SAR WARS

Writing for Law Enforcement vs Writing for Examiners

June 2016
PRESENTED BY

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BANKERS TOOLBOX INC

AND ANDREW LEE, SPECIAL AGENT,
U.S. TREASURY
Agenda

- Do’s and Don’ts of SARs
- Keywords
- Trends
- Key Takeaways
- Questions and Answers
Do Use Your Resources!

- Electronic Filing Requirements for the FinCEN Suspicious Activity Report (FinCEN SAR)
- FinCEN SAR FAQs
- FinCEN’s 2003 SAR Guidance
- FinCEN 314(b) Information Sharing
- FinCEN’s SAR Review by the Numbers
- For MRB Related SARs - The Cole Memo
- FFIEC Exam Manual
Do Use Your Resources!

- FFIEC Exam Manual Appendix L

- Who - Who was involved?

- What - What is the activity you think is suspicious?

- When - When did the activity occur and when did you discover it?
Do Use Your Resources!

- FFIEC Exam Manual Appendix L Continued
  - Where - Where did the activity occur?
  - Why - Why do you think the activity - or the customer - is suspicious?
  - How - How did the activity occur?
Do Be Specific!

- FinCEN BSA E-Filing FAQ #1 -
  - “may leave non-critical fields without an asterisk blank when information is not readily available.”

- Use keywords.

- Indicate where the money is now.

- List the supporting documents for the SAR and how law enforcement may request the supporting documents.
Don’t Speak in Acronyms!

- Don’t use banking jargon or acronyms.

- If you must use an acronym, define it the first time you use it.

TMAA
Tell me about acronyms
Do Use a Strong Opening Statement

- Start your narrative with the hook!

- Incorporate the activity you checked off in Part II into your first few sentences.

- If you can, tie the activity to a Specified Unlawful Activity (SUA) - this helps law enforcement!
Don’t Start the Narrative with a History of the Bank

- If you do want to include a history or profile of the bank - include it at the end.

- Include the history of the customer - after you have detailed the suspicious activity.
Do Use the Attachment!

- Designed to include “additional suspicious activity information not suitable for inclusion in the narrative.”

- The file must be an MS Excel-compatible comma separated value (CSV) file with a maximum size of 1 megabyte.

- Enter the activity as it occurred.
Don’t List all of the Transactions in the Narrative

- Provide a description of the activity you observed, or a sample of the activity - but do not list all of the transactions!

- Example: During the review period, the customer made 42 cash deposits ranging in amounts from $8,500 - $9,900, for a total of $404,400 in cash, and never exceeded the reporting threshold.

- The Narrative is not the place for a listing of transactions!

- Clarify totals in the narrative.
### Compare and Contrast

This is an auto dismantling business, cash intensive. It appears that deposits are structured within a day or a few days to avoid the currency transaction reporting. Structured cash deposits and wire activity:

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**Count:** 36

**Value:** 355,239 269,650 35,847
Do Cover Both Sides of The Equation

- Include the Source of funds and the use of funds -
  
  - Even if the suspicious activity is only on one side!
Do Double Check Your Work!

- If it’s in your narrative, is the box checked, is the subject included?

  - If you have mentioned a subject or checked a box, did you explain it in the narrative?

  - Check your math!

  - Check your spelling!
Other Helpful Reminders

- Don’t forget about loan SARs.
- Be Timely - Investigations & Filings
- Look Backs - Are you going back far enough?
- Include pictures if possible
- Document, document, document No SAR decisions!
- Reach out to Law Enforcement!
Important Reminders

- Use a standard format to identify the bank or banking organization. This makes it easier for an investigator to follow up.

- Filing a SAR is not the equivalent of calling a Federal Law Enforcement Agency and asking them to investigate a customer. Filing a SAR simply puts information about the individual and the transaction(s) into a database.

- Contact law enforcement agencies directly if appropriate before or after the filing of the SAR.
Important Reminders

- Law enforcement doesn't pursue every suspicious report. They look for patterns. If a customer is actually innocent, then the report will probably never be noticed. But if your customer is part of a bigger undertaking, your SAR may be a critical piece of evidence.

- What is suspicious? Anything that is not normal or clearly related to the consumer's reasonable banking transactions
Keywords

The list is always changing based on trends, investigative findings and contact with financial institutions. Some keywords include:

- Tax Evasion
- Structuring
- Money Laundering
- Bankruptcy Fraud
- Bulk Cash
- Law Enforcement
- Unregistered MSB
- Political
- Medical Marijuana
TRENDS

▶ Bi-coastal transactions
  ▶ Important to work with your East Coast counterpart to make a complete assessment of the transactions.

▶ Overseas transactions
  ▶ Trade based money laundering
    ▶ Are you seeing transactions that don’t match the account’s purpose – Clothing Store is wiring funds or receiving funds from an electronic company in China
Trends

- **Mexican Money Regulations**
  - Structuring money into US accounts then wiring to Mexico.
  - Using MSB to move US Currency

- **Medical Marijuana**
  - DEA is looking at all SARs related to medical marijuana facilities.
What are you seeing? Law enforcement relies on financial institutions, as the front line, to see emerging trends in suspicious transactions.
Trends

- Paying employees in cash
- Writing checks to cash
- Deposit cash into personal accounts when they have business accounts
Closing Accounts

After a SAR is filed or a criminal subpoena is received, an institution may want to close the subject's account(s).

As a courtesy, please contact the law enforcement officer who served the subpoena or requested supporting doc’s prior to closing the account.

A LEO may submit a written request issued by a supervisory agent or by an AUSA requesting the account remain open for at least 6 months.

Financial institutions are not required to keep the account open.

Do not keep the account open if there is the possibility a loss may be experienced except in special circumstances.
Contacting Financial Institutions

- What information can banks provide to law enforcement without a subpoena or SAR?

- 12 USC 3413g
  - Disclosure pursuant to legitimate law enforcement inquiry banks can provide the name, address, account number, and type of account of any customer or ascertainable group of customers associated with a financial transaction or class of financial transactions
Key Takeaways

- Be Specific
- Use the Attachment
- Double Check Your Work
- Reach Out to Law Enforcement
THANK YOU
QUESTIONS?

In addition to the ACAMS Chapter Webpage you can also find us on LinkedIn at
http://www.linkedin.com/groups?gid=2202988&trk=myg_ugrp_ovr
Follow us on Twitter @ACAMSOCAL
Feel free to send any suggestions or comments to:
socalacams@yahoo.com.