

CRYPTOCURRENCY IN DIVORCE AND CIVIL LITIGATION



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- ▶ A digital currency in which encryption techniques are used to regulate the generation of units of currency and verify transactions.
- ▶ Value based entirely on the investment and investment based on interest:
 - ▶ Encryption Techniques and Security
 - ▶ Limits on Coin
 - ▶ How the Coin can be used
 - ▶ Popularity and Marketing
- ▶ **Varies significantly in value and stability of that value.**

Cryptocurrency for Dummies

Why is Crypto worth anything and why is it important to consider in divorce?

There's a fixed supply (in most cases)

It costs energy (literally), time and money to 'Mine'

It's easy and virtually free to exchange or transfer

It's completely "fungible" - if it's in your hand - whether you earned it, stole it, or mined it - you can spend it

It is (or can be) held and transferred anywhere in the world free of any third-party fees, regulations or interference

Not all it's cracked up to be??

It is not tied to the fiat currency of any government

CRYPTO BEYOND BITCOIN

Approx. 25,000 Cryptocurrencies Currently in Existence

- ▶ Better Tech, Scaling, lower transaction fees (Litecoin, Bitcoin Cash)
- ▶ Privacy coins (***Dash, Monero, ZCash***)
- ▶ Programmable contracts (Ethereum) - promising sophisticated derivatives
- ▶ Long term investment and Dividends
- ▶ Meme or Gimmick coins (Doge, Squid Game)

BTC was FIRST and currently has a Market Cap Almost 5X its four closest rivals COMBINED

COMMON CRYPTO TERMS



Crypto Address or 'Public Key' : **the location on the blockchain** **where the currency is located**

Publicly visible on the blockchain

Allows For Loading of Funds &
Verifying Those Funds

Not user-friendly

Example:

1CC3X2gu58d6wXUWMffpuzN9JAfTUW
u4Kj



Private Key : the "password" **required to 'spend' BTC from a** **BTC Address**

Allows for Spending of Funds in the
associated bitcoin address

If you lose your Private Keys, your
bitcoin are lost forever

Purposefully difficult to memorize and
not user-friendly

Example:

5Kb8kLf9zgWQnogidDA76MzPL6TsZZY
36hWXMssSzNydYXYB9KF

Can be tracked by Seed Phrase or
Exchange may keep these



"Wallet" : a BTC owner's method **for holding their Addresses &** **Private Keys**

Party can control an unlimited number
of addresses

HOW DOES IT WORK?

The SIMPLE Explanation

- ▶ ***Your Crypto is just a number on a spreadsheet*** – known as the blockchain.
- ▶ ***The Blockchain is a publicly available 'distributed ledger'***; it is maintained, and its accuracy verified by anyone who wishes to participate in that process for a reward (Miners). Majority (51% rules on any disputes)
- ▶ A series of characters on the spreadsheet (the blockchain) which has a numerical value in it (the amount of BTC) and other information which allows that only a person with the proper Private Key for THAT cell can 'spend' those BTC (i.e. send those BTC to anyone else who has an address on the Blockchain).
- ▶ Private Keys DO NOT appear on the Blockchain; their Hash Values do – ***but Hash Values (of this kind) cannot be reverse engineered.***

