

INVESTIGATIVE PRACTICE IN IMMIGRATION CORRUPTION CASES IN THE PHILIPPINES

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I. IMMIGRATION CORRUPTION IN THE PHILIPPINES

There are several immigration laws in the Philippines, like the Citizenship Retention and Re-acquisition Act of 2003 or Republic Act No. 9225, the Administrative Naturalization Law of 2000 or Republic Act No. 9139, and it is the Bureau of Immigration (BI) that has the power by virtue of the Administrative Code of 1987 to effect the enforcement of these laws.

There are two kinds of activities at the Bureau of Immigration: the supervision of immigration into and emigration from the Philippines and the granting of visas to aliens. Through the years there have been reports of corruption being done by certain personnel from the BI. This paper will focus on the investigation practices involving the illicit departure of criminals as well as undocumented Filipino workers and the entry of criminals into the Philippines. According to the National Bureau of Investigation, Anti Graft Division (AGD), someone wanting to enter the Philippines can pay immigration personnel a price ranging from Php. 50,000.00 to Php. 1 million depending on the nature of the case and the personality involved while a person wanting to leave the Philippines will pay a price ranging from Php. 10,000.00 to Php. 300,000.00.

A. Government Response

Our government enacted approaches to combat this corruption, which are divided into three, namely:

- Preventive Approach: these are schemes that give public officers no room or opportunity to commit graft and corruption (i.e., internal agency policies designed to safeguard government funds, property, wealth, assets, and resources.)
- Punitive Approach: Designed to punish corrupt officials to serve as examples.
- Public censure through the use of media¹.

Several laws also were enacted by Congress to minimize if not stop corruption in the BI, like the Anti-Trafficking in Persons Act of 2003 or R.A. No. 9208 and Republic Act No. 9160, otherwise known as The Anti-Money Laundering Act of 2001, which gives authorities additional tools in detecting corruption at the BI.

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¹ Source: National Bureau of Investigation, Anti Graft Division (AGD)

1. Methods Used

The methods used in preventing corruption are either lifestyle checks or intelligence gathering. The methods used in investigating an immigration corruption case are usually done by the use of:

- Interview of complainants and taking of sworn complainants
- Review of physical evidence, like, CCTV footage, airline tickets, etc.
- Paper trail investigation
- Lifestyle check, and
- Interview of witnesses to the crime.

(i) Lifestyle Check Investigation

Lifestyle Check Investigation has been defined as a discreet/covert investigation to determine whether the lifestyle of a government official or employee is within his/her lawful means. Its objective is to discover the location and kinds of properties of the person who is the subject of investigation, including the places frequented and his hobbies in order to know whether or not he is living within the standards allowable by law. It may not be confined to the person himself/herself but also to the members of his family and his friends.²

Its purpose is to determine whether the income, property, assets, and the standard of living of the government official or employee are within the allowable lawful means or are proportionate to his lawful income, and the result of the lifestyle check may be used as evidence in filing criminal charges against the public official/employee.³

The steps in conducting lifestyle checks are⁴:

1. Know your Subject:

Personal Circumstances (name, age, sex, marital status, residential address, names of parents, names of brothers and sisters, names of children, other addresses, his position, item, rank or designation in the agency, and his salary grade)

2. Determine the unlawful acts that he could possibly be involved with (i.e., accepting bribes or kickbacks, malversation (i.e., conversion) of public funds)

3. Locate his/her property, assets, and liabilities;

² Ibid.

³ Ibid.

⁴ Ibid.

4. Try to assess the value of his/her property;
5. Determine whether his source of income is lawful or unlawful;
6. Know his/her hobbies or pastime activities (fond of jewelry collections, going to casinos, club memberships, known womanizer);
7. Compare the increase in his/her yearly income as shown by his/her Statement of Assets, Liabilities and Net Worth;
8. Know his/her immediate family relatives and friends;
9. Discover if he/she has titled his/her real estate or other property in the names of his/her friends or immediate family members;
10. Conduct surveillance and take photographs and videos if practicable;
11. Make a comparative analysis of the official/employee's assets, liabilities, net worth, and income starting from the time that he/she started committing the unlawful acts.

