



What is the Opioid Epidemic and What Can Financial Institutions Do to Help Stop it?

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What is the Opioid Epidemic and What Can Financial Institutions Do to Help Stop it?

Executive summary:

There is an epidemic in this Country that is transcending age, race, gender, and economic status. It is clearly one of the most unrelenting concerns of our times. It is the opioid epidemic. Statistics show that close to 50,000¹ people in the United States died in 2016 from an opioid overdose, including heroin. For perspective, that one-year casualty figure is comparable to the number of people who died in the Viet Nam conflict that spanned a ten-year period. Federal and state law makers, as well as local, state, and federal law enforcement, have awoken to this all-too-clear and present danger and are now working to understand it and formulate new laws in order to combat its devastation. Since the 1970 implementation of the Bank Secrecy Act, financial institutions have had reporting requirements that were designed to identify drug traffickers by following their money. However, given today's current crisis, the question must be asked: are these measures enough to assist in the battle against opioid distribution and addiction in this country? And, do financial institutions not have a role, even a critical one, in battling this plague that has destroyed so many individual lives, families, and entire communities?

The purpose of this white paper is to expose the people and organizations culpable for the opioid crisis in the United States and identify ways in which financial institutions can work to great effect in stopping the deadly epidemic.

Opioids – What are they and what are they used for?

Opioid - adjective opi-oid \ 'ō-pē- ,ōid \²

1. possessing some properties characteristic of opiate narcotics but not derived from opium
2. of, involving, or induced by an opioid

Opiates are similar to opioids; however, opiates are considered natural because they are derived from the opium poppy by separating and purifying the various chemicals in the poppy. Opioids differ from opiates because they are chemically altered, synthetic opiates. One form of an opiate is heroin. Users of heroin describe the initial rush, as a strong euphoric wave, with a sense of mental, physical, and emotional wellbeing.³

“Since 1914, doctors have been prescribing opioids for pain relief. Opioids work by binding to opioid receptors in the brain, spinal cord, and other areas of the body. They reduce the sending of pain messages to the brain and reduce feelings of pain”, according to WebMD. ⁴ Opioids are routinely prescribed for all types of pain, including post-surgical pain, chronic pain caused by illness or injury, and even for someone suffering from common cold or flu symptoms. Codeine is

¹ Drug War Facts website

² Merriam-Webster dictionary, updated 12/12/17

³ Drugfoundation.org.nz/heroin-opiates

⁴ www.webmd.com/pain-management/guide/narcotic-pain-medications

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an opioid and can be found in many cough suppressants that are prescribed to someone with a cold or the flu.

Opioids include: methadone, morphine, hydrocodone, buprenorphine, and oxycodone. These opioids are marketed under the following brand names: OxyContin, Vicodin, Percodan, Percocet, Tylox, and Demerol.⁵ Heroin is an illegal opiate.

History of Opioids⁶

1861-1865 – Medics started using morphine during the Civil War to help soldiers deal with the pain of their injuries.

1898 - The Bayer Company started to market heroin.

1914 – Doctors were required to write prescriptions for narcotics after Congress passes the Harrison Narcotics Act.

1924 – Heroin becomes illegal in the United States by the Anti-Heroin Act.

1970 - The Controlled Substances Act becomes law. It creates schedules of drugs based on abuse potential. Heroin is a Schedule I drug while fentanyl, morphine, oxycodone, and methadone are Schedule II drugs.

January 10, 1980 - A letter titled "Addiction Rare in Patients Treated with Narcotics" is published in the New England Journal of Medicine. This study was not considered a scientific study because it only considered incidences of addiction in a specific group of patients in a hospital who were monitored closely. Regardless, it was cited as proof that narcotics were a safe treatment for chronic pain.

1995 – Purdue Pharma starts to aggressively market OxyContin as a safer pain pill.

May 10, 2007 – Purdue Pharma is charged criminally for false advertising OxyContin as a safe alternative to other opioids.

