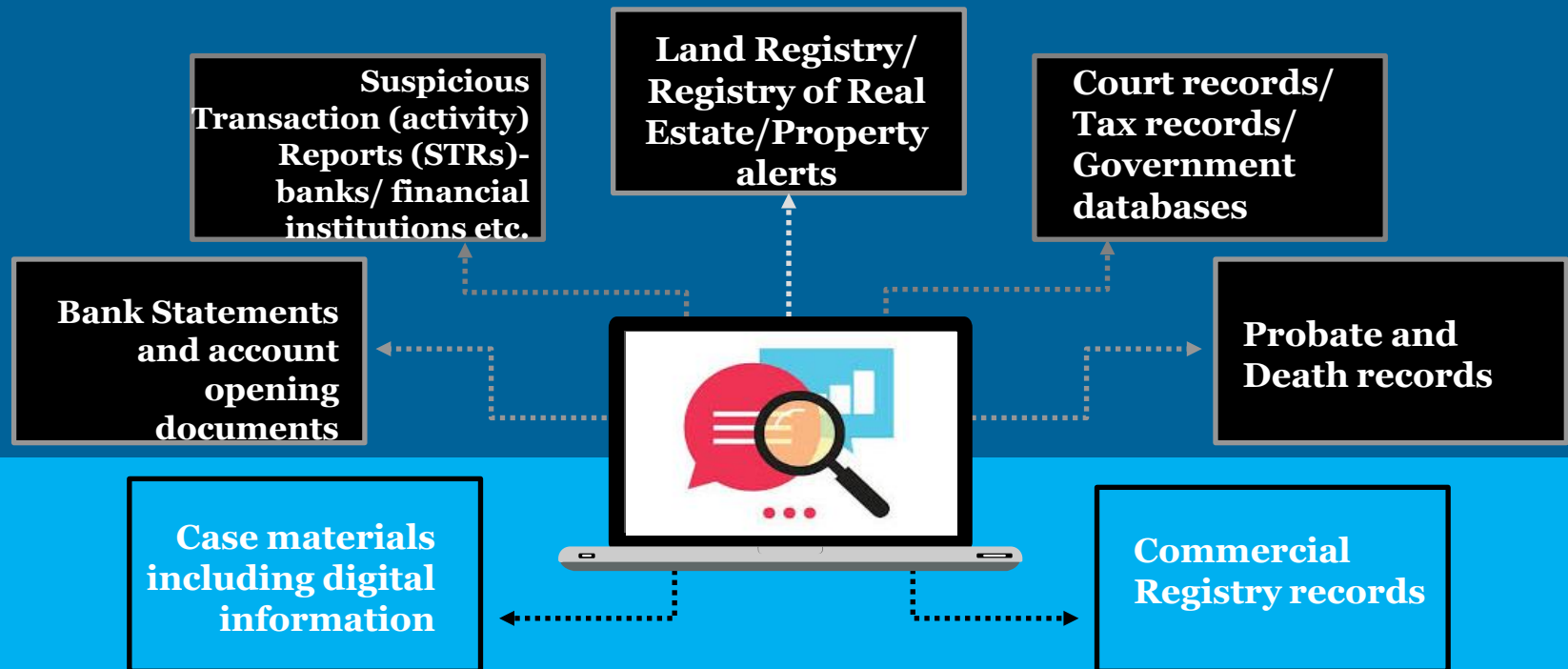
- Please discuss different asset types and for each asset type focus on:
 - Evidence (proof of ownership)
 - How to trace and locate this asset type
 - Source/s of information and intelligence
 - **Possibilities** (what kind of information can you get, what measures are possible)
 - Anything else that could be important...