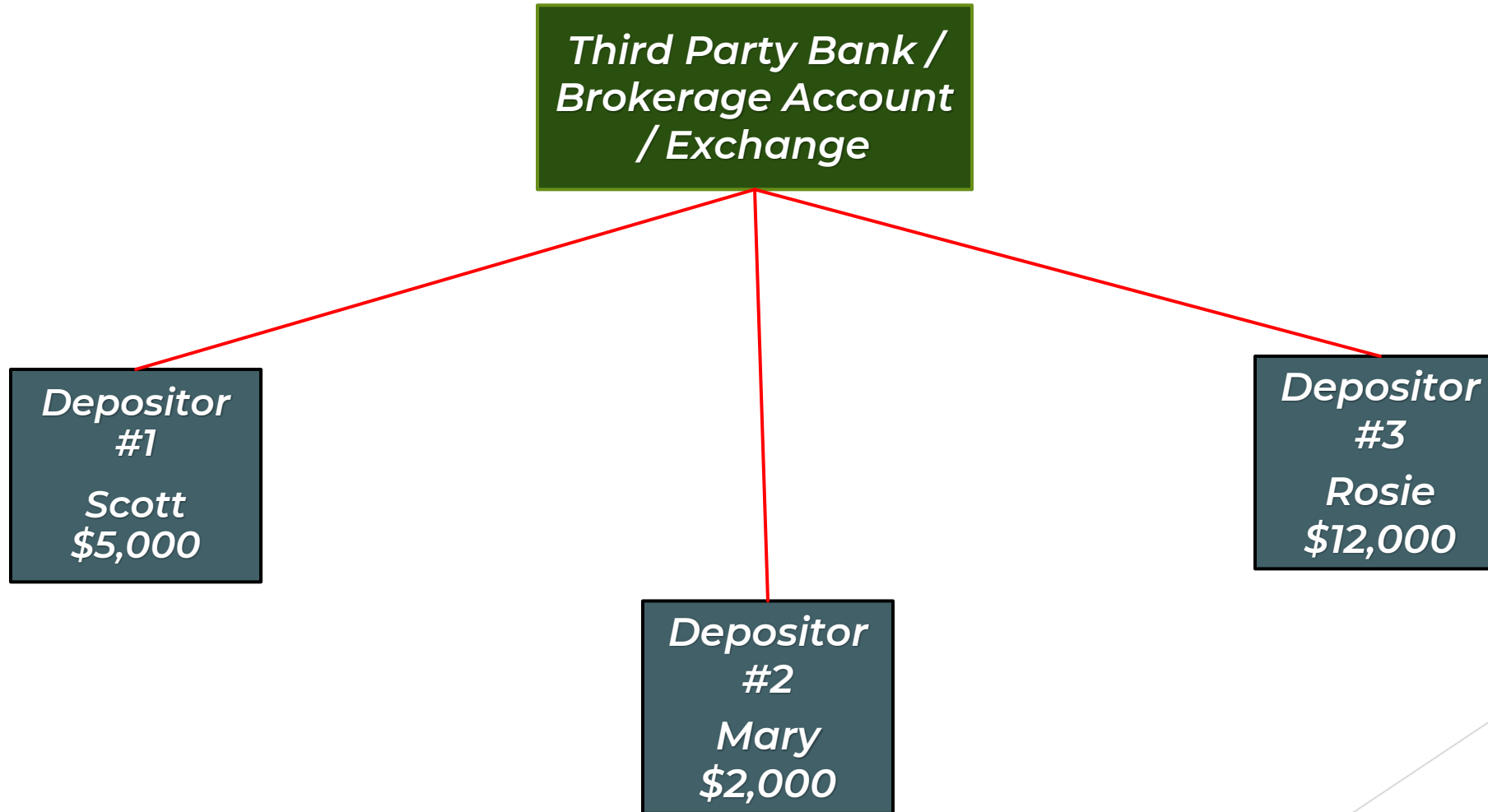
- ▶ Blockchain “Wallets” (Decentralized)
 - ▶ Paper Wallet (“old school” – just a piece of paper)- Cold Storage
 - ▶ Hardware Wallet (a specialized device that is not internet connected)- Cold Storage
 - ▶ Software Wallet (an application – PC / Mac / Mobile)- Hot Storage
- ▶ Third Party Exchanges (Centralized)-
 - ▶ Not really a wallet
 - ▶ Ex. Coinbase, Kraken
- ▶ Financial Institutions or Applications
 - ▶ Venmo, E-Trade
- ▶ Spouses can transfer funds from exchanges to wallets, and vice versa