May 20, 2015 - The DEA arrests 280 people, including 22 doctors and pharmacists, after a 15-month sting operation focused on health care providers who dispense large amounts of opioids. The sting, known as "Operation Pilluted", is the largest prescription drug arrest in the DEA's history.

March 18, 2016 - The Center for Disease Control issues guidelines for prescribing addictive opioids for patients with chronic pain. The guidelines include recommending acetaminophen and Ibuprofen rather than opioids to control pain. They also recommend promotion of exercise and other behavioral changes to cope with pain.

⁵ www.naabt.org/faq_answers.cfm?ID=4

⁶ CNN Health – Opioid Crisis Fast Facts

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March 29, 2017 – The Federal Government acknowledges this problem as President Trump signs an executive order to establish the President's Commission on Combating Drug Addiction and the Opioid Crisis.

July 31, 2017 - The nation's opioid epidemic is reviewed by a White House Panel and they ask President Trump to declare a national public health emergency to deal with the crisis.

August 10, 2017 - President Trump directs his administration to use all appropriate authority to respond to the opioid emergency.

October 26, 2017 – Due to the opioid crisis, President Trump declares a national public health emergency which provides access to resources and funding for prevention program.

This timeline reveals that opioids were not recognized as a habit-forming narcotic until the early 90's and therefore, not treated as such. By then pharmaceutical companies and doctors were profiting by prescribing these drugs to anyone with pain issues. Distribution of opioids was not monitored and therefore, people were getting addicted. Before any changes could be made in how doctors prescribed this narcotic, people were legally getting prescriptions for opioids and reselling the pills to people who had developed an addiction.

Heroin, an illegal opiate, is often substituted for opioids once someone is addicted because it is easier to obtain and cheaper than opioids⁷. Since it is illegal, it isn't regulated and sometimes is mixed with fentanyl, a powerful prescription painkiller. According to the National Institute on Drug Abuse, fentanyl can be made by illegal drug labs and sold to drug dealers to cut heroin. This combination is even more deadly than heroin alone.

Because of this, our Country is in the midst of a growing drug problem that is killing people at an alarming rate each year.

History of the Bank Secrecy Act. How is it Relevant to this Epidemic?

The Bank Secrecy Act (BSA) was passed in 1970. It included reporting requirements such as the Currency Transaction Report (CTR). The purpose of the CTR was to help Law Enforcement find proceeds, derived from illegal activities, primarily drug trafficking. Since criminals want to remain anonymous, most illegal transactions are conducted with cash which is harder to trace than other forms of payment. Criminals need to launder this cash so the money appears to be legitimate. Money laundering involves a process of placement, layering and finally, integration. Placement is getting the money into the financial system. Layering is moving the money around to conceal the source. If the launderer has done these two steps successfully, he can then integrate the money which is introducing the proceeds into legitimate commerce. CTRs were designed primarily to catch the placement of cash into the financial system. In 1986, the Money Laundering Control Act, referred to as, the "Anti-Drug Abuse Act of 1986" was passed making money laundering a Federal crime. Then in 1994, Suspicious Activity Reporting (SAR) was made a requirement with the passing of the Annunzio-Wylie Money Laundering Suppression Act. With this requirement, financial institutions are now required to report activity that they suspect is

⁷ National Institute on Drug Abuse: America's Addiction to Opioids: Heroin and Prescription Drug Abuse

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intended to conceal the source of funds or any violation of the Bank Secrecy Act, such as structuring transactions to avoid CTR reporting. Suspicious Activity Reports (SAR) help law enforcement detect money laundering in the layering and integration stages.

The Financial Crimes Enforcement Network (FinCEN) was created in April 1990 under the Department of the Treasury. It was established as the Financial Intelligence Unit (FIU) for the United States. “Its original mission was to provide a government-wide, multi-source intelligence and analytical network to support the detection, investigation, and prosecution of domestic and international money laundering and other financial crimes”.⁸ Today FinCEN is still the intermediary between financial institutions with reporting requirements and law enforcement. Law enforcement uses the information provided by financial institutions for criminal investigations by accessing the CTR and the SAR reporting databases maintained by FinCEN.