(ii) Acquisition of Witnesses

Witnesses are very important for a case build up and prosecution in the Philippines. In my experience, we rely so heavily on witnesses that there is about a 90% probability of a case being dismissed without them. They form part of the testimonial evidence subject to the usual rules on qualification⁵ and disqualification of witnesses.⁶

In order to convince ordinary witnesses to come out and make a strong case, we have a Witness Protection Program (WPP) designed to provide protection, housing, and eventual relocation of the said witnesses. More often than not, a co-accused becomes a state witness but Philippine laws require that he must be discharged as an accused to become a state witness.

The Rules for the effective discharge of an accused are:

Sec. 17. Discharge of accused to be state witness. – When two or more persons are jointly charged with the commission of any offense, upon motion of the prosecution before resting its case, the court may direct one or more of the accused to be discharged with their consent so that they may be witnesses for the state when, after requiring the prosecution to present evidence and the sworn statement of each proposed state witness at a hearing in support of the discharge, the court is satisfied that:

- (a) There is absolute necessity for the testimony of the accused whose discharge is requested;
- (b) There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said accused;

⁵ Source: Sec. 20 of the Rules of Court of the Philippines.

⁶ Source: Sec .21, 22 and 24 of the Rules of Court of the Philippines.

- (c) The testimony of said accused can be substantially corroborated in its material points;
- (d) Said accused does not appear to be the most guilty; and
- (e) Said accused has not at any time been convicted of any offense involving moral turpitude.

Evidence adduced in support of the discharge shall automatically form part of the trial. If the court denies the motion for discharge of the accused as state witness, his sworn statement shall be inadmissible in evidence.⁷

The certification of admission into the WPP shall be given full faith and credit by the Provincial or City Prosecutor concerned. Admission into the WPP shall entitle such State witness to immunity from criminal prosecution for the offense or offenses in which his testimony will be given or used and all the rights and benefits.⁸

2. The Role of the Prosecution

After all the pieces of evidence are gathered by the investigative arm of the government, which is either the Philippine National Police (PNP) or the National Bureau of Investigation (NBI), the investigative agency concerned forwards their findings to the Office of the Prosecutor General (OPG) or the Office of the Ombudsman (OMB), where all the evidence gathered are evaluated and the corresponding case is filed in court.

B. Case Study⁹

On February 8, 2012, the Fugitive Search Unit (FSU) of the Bureau of Immigration (BI) received a letter from the Korean Embassy requesting assistance relative to the “arrest and deportation” of LEE SOJU, a Korean national wanted for fraud by the Busan District Court. The FSU was further informed that LEE’s Passport was cancelled by the Ministry of Foreign Affairs and Trade and he was the subject of the Interpol Red Notice.

The BI’s Centralized Query Support System (CQSS) revealed that on January 13, 2012, LEE arrived as a tourist in the Philippines and was authorized to stay for twenty-one (21) days. On January 20, 2012, he applied for a Special Study Permit (SSP) and was issued an ACR I-Card valid until January 30, 2013. The Visa Extension Office and CQSS-Visa Issuance Made Simple (CQSS-VIMS) disclosed that on April 12, 2012, he also applied for extension as a temporary visitor and was allowed to stay until May 12, 2012. There was no record of his departure from the country.

In view of the letter from the Korean Embassy, the FSU recommended to the Commissioner the cancellation of LEE’s SSP and ACR I-Card, inclusion of his name on the Blacklist and initiation of deportation proceedings against him. On the same date, Atty. Jose endorsed to Atty. Reyes, Chief, Law and Investigation Division (LID), the case folder of LEE, with the following recommendations: (a) cancellation of the SSP and ACR I-Card, and (b)

⁷ Section 17 of Rule 119 of the Revised Rules of Court of the Philippines.

⁸ Source: Sec. 12, Republic Act No. 6981.

⁹ Taken from an actual case, with the names and certain details changes so as to respect the rights of the accused, iS No. XVI-INV-13G- 00217.

initiation of deportation proceedings against him, pursuant to applicable immigration rules and procedures, and eventual issuance of a Warrant of Deportation.