How Parties Hold Cryptocurrency

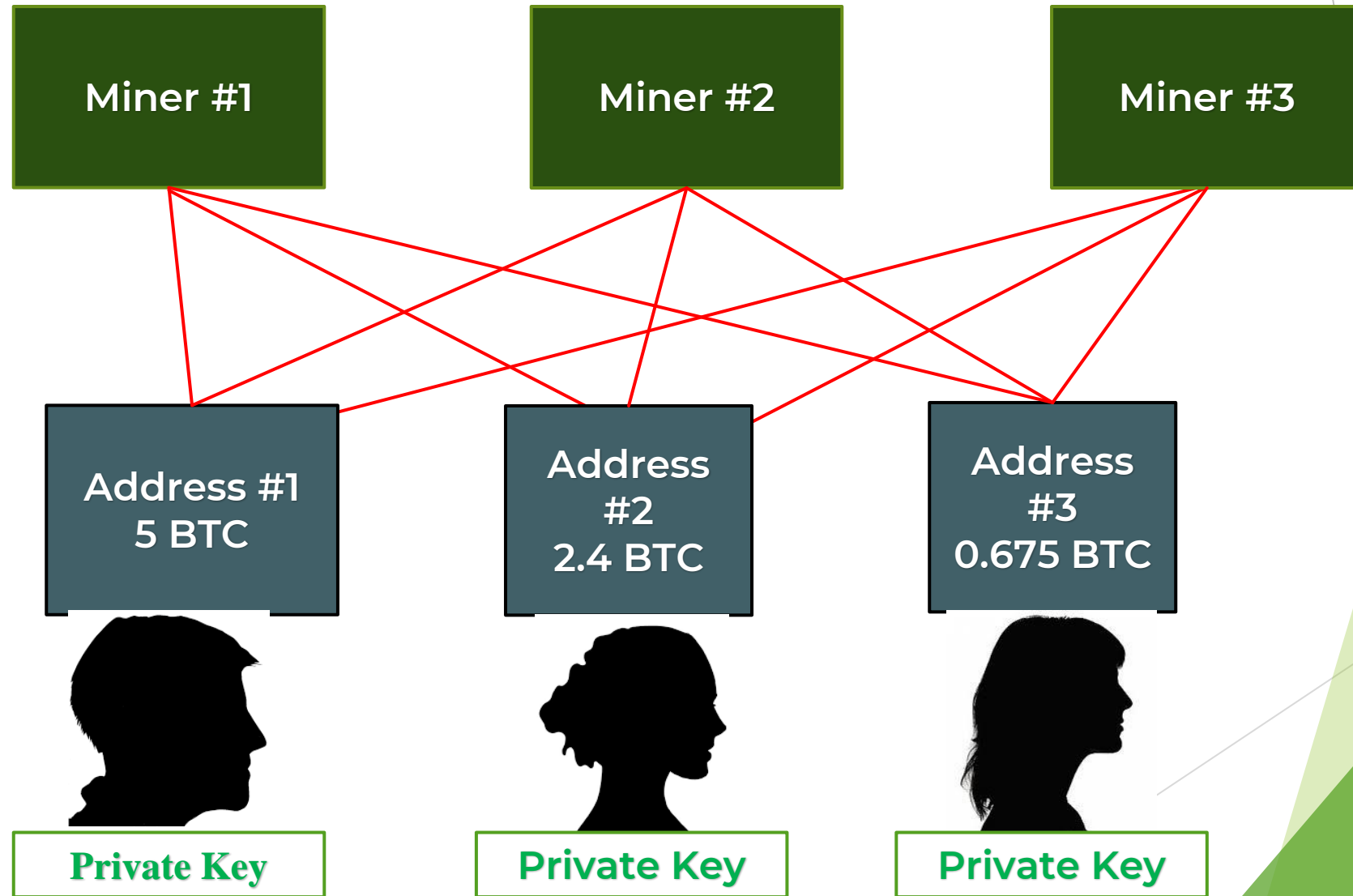
What is mining and why is it important?

- ▶ Double Spending- The fraudulent copying of cryptocurrency so it can be used more than once. The digital coin can be copied and spent while the holder keeps the original.
- ▶ Miners- Cryptocurrency auditors. Anyone can be a miner. Monitor the blockchain to be sure that coin is not spent twice. Similar to comparing serial numbers on bills for every transaction.
- ▶ Miners can be large companies or individuals.
- ▶ Large scale mining can take significant energy and very loud.
 - ▶ Red Dog Technologies ruling in Tennessee

Centralized Model



De-Centralized Model (The Blockchain Model)