In May of 2017, the New York State Police was given an award from FinCEN for identifying over 100 individuals involved in a large illegal operation and seizing drugs, firearms, cash, and vehicles from that organization. The details of the case are as follows:

The New York State Police Special Investigations Unit at the Financial Crimes Unit (FCU) identified suspicious transactions occurring in the Hudson Valley Region indicative of money laundering as part of Suspicious Activity Report review initiatives. The impetus for the investigation was a single financial institution reporting an unusual pattern of cash deposits. The reporting bank indicated that it believed much of the cash was derived from the illegal sale of marijuana. The funds were rapidly withdrawn from ATM locations across the United States. Investigators identified many additional reports containing sensitive financial information, dating back another year, indicating similar activity in this account.

Further investigation demonstrated that these individuals were connected to a larger criminal organization than originally believed, allowing the organization to be considered an “enterprise” and eligible to be charged under the Racketeer Influenced and Corrupt Organizations Act commonly known as the RICO Statutes.

Investigators discovered extensive criminal histories for many of the individuals associated with this organization, including narcotics and firearms possession charges on several individuals. The Special Investigations Unit initiated a criminal investigation, and the two parallel investigations led to the identification of expansive criminal organizations responsible for bringing large quantities of narcotics into the region, operating business fronts used to launder funds, weapons trafficking, bulk cash smuggling, and extensive gang activity, including murder. Over 100 individuals belonging to several different street and prison gangs were identified, ranging from leadership to low-level associates, along with residences and vehicles belonging to these individuals.

As a result of this multi-agency investigation, law enforcement successfully seized 16 firearms, 14 kilos of cocaine, 12 pounds of marijuana, 90 grams of crack cocaine, 153 grams of heroin, 75

⁸ <https://www.treasury.gov/about/history/Pages/fincen.aspx>

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oxycodone pills, \$200,000 in cash, and several vehicles. Coordinated efforts resulted in the arrest and indictment of 55 individuals in the Northern and Southern Districts of New York.⁹

In another case, two alleged drug dealers were charged in January 2017 for opioid distribution and money laundering. Jose Colon-Lora and Jorge Rivera were indicted on first-degree conspiracy and money laundering, second-degree possession of furanyl fentanyl with intent to distribute and third-degree possession of furanyl fentanyl. In addition, authorities discovered over \$700,000 in cash stashed away in the apartment.¹⁰ The amount of cash stored up by these two alleged drug dealers demonstrates the profitability of the sale of illegal opioids. Criminals ultimately need to launder the money so that it appears to come from a legitimate source. To launder the cash, it must make it into the financial system which is why cash is viewed as being a source of deposit that financial institutions need to be cautious about.

It is illegal to reveal the existence of a Suspicious Activity Report, but when law enforcement mentions terms such as, “bulk cash smuggling”, and “money laundering” there is likely a connection between the discovery of the illegal activity and the criminal’s financial transaction activity. The information transfer is usually done through the Suspicious Activity Report filing that it is stored in the FinCEN database after being filed by a financial institution. Comprehensive SARs, filed by financial institutions, can prove to be very valuable information to law enforcement. Through key word searches, law enforcement can find information related to a case they are currently working on or they can use the information to form a new investigation. This can be a combination of related SARs from the same financial institution or from different institutions filing on the same suspect or activity.

Some other cases that AML professionals should be aware of involve the illegal practices around distribution of legal drugs. This is arguably more difficult to detect than distribution of unlawful drugs, even though unlawful drug sales present a challenge because the transaction usually involves cash since cash does not leave a trail leading back to the seller or buyer. When someone has a license to prescribe opioids that are legal but they abuse it by over prescribing or prescribing them unnecessarily, it can be much more difficult to distinguish a legal transaction from an illegal one.

A pharmaceutical company operated by John Kapoor, Insys Therapeutic, was the manufacturer of a Fentanyl spray. Kapoor bribed doctors to prescribe fentanyl spray to their patients unnecessarily. He was arrested in October 2017 for this illegal activity. The indictment also alleges that Kapoor and other Executives of Insys Therapeutic conspired to mislead and defraud health insurance providers who were reluctant to approve payment for the drug when it was prescribed for non-cancer patients.