On May 31, 2012, Atty. Reyes received said endorsement, with LEE's summary of information, clearances, and letter from the Korean Embassy informing BI of the cancellation of his Korean passport. On said date, Atty. Reyes assigned the case to Atty. Jose, who prepared the charge sheet and watchlist. On June 6, 2012, Atty. Jose prepared the Summary Deportation Order (SDO) and forwarded it to the Board of Commissioners.

On June 29, 2012, LEE's application for Section 9(g) visa (employment visa) was electronically raffled to Atty. Jose. On July 3, 2012, he received LEE's application and conducted the hearing the following day. On July 9, 2012, Atty. Jose recommended the approval of the Section 9(g) visa to Atty. Reyes.

On July 12, 2012, the Board of Commissioners (BOC) ordered the issuance of a Warrant of Deportation against LEE and his inclusion on the BI's Blacklist; and at the same time granted the conversion of LEE's admission status from a Temporary Visitor's Visa to a Pre-Arranged Employment Visa under Section 9(g) of the Philippine Immigration Act of 1940.

On February 13, 2013, the Board of Commissioners issued an Order cancelling the Section 9(g) visa of LEE on the ground that he was a fugitive from justice.

On March 22, 2013, the BI received information from the Korean Embassy that on March 19, 2013, LEE was arrested in South Korea. The closed circuit television (CCTV) footage recorded by the BI and Manila International Airport Authority (MIAA) revealed that Ms. Fernando, Immigration Officer, was in the same counter where LEE passed through. Further, the BI departure stamp on his boarding pass confirmed that Ms. Fernando processed his travel documents. John Cruz, personnel of the Office of Transportation Security (OTS) also appeared to be escorting LEE.

An investigative body was organized by the Department of Justice (DOJ) which submitted a report that found respondents Atty. Reyes, Atty. Jose, Ms. Fernando, and John Cruz guilty of graft and corruption.

1. Findings at the Investigative Hearing

All were found liable for graft and corruption. The evidence showed that there was a conspiracy on the part of the accused to commit the crime. The testimony of Ms. Fernando, who testified as a state witness, was vital. She was able to explain who, what, how and when the crime was planned and consummated.

TRACING CORRUPTION PROCEEDS IN THE PHILIPPINES THROUGH LIFESTYLE CHECKS

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I. INTRODUCTION

In the words of a former Ombudsman, “fighting corruption in the Philippines is like trying to kill an elephant with a flyswatter.”¹ Particularly with the recent reports of rampant legislative and judicial corruption in the country, a difficult challenge of combating corruption lies ahead of us.

The reasons are quite obvious. First, corruption investigation means going after powerful and influential officials of the national and local government. There is a risk that evidence may be suppressed. There is, likewise, an inherent hazard in the safety and security of those mandated to do the job. Second, corruption is generally a victimless crime. Corrupt officials steal from the government coffers. Oftentimes, the general public to whom the officials should have been accountable are unaware that corrupt activities transpire. Finally, the only people who may be fully aware and knowledgeable of corruption are the same people who have committed the same and are, somehow, involved in its commission. This makes corruption difficult to trace and discover.

In the Philippines, one of the modes of proving whether a public official has been involved in corruption and of tracing its proceeds is through the conduct of “lifestyle checks” or “lifestyle investigations”. Lifestyle checks are an investigation strategy developed by anti-corruption agencies in the Philippines to determine the existence of ill-gotten and unexplained wealth of officials and employees of the government.

Generally, a public official commits corruption-related crimes and offences for the purpose of personal gain. Such gain is converted into assets or manifested by a change in lifestyle. Hence, in order to trace where the proceeds of corruption are directed to, there is a need to check the change in the lifestyle of a public official and his accumulation of assets during his incumbency.

Considering that the accumulation of unexplained wealth is usually the end goal of corruption and that conducting lifestyle checks entails the employment of all investigative techniques and practices in the Philippines, it, therefore, mirrors corruption investigation in the Philippines as a whole.

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¹Former Ombudsman Simeon V. Marcelo, as cited by Emil P. Bolongaita. *A Crisis that Should Not Go to Waste*. <<http://www.rappler.com>> (accessed 10/31/2013).