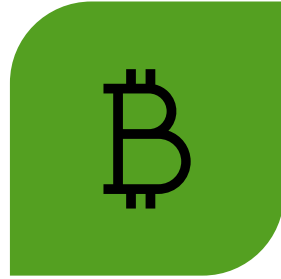


How Parties Can Obtain Cryptocurrency



- ▶ Buying with an Exchange
- ▶ Buying peer to peer
- ▶ Bitcoin ATMs & www.localbitcoins.com
- ▶ Other Ways to Obtain Cryptocurrency
 - ▶ Receive for goods & services
 - ▶ Receive as a gifts
 - ▶ Borrow
 - ▶ Mining

How Parties Can Dispose of or Hide Cryptocurrency



LIMITED NUMBER OF
MERCHANTS ACCEPTING
CRYPTOCURRENCY
(WWW.OVERSTOCK.COM,
LAMBORGHINI, ETC.)



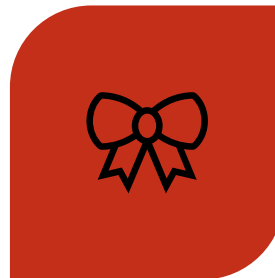
DARK WEBSITES



CRYPTOCURRENCY DEBIT CARDS
AND ATMS



TRANSFER TO THIRD
PARTY WALLET



PURCHASE GIFT CARDS WITH
BITCOIN (WWW.EGIFTER.COM)



TUMBLERS OR MIXING SERVICE

Questions for parties in Cases

Is a party very tech savvy?

Has a party ever owned cryptocurrency?

When did they buy in? Money lost / gained?

If so, did they buy and sell on an exchange, or did they receive cryptocurrency for goods and services?

If so, how did the party store and transact in cryptocurrency?

Did a party use cryptocurrency as part of their trade or business?

Where does the party keep their important records? Does the opposing party have access to them?

What electronic devices does the party own?

Does one party have physical access to the other party's electronic devices, such as computers, phones, and tablets?

- ▶ Bank Accounts & Credit Card Statements
- ▶ Venmo, E-Trade, Other Apps or Institutions
- ▶ Tax Returns
- ▶ Legal Discovery & Depositions
- ▶ Subpoenas to Exchanges
- ▶ Loan Applications or Net Worth Statement
- ▶ Obtaining Alternate Assets
- ▶ The Public Blockchain
- ▶ Forensic Expert Analysis of Electronic Devices
- ▶ Physical Location of Private Keys

Finding Cryptocurrency & Collection





Tulip Mania: A Brief Word on NFTs

- ▶ NFT= Non-Fungible Token
- ▶ A unit of data stored on a blockchain that can be sold and traded.
- ▶ NOT A UNIT OF CURRENCY
- ▶ Can include photos, videos or audio.
- ▶ Each token is uniquely identifiable
- ▶ Almost like a digital copyright that can be tracked on the blockchain
- ▶ Significant loss in value over past year

Concerns to Keep in Mind in Divorce Cases

- ▶ **Active/Passive Income-** Usually active, but can be passive
 - ▶ Proof of Stake- Ethereum 2, Cardano, Polkadot
 - ▶ Interest Bearing Crypto Accounts- Nexo, Celsius
 - ▶ Mining
 - ▶ Dividend Earning Tokens- KuCoin Shares
- ▶ **Separate property**
- ▶ **Discovery-**
 - ▶ Request the wallet, private keys and public keys
- ▶ **Expert needed?** Blockchain analysis
- ▶ **Valuation-** Many currencies are not stable and swing wildly in value
- ▶ **Wasting claim?** Breach of Fiduciary Duty?

Cryptocurrency Discovery Requests

Cryptocurrency. Any and all documents or information that reflect transactions pertaining to cryptocurrency including, but not limited to a transaction history from any exchange you may have used to purchase or sell cryptocurrency, a copy of the wallet, private key, public key, transaction history and any and all exchange information related to any cryptocurrency purchased or received by you or your spouse or sold or traded by you or your spouse or for the benefit of you or your spouse. (You may want to include instructions on how to obtain a transaction history from a particular exchange)

- Interrogatory-
 - If you, at any time, have invested in, received or purchased any form of cryptocurrency, state:
 - The type of cryptocurrency you have/had and the amount;
 - public key of any cryptocurrency you may have or had;
 - The location of any wallet storing your cryptocurrency information and the form of that wallet;
 - The private key of any cryptocurrency you may have or had;
 - The name and contact information for any exchange, party, business or institution with which you have transacted.