⁹ <https://www.fincen.gov/news/news-releases/fincen-awards-recognize-law-enforcement-success-stories-supported-bank-secrecy>

¹⁰ <https://patch.com/new-jersey/mahwah/2-alleged-drug-dealers-charged-opioid-distribution-money-laundering-scheme-ag>

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“As alleged, these executives created a corporate culture at Insys that utilized deception and bribery as an acceptable business practice, deceiving patients, and conspiring with doctors and insurers,” said Harold H. Shaw, Special Agent in Charge of the Federal Bureau of Investigation, Boston Field Division. He continued with the following statement, “The allegations of selling a highly addictive opioid cancer pain drug to patients who did not have cancer, make them no better than street-level drug dealers. Today's charges mark an important step in holding pharmaceutical executives responsible for their part in the opioid crisis.”¹¹

In another case, Dr. Henri Wetselaar, a 93-year-old physician practicing in pain management, was found guilty of conspiracy to distribute controlled substances; distribution of controlled substances; money laundering; and structuring of money transactions.

Wetselaar performed house calls from his Las Vegas medical office. He was arrested for prescribing large amounts of prescription drugs, including oxycodone, hydrocodone, Xanax and Soma, to persons for no legitimate medical purpose.¹²

As stated earlier, this type of drug distribution is more difficult to detect than a street dealer selling drugs for cash.

Criminals are very aware of the CTR filing requirements and have developed methods for introducing their illegal proceeds into the financial system. Micro-structuring and the use of money mules are both methods designed to avoid the CTR reporting requirement, but most transaction monitoring systems have scenarios developed specifically to detect these types activity.

What about an account for a doctor receiving credits from insurance companies? They may even deposit cash without raising alarms since doctors will take co-payments in cash. This can be difficult to detect, but not impossible. First, financial institutions Anti-Money Laundering units should consider doctors, pain clinics, emergency care centers, and any organization that could possibly prescribe opioids, as potentially high risk. With a high-risk tag, they will be monitored on a more frequent basis under a sound Enhanced Due Diligence Program. This will enable an investigator to establish patterns and make a determination about whether the activity is reasonable given the geography, client base, and related businesses.

How are Opioids Distributed?

Legal opioids absolutely have a legitimate purpose in helping manage pain for people with severe cases of chronic pain or other short-term forms of discomfort, but such treatment must be under the supervision of an educated physician that prescribes the minimum dose necessary.

Distribution starts with the pharmaceutical companies who manufacture the drugs. Purdue Pharma is a pharmaceutical company that has been accused of inappropriate marketing campaigns for OxyContin. OxyContin, a powerful opioid drug, was advertised by the company

¹¹ <https://www.justice.gov/usao-ma/pr/founder-and-owner-pharmaceutical-company-insys-arrested-and-charged-racketeering>

¹² <https://www.justice.gov/usao-nv/pr/physician-sentenced-10-years-prison-distribution-oxycodone>

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as a non-addictive drug designed to treat most any type of pain symptom. Pharmaceutical companies also paid politicians and lobbyist groups to help them get the message out that opioids were a safe form of pain management. The Pain & Policy Studies Group, received \$2.5 million from pharmaceutical companies to promote opioid use and discourage the passing of regulations against opioid use in medical practice.¹³ Once the pharmaceutical companies have the doctors and clinics believing that this medication is safe to prescribe to pain sufferers, they will then more freely write prescriptions for opioids. But some doctors, like the ones in the cases described in this paper didn't need to be convinced. Greed motivated them. Once they realized that opioids appeared to work for patients and they continuously came back for more, they kept prescribing them. This led to another form of distribution. Patients who didn't have a medical need were given prescriptions to opioids and selling the pills on the street to others who found themselves addicted to the drug. In the past, it was relatively easy to obtain opioids for resale. Patients could go to multiple doctors and clinics to get prescriptions and fill them at different pharmacies to reduce the chance of being questioned. Today, however, most states have Prescription Drug Monitoring Programs (PDMP). A PDMP is an electronic database that tracks controlled substance prescriptions in a state. PDMPs can provide health authorities timely information about patients filling multiple prescriptions for the same medication at several locations within a short period of time.¹⁴ Opioid addicts whose doctors refuse to provide more drugs to them often end up succumbing to heroin use and addiction. Heroin is much cheaper and easier to obtain than prescription opioids. Most heroin comes into our country from South America and Mexico¹⁵ and is distributed by drug dealers working for the cartels.