II. HISTORICAL BACKGROUND

Lifestyle checks, as a tool in tracing corruption proceeds, began in 2003. On March 20, 2003, a Memorandum of Understanding was signed creating the “Lifestyle Check Coalition.” The coalition pools the expertise, resources and manpower of its members in identifying leads, gathering information and prosecuting accused public officials. The public provides the information, while the intelligence-gathering units of the coalition (e.g., National Bureau of Investigation (NBI) and Intelligence Service of the Armed Forces of the Philippines) investigate suspected officials. The findings are forwarded to other member units for evaluation and confirmation. Along this line, lifestyle checks and anti-graft units were formed in six agencies (i.e., the Department of Finance, Department of Agrarian Reform, Department of Health, Department of Public Works and Highways (DPWH), Department of Environment and Natural Resources and Department of Education (DepEd))².

The Office of the Ombudsman (OMB), the Civil Service Commission (CSC), and the Presidential Anti-Graft Commission (PAGC), and the heads of agencies as the primary disciplining authority, cooperate in handling the administrative aspect of the lifestyle check process, specifically in determining the administrative culpability, if any, of the officials involved, and imposing the appropriate administrative sanctions. On the other hand, the OMB handles the criminal aspect of the lifestyle-check process, specifically in filing the appropriate cases in court and prosecuting officials who failed the lifestyle check.³

However, the number of personnel mandated to do the task is insufficient. Studies show that during the period when the lifestyle check was launched as a tool in tracing corruption proceeds, the OMB had only 37 field investigators for a bureaucracy of approximately 1,500,000 public officials and employees, making a ratio of one (1) investigator for every 17,241 members of the bureaucracy.⁴

Considering this limitation in manpower resources, the lifestyle investigations of the OMB were focused only on the following agencies: the Bureau of Internal Revenue (BIR), the Bureau of Customs (BOC), and the Department of Public Works and Highways (DPWH).

In 2004, the OMB reorganized and rationalized its fact-finding and intelligence operations by constituting the Field Investigation Office (FIO), which was designated as the investigative arm of the office and the implementing unit of the lifestyle check project. Using as a pattern Hong Kong’s Independent Commission Against Corruption, the OMB recruited fresh college graduates from diverse academic backgrounds as field investigators. Towards the end of 2004, the OMB had already increased the number of its field investigators to 93.⁵

²<<http://www.neda.gov.ph/ads/mtpdp/MTPDP2004-2010>>.

³Ibid.

⁴ Simeon V. Marcelo, *Investigating Corruption in the Philippines: A Former Tanodbayan’s Experience*. Delivered during the 12th Regional Seminar of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific held in Dili, Timor-Leste on 24-25 July, 2013.

⁵ Ibid.

The field investigators were given extensive training courses by local and foreign experts on evidence-gathering and field investigation, including intelligence operations.

By the time the field investigators had completed their advanced field investigation courses in 2006, they had already uncovered and recommended the forfeiture of suspected ill-gotten assets with a total estimated value of One Billion Two Hundred Million Pesos (Php1,200,000,000.00).

III. LEGAL FRAMEWORK

Lifestyle checks are anchored on the constitutional principle that public office is a public trust and that public officers and employees must at all times be accountable to the people, and most of all, lead modest lives.⁶

Likewise, the Code of Conduct and Ethical Standards for Public Officials and Employees⁷ mandates that simple living should be a norm of conduct. Accordingly, public officials and employees should lead lives appropriate to their positions and income and not indulge in extravagant and ostentatious display of wealth in any form.⁸

There is also a law governing the forfeiture of unlawfully acquired assets – Republic Act No. 1379.⁹ Under Section 2 of the statute,

Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed *prima facie* to have been unlawfully acquired.

The same law provides the required information for a petition for forfeiture of unlawfully acquired assets, to wit:

1. the name and address of the respondent;
2. the public officer or employment he holds and such other public offices or employment which he has previously held;
3. the approximate amount of property he has acquired during his incumbency in his past and present offices and employments;
4. a description of said property, or such thereof as has been identified by the Solicitor General.

⁶Article XI, 1987 Philippine Constitution.