Blue Sky

Coinbase

Taxes | Coinbase Account

+

accounts.coinbase.com/taxes/activity

Managed bookmarksChrome River » LoginIntranetTexDocsBlue SkyBroadway Tickets |...State Bar of Texas |...Practice Managers ~...MATH STARS | SSES...QDRO linkTC Travis Civil DocketEmpower RetirementW WincBackdoorWellright

coinbaseACCOUNT

Profile

Taxes

Taxes

Summary

Activity

Documents

Preferences

2021

All assets

Taxes last updated January 26

We're making some improvements to the taxes and can't display your latest tax activity. Check back soon.

Realized gain

\$0.00

Long term

\$0.00

Short term

\$0.00

Miscellaneous income

\$0.00

Your tax activity

Showing all activity for 2021

Date	Activity	From	To	Tax impact
12/11/2021	Buy	\$10.00	57.5687 IOTX	
12/6/2021	Buy	\$10.00	0.3593 AUCTION	
12/4/2021	Buy	\$20.00	0.0004 BTC	
12/4/2021	Buy	\$20.00	0.6362 DOT	

- ▶ The Blockchain (for BTC and many other CC) is PUBLICLY AVAILABLE –
- ▶ It's a Giant, Distributed Ledger with every detail of EVERY BTC TRANSACTION – EVER
- ▶ BTC Blockchain = 435 GB
- ▶ Everything about the transactions is PUBLIC, EXCEPT:
 - ▶ The Private Key of the sender
 - ▶ *The IDENTITIES* of the individuals / entities behind the transaction(s)

Cryptocurrency Investigation 101

Refresher Course

CONSEQUENCES AND RISK OF LOSS

THE PRIVATE KEY IS EVERYTHING. YOU LOSE IT, OR IT GETS STOLEN BY HACKERS – YOUR CRYPTO IS GONE – **FOREVER**

- **Estimated \$155.4 Billion in Bitcoin Lost**
- ***ANYONE WITH ANY DEGREE OF SOPHISTICATION AND SIGNIFICANT HOLDINGS IN CC IS GOING TO HAVE THEIR PRIVATE KEY(S) SECURED AND BACKED UP***

Common Misconception:
Crypto is untraceable.

- Recent Arrest- \$4.5 Billion Laundering Scheme for 2016 Hack
- 337 arrested in child pornography ring from blockchain tracing
- FTX- Half a billion stolen- Can't liquidate it

TRACKING CRYPTO USE

▶ **BLOCK CHAIN ANALYSIS**

- ▶ Bespoke Analysis of known Addresses / Transactions and related efforts to tie individuals / firms to transaction activity
- ▶ Big Data Projects / Subscription Services / Software

▶ **DISCOVERY REGARDING EXCHANGES USED AND SUBPOENAS TO EXCHANGE(S)**

- ▶ History Reports- Coinbase and other exchanges generate transaction history and tax documents
- ▶ Coinbase: Subpoenas to registered agent-
 - ▶ <https://help.coinbase.com/en/coinbase/other-topics/legal-policies/who-do-i-contact-for-a-subpoena-request-or-dispute-or-to-send-a-legal-document>

▶ **PHYSICAL SEARCHES FOR EVIDENCE OF USE**

- ▶ Cash Withdrawals
- ▶ Bank Account Transfers
- ▶ Venmo? E-Trade?

▶ **FORENSIC ANALYSIS OF A USER'S DEVICES & DATA**

- ▶ FOR EVIDENCE OF USE **AND** DATA THAT CAN BE USED TO TRACE / ANALYZE BTC TRANSACTIONS / ACTIVITY

Searching for Evidence of CC Use in DATA SETS

Public Addresses

BTC addresses start with the character 1 or 3, are 34 characters long

For example:

1AMdziK76JwP6DzEGyB9ruddBxQhM1oeZE

Ethereum addresses start with 0x and are 42 characters long.