Legal Intervention – What are State and Federal Governments Doing?

How can Financial Institutions Support the Effort?

Recently, the United States Government has started to recognize that opioid addiction is becoming a major problem that must be addressed. State Governments realized it sooner because people in their states were dying at a higher rate than ever before from overdoses. Massachusetts was the first State to enact a law to limit the number of Opioid pills prescribed at one time. That was in 2016 and since then, 24 other states have passed laws with some type of limit, guidance or requirement related to prescribing opioids.¹⁶

On October 26, 2017, President Trump stated, "This epidemic is a national health emergency. Nobody has seen anything like what is going on now."

He added: "As Americans, we cannot allow this to continue. It is time to liberate our communities from this scourge of drug addiction. Never been this way. We can be the generation that ends the opioid epidemic. We can do it." The President directed acting Health Secretary Eric Hargan to declare a public health emergency under the Public Health Services Act -- which directs federal

¹³ <https://www.addictions.com/opiate/the-role-of-pharmaceutical-companies-in-the-opioid-epidemic/>

¹⁴ <https://www.cdc.gov/drugoverdose/pdmp/states.html>

¹⁵ <http://www.businessinsider.com/heroin-in-the-us-from-mexico-and-afghanistan-2016-3>

¹⁶ <http://www.ncsl.org/research/health/prescribing-policies-states-confront-opioid-overdose-epidemic.aspx>

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agencies to provide more grant money to combat the epidemic -- not a national emergency through the Stafford Disaster Relief and Emergency Assistance Act.¹⁷

At the second annual Law Enforcement Awards Ceremony held in 2016 by FinCEN, the then Director, Jennifer Shasky Calvey stated the following:

'Without the valuable information that U.S. financial institutions provide, the significant cases recognized here today would likely never have seen the light of day. These awards represent a small sample of the work that goes on every day, across our country and with international partners across the world, to fight financial crime and terrorist finance. FinCEN is proud to act as the bridge between law enforcement and the financial industry, and we will continue to recognize and promote this important partnership.¹⁸

That year, a case investigated by several divisions of law enforcement, demonstrated how the use of information from SARs file by Financial Institutions help to solve criminal cases. The details of the case are described below.

Financial institution reporting played an important role in a joint investigation by the FBI, IRS-CI, and the United States Attorney's Office for the Northern District of California, which led to the dismantling of an organized criminal enterprise that participated in bank fraud, conspiracy to operate an unlicensed wholesale distribution of drugs, and money laundering.

During the initial stage of the investigation, a confidential informant provided the government with information regarding the primary suspect, a money launderer. With this information, the agents queried a database containing financial institution reporting regarding the suspect. A dozen reports, filed by five different financial institutions, revealed a large-scale criminal enterprise operating an array of criminal activities to include the sale of diverted pharmaceuticals and money laundering. The reporting provided investigators with a detailed list of bank accounts controlled by over 30 suspected individuals who established the accounts to launder their illicit funds.

The perpetrators formed multiple shell companies, some under false identities, for the sole purpose of liquidating their drug proceeds. According to the information provided by the financial institutions, the perpetrators withdrew over \$15 million in currency from one bank account over a two-year period. The financial institution reporting assisted the government's efforts to decipher the complex web of shell companies, false identities, and additional bank accounts utilized by the organization. Armed with the financial institution reporting, the team reviewed records related to more than 500 bank accounts.