⁷Republic Act No. 6713.

⁸Section 4(A)(h), Republic Act No. 6713.

⁹An Act Declaring Forfeiture in Favor of the State Any Property Found to Have Been Unlawfully Acquired by Any Public Officer or Employee and Providing the Proceedings Therefor.

5. the total amount of his government salary and other proper earnings and incomes from legitimately acquired property; and
6. such other information as may enable the court to determine whether or not the respondent has unlawfully acquired property during his incumbency.

This required information also becomes the groundwork for conducting lifestyle checks.

IV. PROCESS FLOW

A. Case Initiation

Lifestyle investigations proceed from complaints, in any form, intelligence information, and reports from the media. At present, the agency which primarily conducts lifestyle checks is the OMB.

The OMB derives its power to conduct lifestyle checks from its mandate to “investigate on its own, or on complaint by any person, any act or omission of any public official employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.”¹⁰

As a mechanism for reporting possible accumulation of unexplained wealth, the OMB launched the Ombudsman Lifestyle Check Hotline (OMB LSC Hotline) in 2006. The OMB LSC Hotline opens the line of communication to encourage the public to report incidents of corruption, especially of ill-gotten or unexplained wealth of government officials and employees.

B. Case Evaluation

As in other corruption cases, the first task of the investigator is to evaluate the information or complaint. Case evaluation involves a two-step process: 1) determining whether the investigation should proceed; and 2) if so, determining how to proceed with it.¹¹

Field investigators use two tools for case evaluation and planning — the Evaluation Action Slip and the Investigative Plan of Action.

The Evaluation Action Slip takes into account the following information, among others:

1. whether the public officer involved is low ranking or high ranking, since the law mandates the OMB to give priority to cases involving high-ranking officers;¹²
2. whether the allegations constitute violations of other existing laws;
3. whether the allegations include verifiable leads; and

¹⁰Section 13(1), Article XI of the 1987 Philippine Constitution.

¹¹Ombudsman Desk Reference.

¹²Republic Act 6770, Section 15 provides: “The Ombudsman shall give priority to complaints filed against high ranking government officials”

4. whether there is already a pending case involving the same public official.¹³

After evaluation of the complaint, field investigators prepare an Investigative Plan of Action, which indicates what evidence is needed, and where, when, how, and from whom can the evidence be secured.

C. Proper Investigation

In lifestyle investigations, the evidence may either be documentary or testimonial. Documentary evidence is usually secured through the issuance of legal processes – *Subpoena Duces Tecum* and letter requests.

The power of the OMB to issue *Subpoena Duces Tecum* is anchored on the provisions of Section 15(8) of the Ombudsman Act of 1989¹⁴, which states:

Section 15. Powers, Functions and Duties. — The Office of the Ombudsman shall have the following powers, functions and duties:

(8) Administer oaths, issue subpoena and subpoena duces tecum, and take testimony in any investigation or inquiry, including the power to examine and have access to bank accounts and records;

The same statute empowers the OMB to seek assistance from other government agencies in the conduct of its investigations, thus:

5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;

Further, OMB utilizes Mutual Legal Assistance Treaties (MLATs) in securing documents from other countries.

With respect to testimonial evidence or investigative leads from human sources, investigators may either conduct interviews or elicitation. Sworn statements may also be taken following the issuance of *Subpoena Ad Testificandum*.

When conducting interviews, investigators currently employ two approaches: 1) the traditional approach; and 2) non-confrontational approach.

The traditional approach, otherwise known as the “good-cop-bad-cop approach”, is done by capitalizing on the stress of the human source or interviewee in order to obtain the needed information. On the other hand, the non-confrontational approach is done by taking the role of a mediator-negotiator thereby minimizing the stress or fear of the interviewee.¹⁵ While the good-

¹³This is determined to avoid duplicity of action.

¹⁴Republic Act No. 6770.

¹⁵Lectures on Investigative Interviewing, Specialized Training Enhancement Program, sponsored by the British Embassy.

cop-bad-cop approach is traditional and out-of-date, investigators still find the same useful in extracting information from human sources.