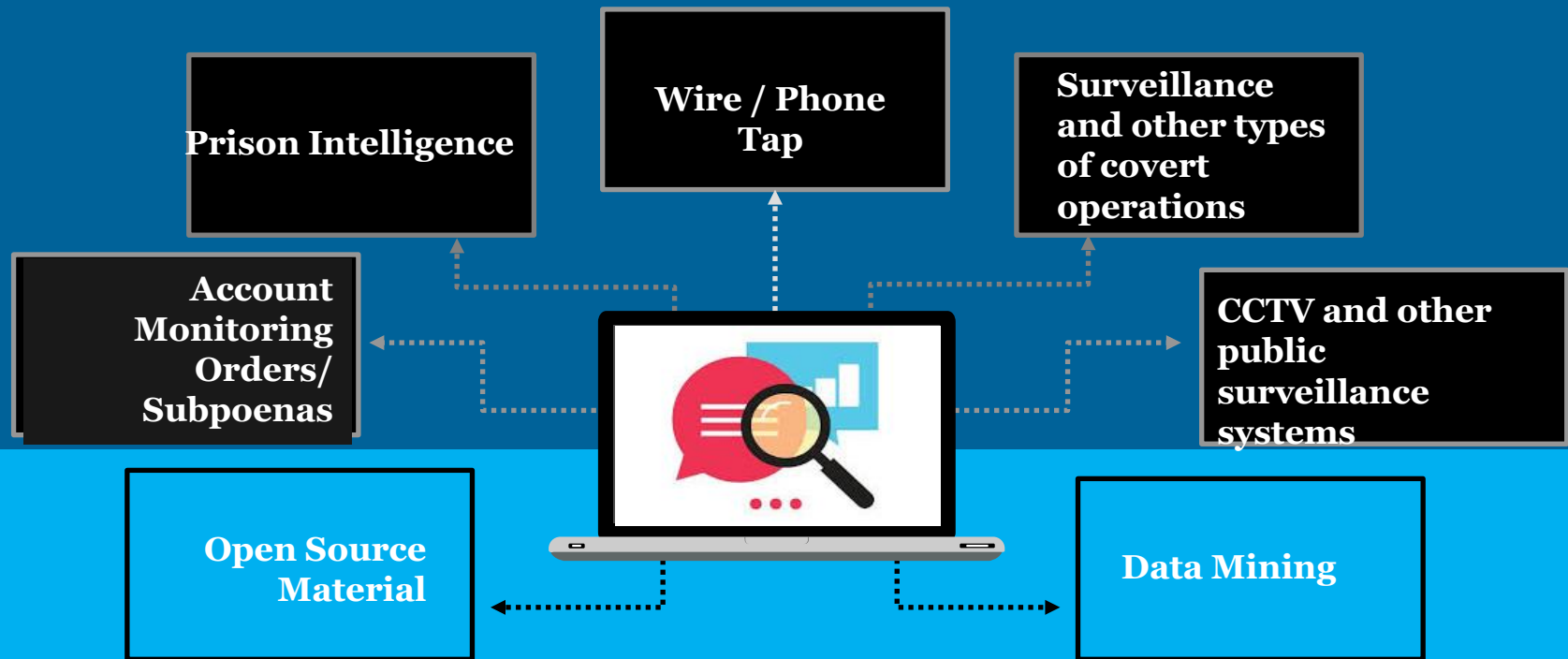
Practical Exercise

- Group 1 – Real Properties
- Group 2 – Personal Properties
- Group 3 – Investments
- Group 4 – Cash and Cash Equivalents

Sources of Information and Intelligence

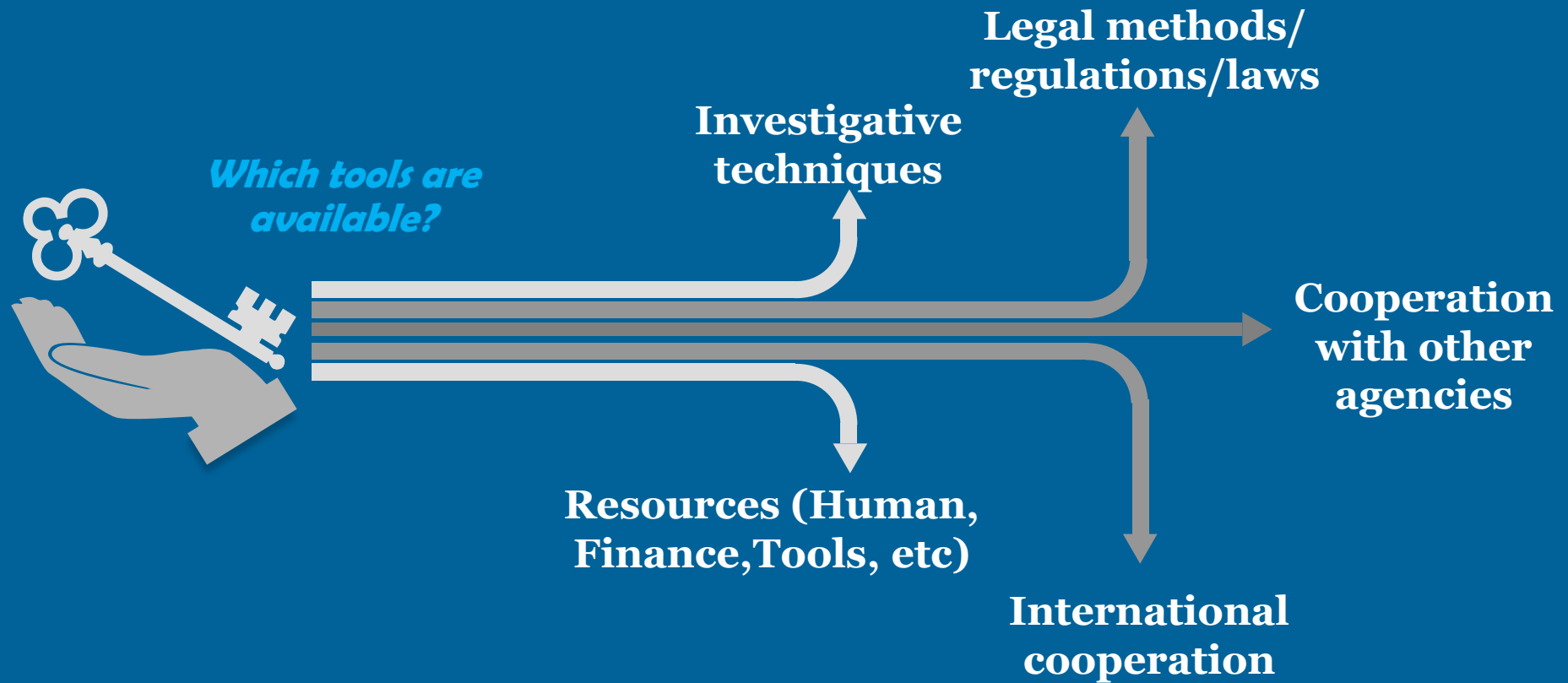


Sources of Information and Intelligence





Case Management



Case Management

When you lead...