For example:

0x66febdddc377e2ee0b997c72b76d12c4aa2ce9be

Public addresses (and private keys) may also be stored in the form of QR Codes:

QR Code for 12kH6FFv7WTydQxaZySkSR1HqN6MNvBqVV



SEARCHING FOR EVIDENCE

Wallets MUST be stored in some form:

(Remember: Lost Private Key = Lost \$ - Forever)

- ▶ **Software Wallet** on PC / MAC / Mobile Device
- ▶ **Online Wallet / Exchanges-** accessed through web
browser / internet (***Search History!!***)
- ▶ **Hardware Wallet**
- ▶ **Paper 'Wallet'** (yes – paper) – produced for the user by a third-party service
- ▶ **"Crypto Steel" for seed word list**
- ▶ **Seed Words-** 12 to 24 words that represent the private key number



Searching Collected Data

- ▶ Various Forensic Tools are well suited to searching from a user's devices or obtained through discovery for PUBLIC ADDRESSES
 - ▶ AXIOM (Native Searching Utility for BTC Public Addresses)
 - ▶ FTK & EnCase (Can search for BTC Public Addresses using Regular Expression `[13][1-9A-HJ-NP-Za-km-z]{26,33}<`)

Check the Default Location

- ▶ If you can locate and recover the user's **wallet file** you have hit the Mother Lode as this will contain **private keys, addresses, seed phrases, transaction records and other metadata**.
- ▶ Default location of **wallet.dat** file in Windows =
C:\Users\YourUserName\AppData\Roaming\Bitcoin
- ▶ The default locations for wallet files in other OS can be at found at
https://en.bitcoin.it/wiki/Data_directory

BEWARE! Easy for the user can change the default location or the name on the file!

TRACING ACTIVITY ON THE BLOCKCHAIN

One or more Crypto Addresses which evidence shows have been used by a party have been located.

NOW WHAT??

- *Current Status and Location*
- *Determine Nature and Number of Transactions*
- *Value Now or at Time of Transfer*

- ▶ IF they have access to Reactor (Chainalysis) or Elliptic

Run the address in that tool – Simply the BEST Method

IF NOT:

- ▶ Search Address in **WalletExplorer.com** (and other BTC explorers) to find RELATED addresses
- ▶ Search BTC Addresses in GOOGLE (YES, Google) - You may be surprised what comes up!
- ▶ Search address in /bitcoinwhoswho.com

ADDRESS ATTRIBUTION:
What the attorney/expert will do




TRACING ACTIVITY ON THE BLOCKCHAIN

To obtain further info on a single address (or group of addresses that did not come from the same wallet)

Got to:

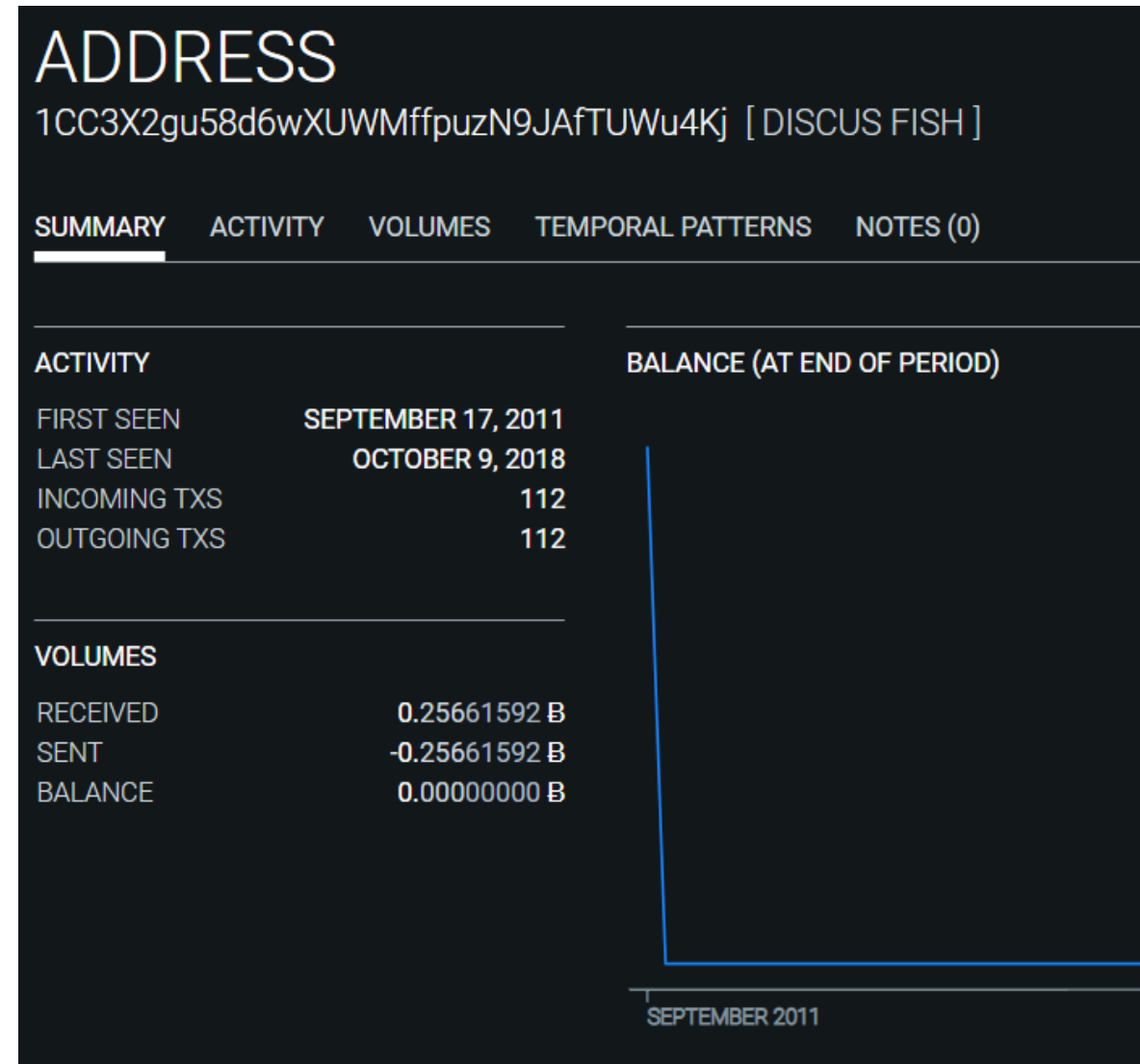
<https://www.blockchain.com/explorer> and type the address

You will see a result like this:

Summary		
Address	1CC3X2gu58d6wXUWMffpuzN9JAfTUWu4Kj	
Hash 160	7ac00f979ff0df2fdcb65761dc8f9ef8b37142db	
Transactions		
No. Transactions	224	
Total Received	0.25661592 BTC	
Final Balance	0 BTC	

TRACING ACTIVITY ON THE BLOCKCHAIN

- There are many blockchain browsers –you can't use just one. Here is the same address from above in [OXT.ME](https://oxt.me)
- Can't export history data the way noted above – but in addition to being very informative at a glance -



CLUSTERING & VISUALIZATION TOOLS

There are several tools available that can be utilized very effectively to do clustering, visualization and data mapping to assist an investigation:

- ▶ **NUMISIGHT** - Free software tool provides consolidated address (or hash) searching features and data filtering and visualization tools with a simple interface
[bitbucket.org/numisight/explorer/downloads]
- ▶ **MALTEGO** – very useful data mapping and visualization tools – also capable of searching ‘non blockchain’ sources for info about addresses and incorporating into results / data maps. [www.Paterva.com]
(Desktop and Server Versions from \$1K - \$40K)

CLUSTERING & VISUALIZATION TOOLS

Entering

[1CC3X2gu58d6wXUW
MffpuzN9JAfTUWu4Kj]

to the address search
bar in the Numisight
free software tool
provides this output