Aside from the techniques for securing documents and testimony, investigators also conduct ocular inspection and surveillance. In conducting inspection, the goal of the investigator is, usually, to take photos of property, particularly real property and motor vehicles of the public officials. Surveillance, on the other hand, is conducted to observe the lifestyle of public officials.

D. Reporting

After conducting the investigation, investigators prepare an Investigation Report recommending either: 1) closure and termination of the investigation or 2) filing of formal criminal and administrative charges against the public official.

V. SOURCES OF INFORMATION

In conducting lifestyle checks or validating whether a public official has accumulated unexplained wealth, Ombudsman investigators explore the following aspects: 1) personnel information or records; 2) property records; 3) business and income records; 4) expenditure records; 5) records of liabilities.

A. Personnel Records

The personnel records of a public official are called “201 Files”. These include the Personal Data Sheet, Service Record, Appointment Paper, Oath of Office, and Position Description Form. These documents are sources of information for the public official’s address, his or her family members, and other information on his or her possible personal connections. Likewise, the 201 Files provide the record of employment of the public official, particularly the period he has spent in government service.

Investigators secure personnel records from the following sources:

1. The human resources department of the concerned agency;
2. Civil Service Commission, for appointive officials;
3. Commission on Elections, for elective officials; and
4. Local Government Operations Offices, for local elective officials.

B. Property Records

The primary source of information on the property and other assets of public officials is the Statement of Assets, Liabilities, and Net Worth (SALN). Public officials and employees are mandated under the law to file their SALN within 30 days after assumption of office, on or before April 30 of every year thereafter, and within 30 days after separation from the service.

Sections 7 and 9 of the Anti-Graft and Corrupt Practices Act¹⁶ state:

“Section 7. Statement of Assets and Liabilities. – Every public officer, within thirty days after assuming office and, thereafter, . . . as well as upon the expiration of his term or office, or upon his resignation or separation from office, shall prepare and file . . . a true detailed and sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year . . .

. . .

Section 9. Penalties for violations. – . . .

(b) Any public officer violating any of the provisions of Section 7 of this act shall be punished by a fine of not less than one thousand pesos nor more than five thousand pesos or by imprisonment not exceeding one year and six months, or by both such fine and imprisonment, at the discretion of the Court. . . .”

Further, Sections 8 and 11 of the Code of Conduct and Ethical Standards for Public Officials and Employees provide:

“Section 8. Statements and Disclosure. – Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households. . . .

. . .

“Section 11. Penalties. – (a). . . violations of Sections 7, 8, or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and in the discretion of the court of competent jurisdiction, disqualification to hold public office.

(b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him. . . .”

The SALN contains information about a public official or employee, his spouse and unmarried children under 18 living in their household, as to the following:

¹⁶Republic Act No. 3019.

1. real property, including improvements, date and cost of acquisition, assessed value, and current fair market value;
2. personal property, date and cost of acquisition;
3. investments, cash-on-hand, cash-in-bank, and other assets;
4. liabilities;
5. businesses and financial connections.¹⁷

After extracting information from the SALN as to the possible locations of real property of the public official and his or her other property and investments, investigators proceed to verify the information from other sources. Validation from other sources is a means not only to check the truth and accuracy of the declaration in the SALN; it is likewise a way to discover whether the public official fails to declare other property and investments.

As to the real property, investigators obtain information from the following sources:

1. Local Assessors Offices (Provincial, City, or Municipal), which provide the Tax Declaration, Location, and Vicinity Map of the real property declared under the name of the public official and his or her family members;
2. Land Registration Authority or the Local Register of Deeds, which provide the Original or Transfer Certificates of Title and the documents evidencing the transfer of ownership or mode of acquisition of the real property;
3. Local Building Officials, which provide the cost estimates of any building or improvements constructed on the real property.

With respect to the motor vehicles of public officials, records of the same are obtained from the Land Transportation Office (LTO), which provide the make, model, and plate numbers of the motor vehicles registered under the names of particular persons. In addition, the LTO District Offices provide the registration documents and the documents evidencing the mode and cost of acquisition of the motor vehicles.

C. Business and Income Records

The primary source of information on the income of public officials is the Certificate of Yearly Compensation, Allowances, and other Benefits which may be provided by the Accounting Office of the public official's agency.