Set
directions



Allocate
Resources



Inspire
Actions



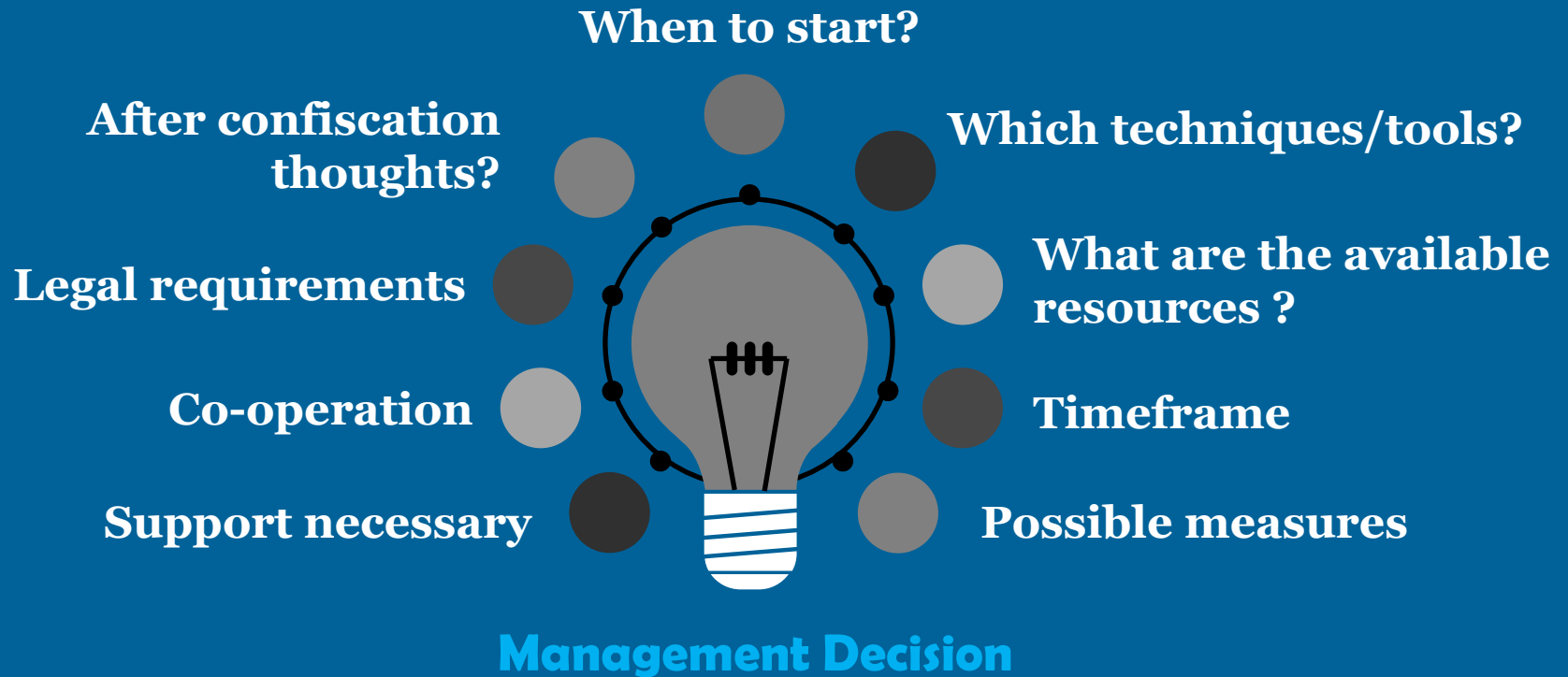
Be
accountable
for results



TIMING IS EVERYTHING!