During the course of the investigation, the government seized over \$28.6 million in cash from multiple bank accounts used to launder drug proceeds. The financial institution reporting was pivotal in providing near real-time information to identify bank accounts and account information in order to secure the seizure. In addition to the money seizure, the government seized over \$2.5

¹⁷ <http://www.cnn.com/2017/10/26/politics/donald-trump-opioid-epidemic/index.html>

¹⁸ <https://www.fincen.gov/news/news-releases/fincen-awards-recognize-partnership-between-law-enforcement-and-financial>

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million of street-diverted pharmaceuticals. A total of 33 individuals were arrested and convicted for various crimes tied to this case.¹⁹

There are in excess of 100 SAR Review Teams in the Country which are comprised of several federal agencies, state, city and local law enforcement, prosecutors and regulators.²⁰ These teams are devoted to reading each and every SAR filed and determining if a case should be opened by the information provided. It's important for AML Directors to establish relationships with local, state, and federal law enforcement. Through communication with Law Enforcement, Financial Institutions can obtain critical information concerning the types of crimes they are seeing in the bank's area of operation.

In addition, on December 4, 2017, FinCEN announced FinCEN Exchange, a program designed to enhance information sharing between law enforcement and financial institutions. In close coordination with law enforcement, FinCEN will conduct briefings on a regular basis with financial institutions to exchange information on priority illicit finance threats, including targeted information and broader typologies. Communicating with financial institutions on how to better identify risks and focus on high priority issues, will help FinCEN and law enforcement receive critical information in support of their efforts to disrupt money laundering and other financial crimes.²¹

How are Illegal Drug Proceeds Being Laundered?

As previously stated, criminals desire to hide illegal proceeds from their origin to keep from getting caught for their crimes. They have many creative ways of doing this. The unsophisticated drug dealer will simply deposit the cash to his own bank account that is structured to avoid CTR reporting. Banks can easily detect this type of activity through their automated transaction monitoring systems or well-trained tellers and will file SARs that will be reviewed by the SAR Review Teams.

Since structuring is easily identified by skilled investigators, criminals must find other ways to place their illicit proceeds into the financial system. Another laundering method used by criminals is to utilize shell companies similar to the case highlighted at the 2016 Law Enforcement Awards. The United States is one of the easiest countries to establish a shell corporation. Absent laws requiring beneficial owners of corporations to identify themselves, States can establish corporations anonymously. Most shell companies are established in Delaware, Wyoming, and Nevada because of their lax requirements. The difficulty in detecting a shell company that is being used to hide illegal proceeds, is that shell companies can be established for legitimate reasons such as, pooling investments and protecting trade secrets. With very little known about a shell company, it is challenging for financial investigators to determine if the transactions have a legitimate business purpose or not.

¹⁹ <https://www.fincen.gov/news/news-releases/fincen-awards-recognize-partnership-between-law-enforcement-and-financial>

²⁰ <https://www.acamstoday.org/benefits-of-a-sar-review-team/>

²¹ <https://www.fincen.gov/news/news-releases/fincen-launches-fincen-exchange-enhance-public-private-information-sharing>

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Law enforcement officers need the information provided by financial institutions to help put an end to drug cartels.

One case of drug dealers hiding money in shell companies was documented in “The Great Rip Off”.

The biggest of Mexico’s drug gangs is the Los Zetas cartel, whose former leader...[is] Miguel Ángel Treviño...From 2008, the Zetas used [anonymous] shell companies, in a scheme to launder millions of dollars of drug money into the United States, with the true ownership hidden behind front men. The money was hidden behind the purchase of race horses, some of whom were given names such as ‘Number One Cartel’ and ‘Morning Cartel’. The horses were incredibly successful and reported to win the cartel several million dollars. Fourteen people, including Treviño, were indicted on money laundering charges by the U.S. in 2012. Treviño was captured in Mexico in July 2013. As of September 2013, four co-defendants from the original indictment have yet to be caught. Nine people have been sentenced for their role in the scheme.²²

Since the federal government has not passed any law that would require disclosure of beneficial owners, FinCEN introduced the Beneficial Ownership Rule that will become effective in May of 2018. This rule enhances the existing Customer Due Diligence requirements by extending customer identification to beneficial owners of legal entities that are opening accounts. One intent of this rule is to eliminate this method of hiding illegal funds.