Numisight Bitcoin Explorer

Canvas	Transactions (667) Addresses (1) Coins (118371) Configuration						
	Shown	Hash	Inputs	Outputs	Unspent	Time	BTC
Data	<input type="checkbox"/>	2aab80cf...	1	1	1	2018-10-09T15:02:15	B 0.0007726
	<input type="checkbox"/>	137fd46...	1	1	0	2018-10-09T15:02:15	B 0.00090364
	<input type="checkbox"/>	6101ef8...	1	1	0	2018-08-10T04:16:15	B 0.00001062
	<input type="checkbox"/>	58356c9...	1	2	0	2018-08-10T04:16:15	B 0.00027716
	<input type="checkbox"/>	bf4f183d...	1	1	0	2018-08-01T16:16:04	B 0.00027049
	<input type="checkbox"/>	0656393...	1	2	0	2018-08-01T16:16:04	B 0.00124937
	<input type="checkbox"/>	d26c248...	1	1	0	2018-01-11T06:50:09	B 0.00004
	<input type="checkbox"/>	559a4c0...	1	2	0	2018-01-03T00:28:59	B 0.02716818
	<input type="checkbox"/>	7b766bc...	1	1	1	2017-08-04T12:59:19	B 0.00000548
	<input type="checkbox"/>	c6b63e5...	1	2	1	2017-08-04T12:29:11	B 0.00007245

DANGER!! Dark Web Searches

Be Cautious Searching the Dark Web!!!

- Use DW Search Engines – eg: “not Evil”
- *(you can find the url in google – but you can only get there through TOR... (.onion))*
- The Dark Web is a dangerous place – Malware / spyware / etc.
- USE TOR where necessary (.onion domains)
- USE A VPN for everything Else (*NO FREE VPN's!*)



Need an Expert To:

- ▶ Track and Trace
- ▶ Compile Data
- ▶ Testify to Results
- ▶ Forensic Analysis
- ▶ Valuation?

Cryptocurrency's values generally fluctuate wildly over time.

-Scary or Exciting for Investors

-NIGHTMARE for Lawyers and Judges

From an investigative standpoint, trying to analyze transactions and draw conclusions about the movement of funds over time IN DOLLARS can be extremely complicated

- ▶ Value over time- Examine the fluctuation over time to determine volatility
- ▶ Coinbase and Other Exchanges: History of fluctuations in value over time
- ▶ bitinfocharts.com is an excellent tool for viewing the transaction history of a specific Address – with an overall chart in US Dollars and BTC ; and each transaction in the history shown in BTC AND US Dollars at the date of the transaction.

Crypto Value Fluctuation Over Time

Cryptocurrency and Taxes

- ▶ No new regulations issued. Cryptocurrency is to be reported the same as any other “property” under the old tax laws.
- ▶ Advise client regarding capital gains taxes.
 - ▶ Held less than a year = Short term capital gain
 - ▶ Held over a year= Long term capital gain
- ▶ IRS Revenue Bulletin 2014-16, Notice 2014-21.
- ▶ IRS Revenue Ruling 2019-24 & FAQ Released by the IRS in August 2019
- ▶ Cryptocurrency is considered property by the IRS. Type of property depends on its usage:
 - ▶ Passive or Active Income?
 - ▶ Miners must report currency paid as gross income
- ▶ Tax Evasion is rampant- Watch for new federal rules and regulations

Experts

Thanks to the following experts for some of the information used in this presentation

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Questions?

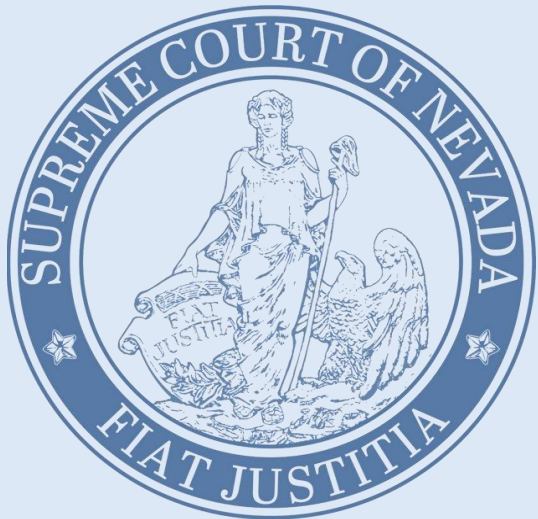
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