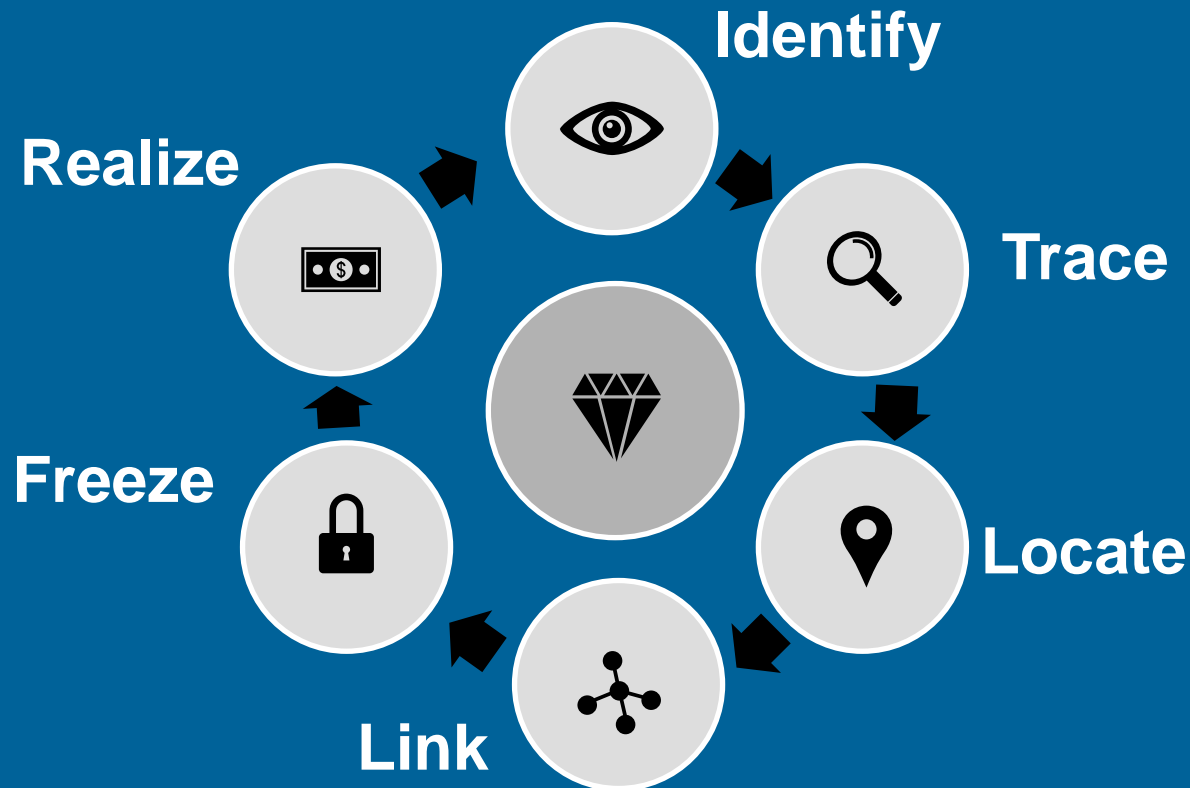


Asset Recovery – Case Management

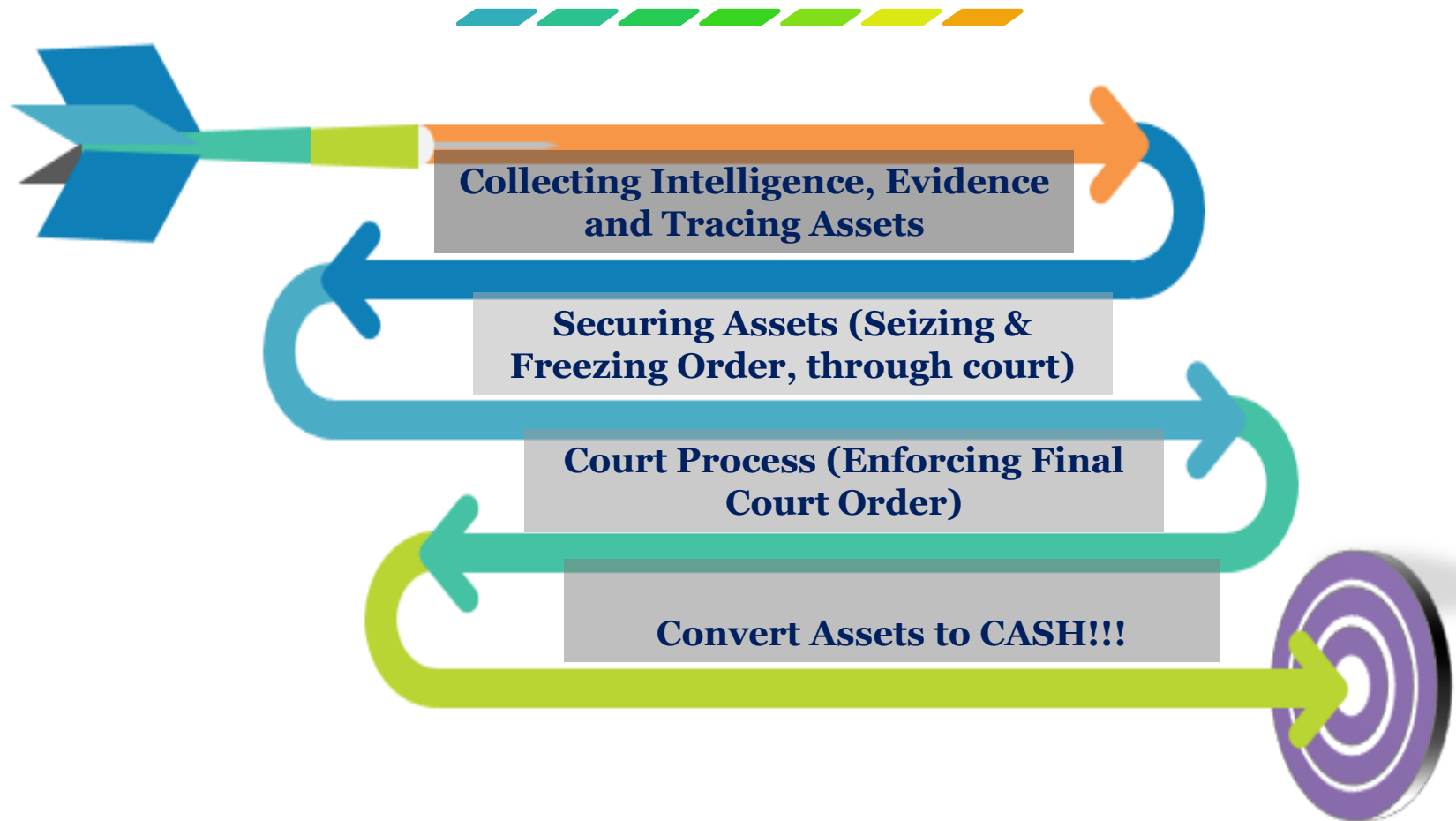




The Asset Recovery Plan



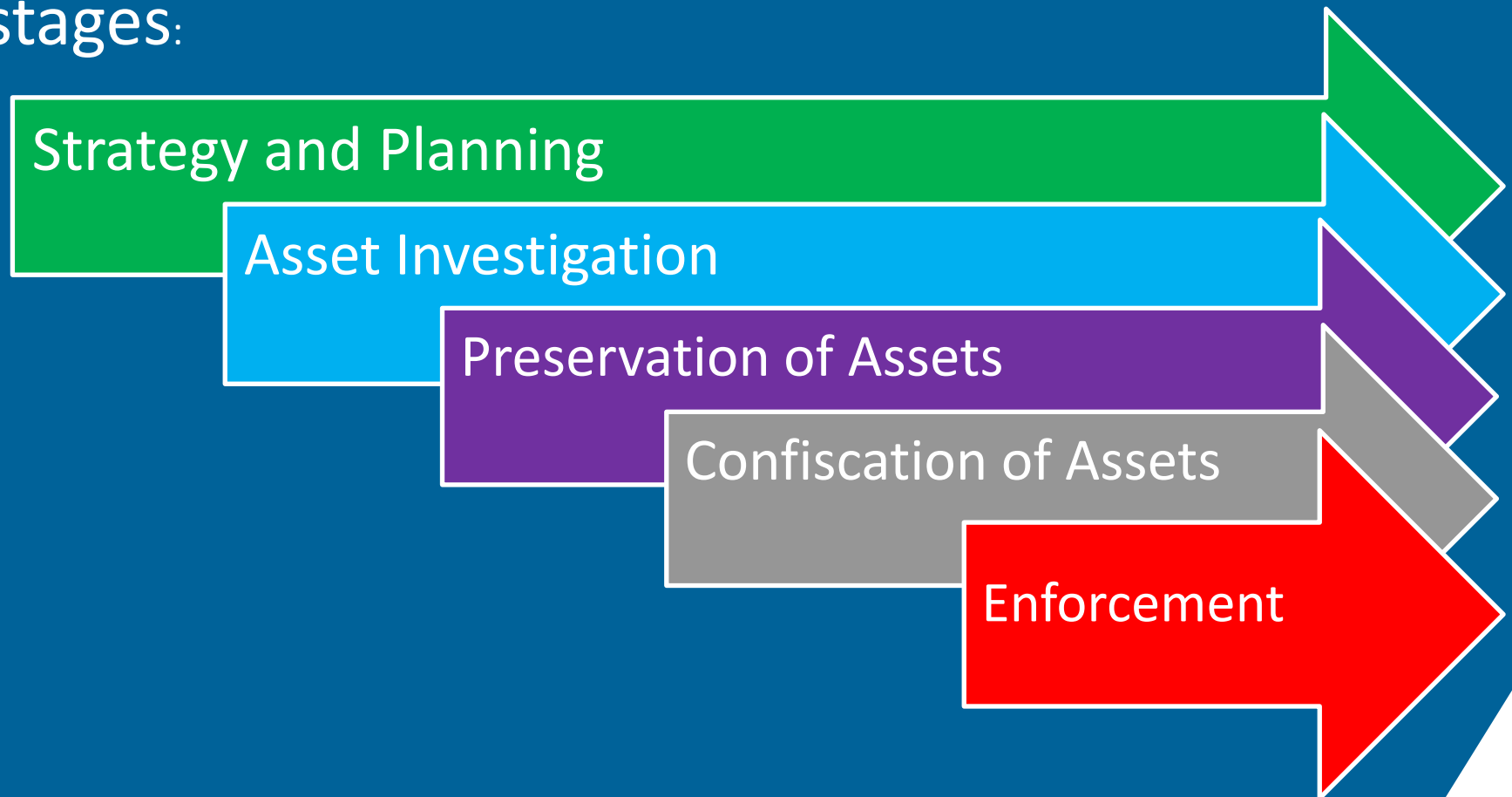
The Asset Recovery Process