Casinos are also used for money laundering. Because the gaming industry is extremely cash intensive, it makes them vulnerable to laundering drug money and other illegal proceeds. Criminals who launder money through casinos will often use cash to purchase chips under the reporting requirements, then redeem the chips for a check from the casino, making it appear legitimate.²³

Casinos have had reporting requirements similar to banks since 2007 however, they were never enforced until the Director of FinCEN in 2014, Jennifer Shasky Calvery addressed her expectations and those of the IRS when conducting Title 31 exams of casinos at an AML Conference in Las Vegas.²⁴ When this door gets shut, criminals will continue to discover new ways to launder their money.

Another method commonly used to launder drug money is the Black Market Peso Exchange (BMPE). “The Black Market Peso Exchange is perhaps the largest, most insidious money laundering system in the Western Hemisphere,” says Raymond Kelly, Commissioner of the US Customs Service. “It’s the ultimate nexus between crime and commerce, using global trade to mask global money laundering.”

What the drug traffickers did is transform the black market into their own illegitimate international banking system. “The money side is like a completely separate business from the drugs,” said David, a money broker who worked within the system for decades. “We never got

²² https://www.fairshareonline.org/sites/default/files/AnonymityOverdose_Aug1_2016.pdf

²³ <https://www.aml-nacs.com/industries/casinos/>

²⁴ <https://www.hklaw.com/publications/fincen-doubles-down-on-casinos-with-heightened-regulatory-expectations-06-25-2014/>

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involved in the drug side of the business, only receiving the money, processing it, selling it, and making a profit."

David is like any other money broker except the dollars David buys in America are derived from drug sales. A benefit of the Black Market system to the drug trafficker is that the money broker takes all the risk. Once he picks up the drug money in the United States, it is his responsibility to get the pesos back to the traffickers in Colombia. If the money gets seized or something else goes wrong, he is responsible and could pay with his life.

The system is relatively simple. David gets a phone call from a Colombian trafficker or their US counterparts. They negotiate an exchange rate of Colombian pesos for US dollars, usually 40% below the official exchange rate. Once they agree on a price, the drug trafficker arranges to have his drug dollars dropped off at David's office or at some less conspicuous location.

"The money could be in boxes, shopping bags, suitcases, a car," David says. "Sometimes the money would be in the trunk of a car and the traffickers would just give you the keys to the whole car." At that point, the trafficker's side of the deal is complete and he simply waits for pesos to be delivered into his Colombian bank account several days or weeks later. David now has to process the cash. He maintains a large staff of runners who take the cash and deposit it into hundreds of United States bank accounts in amounts of less than \$10,000 per transaction. Once the money is in a bank, it can be moved and manipulated.

David's office in Colombia meanwhile makes currency deals with legitimate Colombian businessmen who have pesos but want to buy cheap US dollars to purchase goods such as cigarettes, liquor, television sets or dishwashers in the United States. These businessmen also arrange an exchange rate of US dollars for Colombian pesos, usually 20% below the official exchange rate. They pay the pesos in Colombia to David's office. David in turn takes the US dollars building up in his bank accounts and pays the businessman's debts in the US.

He can wire transfer or deposit money directly into the US bank accounts of legitimate companies in exchange for goods. Customs and DEA cases reveal that legitimate companies such as General Electric, Whirlpool, Phillip Morris and Intel Computers have all become involved in this system in the past. David is basically acting in this capacity as a facilitator for legitimate international economic transactions.

The dollars he received from the traffickers go to the legitimate businessmen and the pesos are sent to the drug traffickers in Colombia. David makes commissions and the difference in exchange rate, making this a very profitable business for him as well.