In addition, records from the Bureau of Internal Revenue are secured particularly to determine whether the public official and his or her family members have other legitimate sources of income.

¹⁷Ombudsman Desk Reference.

As to the information on the business interests of the public official, the same may be obtained from the Securities and Exchange Commission, the Department of Trade and Industry, and the Local Business Permits and Licensing Offices. Information derived from these agencies enable the investigators to determine whether the public official has other sources of legitimate income and whether he has spent funds for starting and operating businesses.

After determination of the business interests and financial connections of the public official, income statements of the same may be secured in order to determine whether he or she could possibly derive income from the same or whether they are merely being used as dummy businesses to conceal the true source of the public official's funds.

D. Expenditure Records

In lifestyle checks, it is equally important to determine other expenses of the public official aside from the assets which he or she has acquired. Hence, investigators also secure documents pertaining to the public official's travels, expenses for schooling of his or her children, and other costs of living.

E. Records of Liabilities

To check the truthfulness and accuracy of the liabilities declared in a public official's SALN, records of loans are secured from the Government Service Insurance System (GSIS), Social Security System (SSS), and Home Mutual Development Fund or PAG-IBIG.

It should be noted that once the loan is verified, the amount of the same is treated as an additional source of income for the public official. However, the amount spent by the public official in the payment of such loans is treated as expenditure.

VI. METHODS OF PROOF

A finding of unexplained wealth forms the basis for the recommendation to pursue forfeiture proceedings under the Forfeiture Law¹⁸. Two methods of proof are available to determine the existence of unexplained wealth — the Net Worth Method and the Expenditure Method.

The Net Worth Method is used by computing the official's total assets less his total liabilities (assets–liabilities = net worth). That method is used to compare changes in a person's net worth at the beginning of a period and at the end of that period. This is based on the theory that any increase in the net worth beyond the lawful income of the public official constitutes unexplained wealth.

¹⁸Republic Act No. 1379.

Thus:

$$\begin{array}{l} \text{Total Assets} \\ \hline \text{Less: Total Liabilities} \\ \\ \text{Equals: Net Worth at the End of the Period} \\ \text{Less: Net Worth at the Beginning of the Period} \\ \\ \hline \text{Equals: Increase (Decrease) in Net Worth} \\ \\ \text{Add: Total Expenditures for the Period} \\ \text{Less: Total Income for the Period} \\ \\ \hline \text{Equals: UNEXPLAINED WEALTH}^{19} \end{array}$$

The second method, the Expenditure Method is employed by comparing the public official's expenditures to his legitimate sources of income for a particular period. The theory is wealth.

The formula is:

$$\begin{array}{l} \text{Total Expenditures for the Period} \\ \hline \text{Less: Total Income for the Period} \\ \\ \hline \text{Equals: UNEXPLAINED WEALTH}^{20} \end{array}$$

By using the foregoing methods of proof, investigators can determine whether a public official has, during his incumbency, accumulated wealth or spent funds which are manifestly out of proportion to his legitimate sources of income.

VII. CONCLUSION

Corruption investigation is one of the greatest challenges in each nation. And the most difficult aspect of this challenge is tracing the funds and recovering the ill-gotten assets. While the agencies tasked to conduct corruption investigation continuously exert effort in learning and employing advanced techniques in "following the money", corrupt public officials have also developed new modes of concealing ill-gotten assets.

With this great challenge ahead, the cooperation among nations encountering similar difficulties becomes essential. Understanding best practices employed by other anti-corruption agencies is necessary to be able to develop and improve mechanisms to trace corruption proceeds

¹⁹ Ombudsman Desk Reference Volume I, page 54.

²⁰Ibid.

and recover ill-gotten assets. How the Philippines learned from Hong Kong's ICAC is a manifestation that this strategy should and can be done.

And while, indeed, the Philippines is like a soldier trying to kill an elephant with a flyswatter, it can nevertheless pick up techniques from other anti-corruption agencies on how to succeed with this task. Armed with such techniques and best practices, coupled with courage and determination, the task of fighting corruption might turn out to be not so gargantuan after all.