Asset Recovery Investigation

Asset recovery can be broadly divided into five stages:





Preservation of Assets

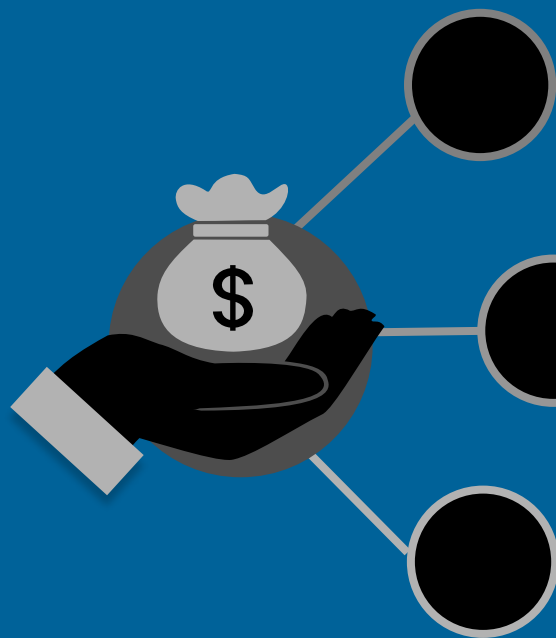
Two main methods of preserving assets:

- Freezing Orders (also called Restraint Orders, Attachments or Injunctions)
- Seizure Powers





Different Types of Procedures



Administrative

- In rem – action is against the property
- No judicial involvement

Civil Judicial

- In rem – action is against the property
- Complaint filed

Criminal

- In personam – forfeiture is part of criminal prosecution
- Must have a criminal conviction on predicate offense and often a separate trial regarding the asset forfeiture
- In rem – forfeiture against property



Ways to recover/proceeds from crime



Asset Forfeiture (Criminal)



Asset Forfeiture (Civil)



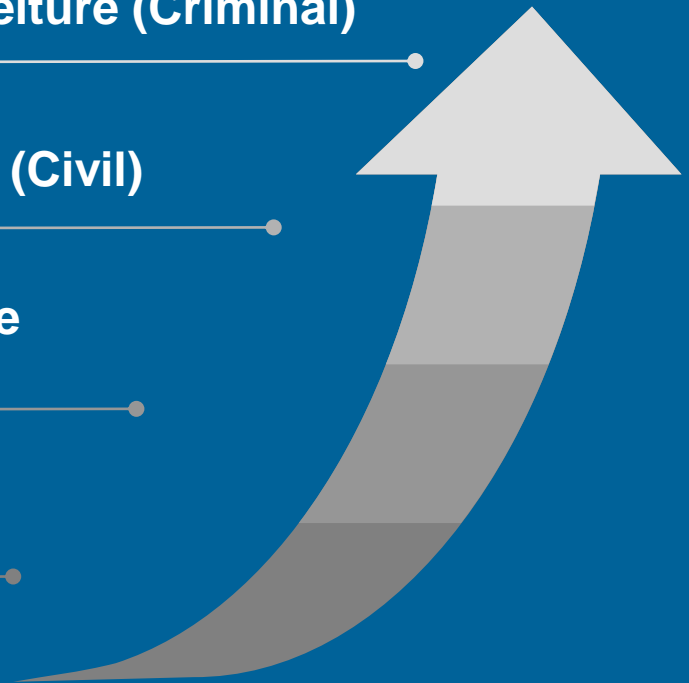
**Taxing Criminal Income
(person or company)**



Civil Claim for Damages



Bankruptcy Proceedings





Asset Forfeiture - Criminal



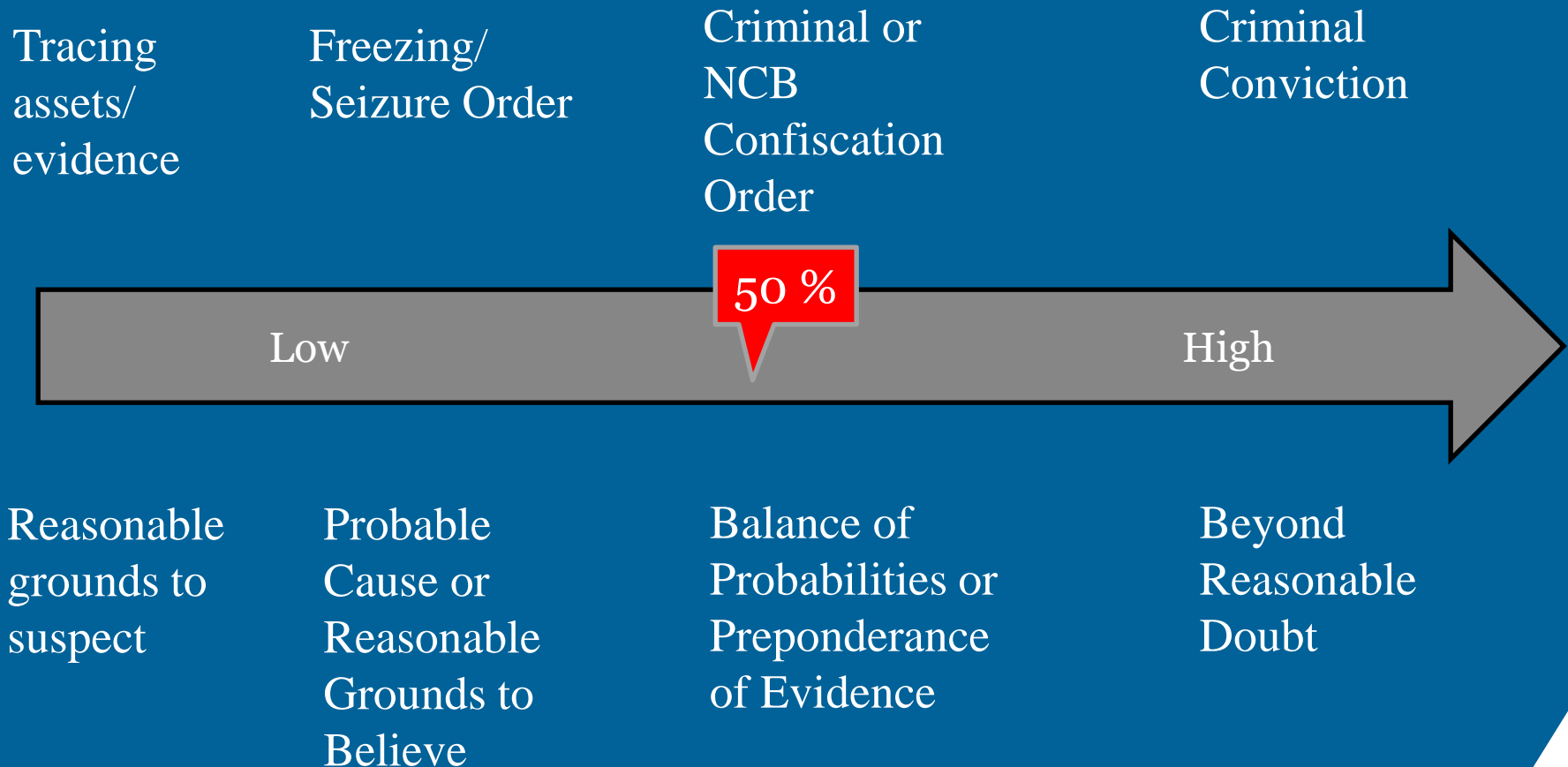
Imposed by court as part of the sentence for a crime