Even though the process is illegal, some US companies and Colombian businessmen have been happy with the arrangement because it is good for business. "This is positive for US business, there is no doubt about it," says Mike Wald, a Florida law enforcement official who traces the black peso system. "Because the Colombian businessman, if he pays less for his dollars, can buy more goods. That's a pretty obvious economic fact. But we have to realize where this money originates. It's drug money."

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As an emerging money laundering vulnerability, Bitcoin and other virtual currencies enable transcontinental criminal organizations to easily transfer illicit proceeds internationally as reported in the most recent National Drug Threat Assessment put out jointly by the Drug Enforcement Agency and the Department of Justice.²⁵ The perception of anonymity with cryptocurrency makes it an attractive method for laundering. Criminals are attracted to this method because they can move money without the intervention of a financial institution. When they do use a bank account however, red flags would include transactions with cryptocurrency exchanges, bitcoin ATMs, and unusual internet transactions.

What is the Role of Financial Institutions in Putting an End to this Epidemic?

The first thing financial institutions can do to assist in ending this epidemic is to understand the penetration of opioids in their footprint. Banks should have assessed this when considering geography risk for their BSA/AML risk assessment. One way to measure the pervasiveness of drug activity in a certain area is by using the High Intensity Drug Trafficking Area (HIDTA) Program that is determined by United States Office of National Drug Control Policy. By knowing there is a higher risk of illegal drug money flowing through an institution, they can be better prepared by creating scenarios in the transaction monitoring system that will help detect behavior indicative of money laundering.

From the cases discussed in this paper, financial institutions need to be aware of the methods of laundering drug proceeds, such as using shell companies, casinos, and the use of the Black Market Peso Exchange, and cryptocurrencies. In addition to these methods, it is also common for drug dealers to utilize “smurfs” to deposit cash in amounts less than the \$10,000 threshold that will trigger a CTR, in several different branches or even different banks. So, another red flag would be deposits to an account with one or more of the same beneficiaries from many different sources.

Training is one of the pillars of a sound AML Program. If every person and every department that touches a transaction is aware of red flags, there is a better chance of detection and reporting. Financial institutions, particularly ones in HIDTAs, should have solid AML training programs that include frontline, customer facing employees to back office operations staff. AML Investigators should be aware of the red flags that point to the typologies used for laundering drug money. Many of those typologies are detailed in this paper.

Banks in higher risk geographies should consider scoring customers who are doctors, medical clinics, pain clinics, pharmacies, and any organization that prescribes or distributes opioids higher so if their transactions are unusual, they will appear on the high risk list. Negative news searches should be conducted as part of the Enhanced Due Diligence of a high risk customer. For example, something as simple as an internet search of a doctor or clinic could reveal reviews where customers describe the ease of obtaining opioids. This would be a cause for concern for any AML Investigator.

²⁵ <https://www.dea.gov/divisions/hq/2017/hq102317.shtml>

What is the Opioid Epidemic and What Can Financial Institutions Do to Help Stop it?

Finally, financial institutions can proactively help fight this crisis by alerting the Drug Enforcement Agency (DEA) of any egregious behavior by a customer that would indicate the laundering of drug proceeds. The website for the DEA states, “if you witness an event that may lead to immediate threat to human health or safety, you should report it to your local police or law enforcement authority”. In addition to filing a suspicious activity report with FinCEN, the DEA provides another channel for immediate action on critical situations.

The Bank Secrecy Act and other anti-money laundering laws and regulations have been amended over the years to stay on pace with the emerging methodologies used by criminals to launder money. Base on the facts within this paper, it would appear that these laws and regulations are still sufficient to help end the opioid crisis in our country. However, financial institutions still remain culpable for understanding the typologies and how to detect them.

Working together, financial institutions, law enforcement, and government agencies can stop the drug trade whether it’s heroin coming into our Country from Mexico or South America or doctors prescribing opioids to addicted patients. Awareness is the first step to ending the disastrous effects of the opioid crisis that has swept across this country taking far too many individuals, families, and entire communities with it.

*In loving memory of Michael Stile Nachin.
December 24, 1984 to February 2, 2016*