Must meet the standard of proof in your jurisdiction, that property was a proceed of or is significantly connected to illegal activity





Standards/Quantum of Proof





Asset Forfeiture - Civil



Important: Secure the claim as early as possible!

- Prevents the defendant from hiding assets before trial!
- By use of conservatory measures

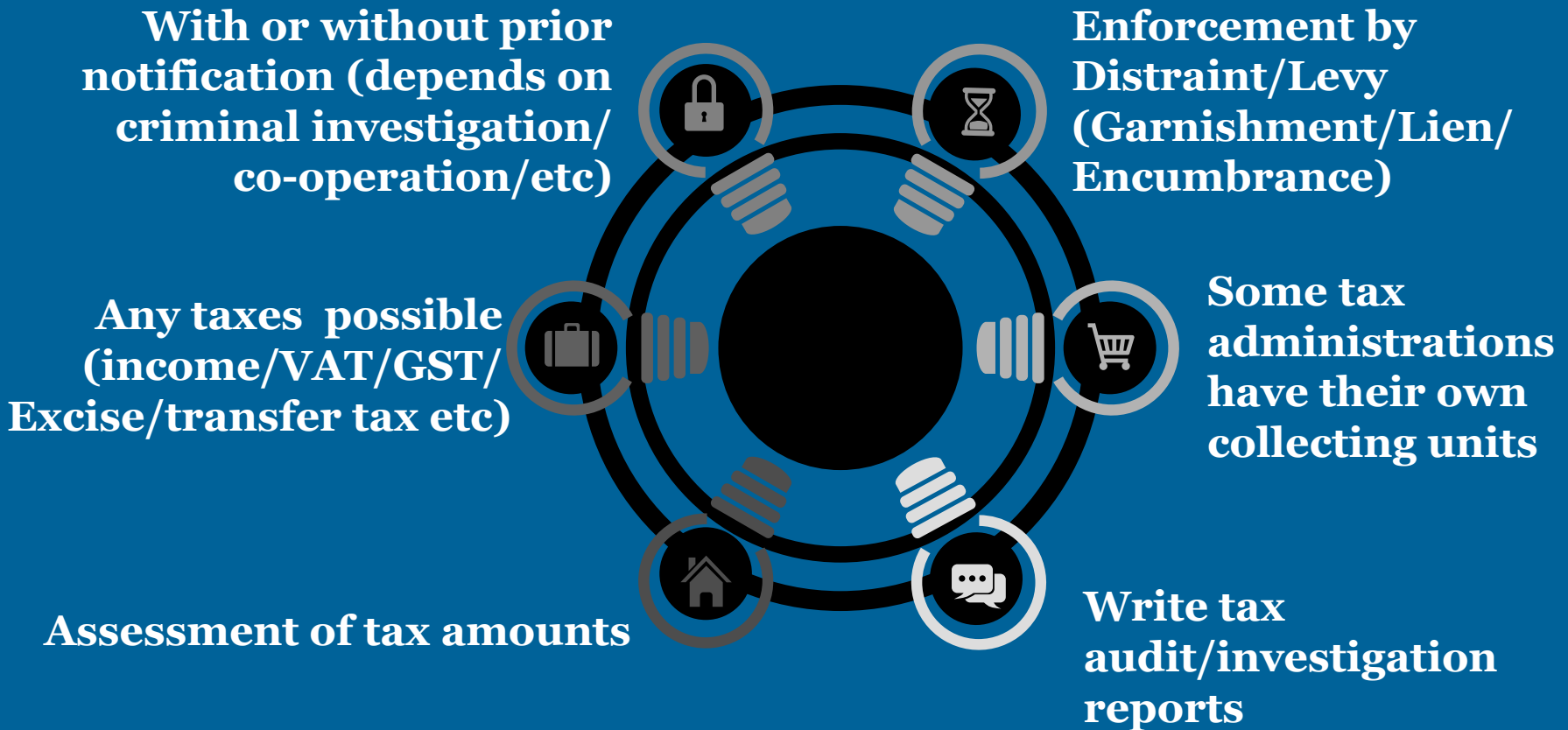
E.G.: Cash/Asset Seizure

- Securing the cash/assets for the later criminal or civil recovery action





Taxing Criminal Income





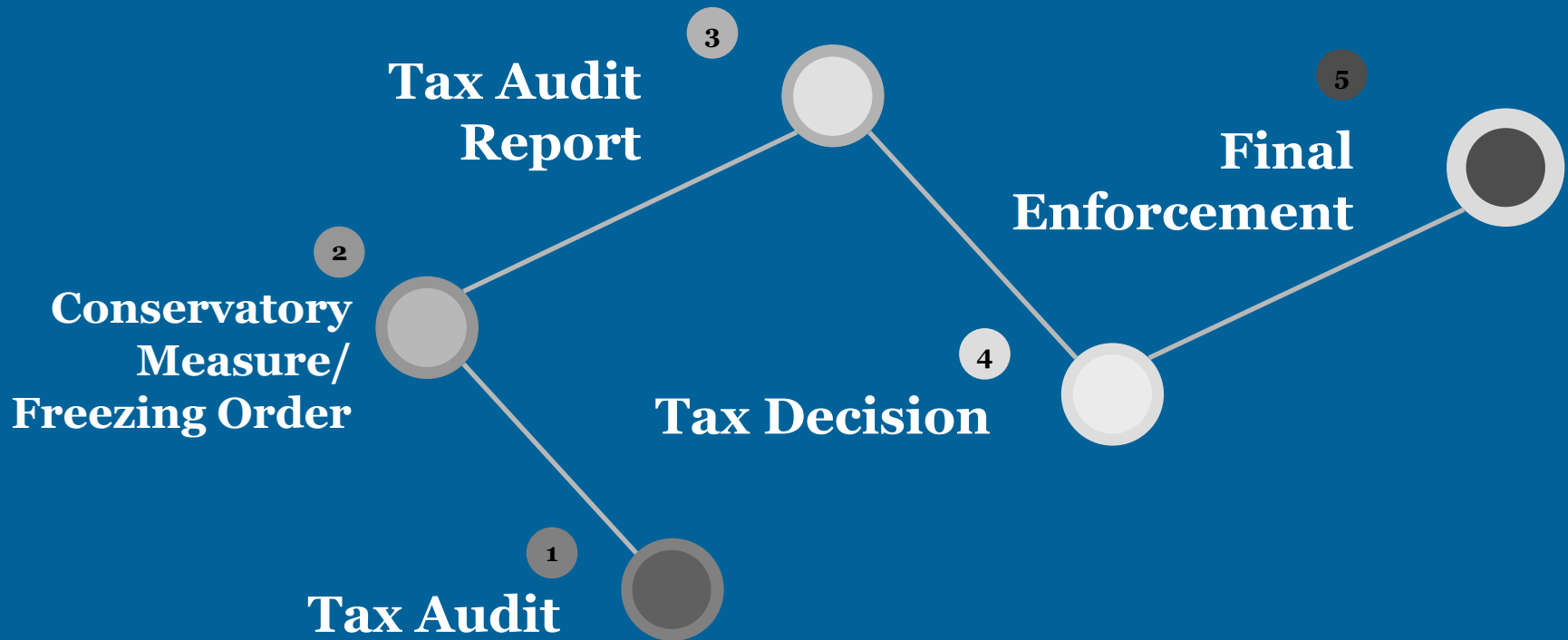
Legal Grounds



Company has submitted fraudulent tax reports? - Identify the Target/POI

- ☐ **Which individual(s) is responsible for this according to rules in your jurisdiction?**
- ☐ **This/these person(s) may be liable**
➤ **Problem: nominee/ straw man?**
- ☐ **Also his advisors/accessories**
- ☐ **More than one: Joint liability**

Taxing Criminal Income





Civil Claim for Damages and Bankruptcy



❖ Your jurisdiction may have provisions to let the government sue individuals for damages



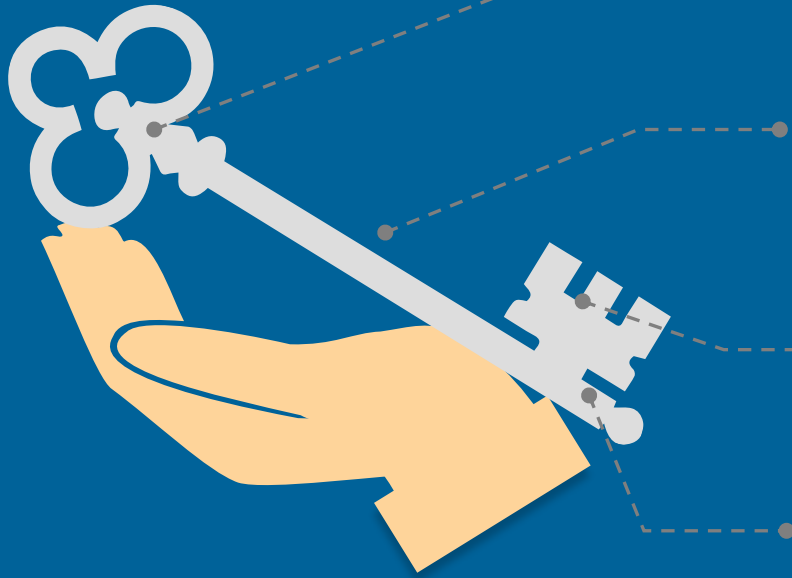
❖ Company is bankrupt

- No money to pay the taxes?
- Liability in negligence

Different types –
culpable/willful



Why focus on proceeds of crime?



Income for the government

Future prevention of crime

**Taking the money of the
criminals upsets them/disrupts
actual criminal activities
and**

Blocks further crime!



Any Questions????

