



ABA Professional Development

# ABA/ABA Money Laundering Enforcement Conference


November 13-15, 2011  
Washington, DC




Defending Liberty Pursuing Justice




CRIMINAL JUSTICE




American Bar Association  
ABA Professional Development




## SARs from A to Z: From Filing to Customer Concerns



Defending Liberty Pursuing Justice



CRIMINAL JUSTICE



American Bar Association  
ABA Professional Development

## SAR Filings

So you've made the decision to file

- When do you file? *FFIEC BSA examination manual pg 77*
- Who files them (centralized vs decentralized)?
- Second reviews
- Law enforcement notification
- E-Filing
- Archiving

3



CRIMINAL  
JUSTICE



## Guidance

### Keys to Writing a Complete & Sufficient SAR Narrative

[http://www.fincen.gov/writingcompletesarnarrative\\_1103.ppt](http://www.fincen.gov/writingcompletesarnarrative_1103.ppt)

**Call the FinCEN Regulatory Help Line  
at 1-800-949-2732**

4



CRIMINAL  
JUSTICE



## SAR Form

- Part I Reporting FI Information
- Part II Suspect Information
- Part III Suspicious Activity Information
- Part IV Contact Information Assistance
- Part V Suspicious Activity Information Explanation/Description

5



CRIMINAL  
JUSTICE



## Issues

- **Items on SAR form denoted with \* are critical fields**
- **Missing data** (*SAR Activity Review Issue 6, pg 50*):
  - None = information does not exist
  - NA = info is not relevant
  - Unknown= filer does not know info
  - XX = use for unknown 2-digit fields
- **Part I FI Information**
  - #4 Use address that is registered with EIN
  - #9 Use address where activity occurred (*check the multiple box and use narrative for additional locations*)
  - #14 Additional accounts-add to narrative section
- **Part II Suspect Information**
  - Name match to TIN
  - ID Theft

6



CRIMINAL  
JUSTICE



## Issues-cont'd

- **Part III Suspicious Activity Information**
  - Recurring Activity 'from' date s/b from 1<sup>st</sup> SAR filed
  - Aggregate total of all activity from beginning of activity
  - Activity \$\$ totals are for all involved, not just what is loss
  - Descriptions (*October 2007 SAR Activity Review Chart*)
  - Check all that apply
  - Check fraud vs. check kiting
  - Computer Intrusion (*SAR Activity Review Issue 3, page 15*)
  - Counterfeit vs. other fraud
  - Self dealing (law vs. code of conduct)
  - Wire transfer fraud (includes ACH)
  - ID Theft (*SAR Activity Review Issue 2, page 14*)
  - Other (*OFAC?*)
- **Part IV Contact Information**
  - Assure contact is knowledgeable

7



CRIMINAL  
JUSTICE



## Part V-SAR Narrative

### Remember your school essays?

- **Introduction**
  - Purpose, general description, previous filing dates, OFAC, red flags
- **Body**
  - Facts, detail suspect info, known relationships, locations, etc
- **Conclusion**
  - Reporting reasons, follow up, other contacts, supporting documentation

### Describe activity deemed suspicious

- Avoid irrelevant/extraneous information
- Avoid banking acronyms
- Describe investigation source documentation
- Use job functions rather than individual personnel identification

8



CRIMINAL  
JUSTICE



## Part V-SAR Narrative cont'd

The most important thing to keep in mind is that you are trying to explain something to someone who typically has no banking background, or knowledge of the circumstance or customer. **DO NOT ASSUME ANYTHING.**

No one wants to read an epic novel! Get your point across. Be concise and clear.

List the supporting documentation **BUT DON'T ATTACH IT.**

- The reader will know if you have anything that they need.
- You can provide it subsequently to law enforcement without additional legal constraints.

**INCLUDE THE WHO, WHAT, WHEN, WHERE, WHY AND HOW**

9



CRIMINAL  
JUSTICE



## Who?

- Suspects are listed in Part II – the narrative is used to further describe the suspect if needed. Don't repeat from Part II.
- Include everything you've got about addresses, demographics, identification, and affiliations.
- For non-suspects, identify them, their affiliation with suspect, and any role in the activity (*ie: victim, bystander, etc*).
- Indicate all name variations, DBA, FKA, Alias, etc.

10



CRIMINAL  
JUSTICE



## What?

- **Specify the mechanism/instrument used (ie: wire xfer, LC, bonds, insurance, etc)**
- **Indicate if prior SARs were filed**
- **Describe the suspicious activity**
  - Do not insert tables, objects, or spreadsheets
  - Include source of funds, if known
  - Detail wire activity-  
originator/intermediaries/beneficiaries
  - Example: ACH credits from ABC Co. followed immediately by cash withdrawals

11



CRIMINAL  
JUSTICE



## When?

- **Describe period when activity first noticed and the duration of occurrence**
- **Detail the pattern of activity**
  - Successive dates
  - Consecutive days
  - Follows another date pattern
  - Immediately following another transaction
- **Do not insert tables, objects, or spreadsheets**

12



CRIMINAL  
JUSTICE



## Where?

- Provide details of the location(s) where the specific activity took place
- Include all branch/office addresses where activity occurred
- If locations outside the bank are involved, include those
- If electronic activity, include information to determine physical location when possible
- Specify if there is/may be foreign jurisdiction involved

13



CRIMINAL  
JUSTICE



## Why?

The narrative should include enough information to explain why you feel that the activity is suspicious.

- Is it unusual for that customer's behavior?
- Is it atypical for that type of industry?
- Did the customer tell you that they don't want anyone to know about it?
- Was your investigation triggered by another event such as fraud, legal process, 314(a), complaint, etc?

14



CRIMINAL  
JUSTICE






## How?

- Did a human being physically perform the transaction?
- Was the person receiving the benefit from it?
- Was it done through electronic or mail or third party delivery?
- Are the funds still in the account?

**Don't assume the reader understands Bank/Industry jargon**

15

## SAMPLE

WHO

WHAT

Sean McIntosh is a produce clerk employed for the past 18 months by the Fuji Grocery Store on Main Street in Spokane at a salary of \$25,000 per year. He has been a customer of Apple Valley Bank since December 26, 2008, and maintains a checking account, savings account and safe deposit box at our Main Street branch. Beginning February 1, 2009, Mr. McIntosh began depositing large sums of cash just under the CTR reporting threshold. These deposits were made at branch locations other than the one that he regularly uses and is closest to his home and workplace.

WHEN

WHERE




The following deposits were made to Checking Account #387654321:  
 From the period of 2/2/2009 through 2/7/2009, McIntosh made 5 deposits in amounts between \$9,100 and \$9,700 at 3 of our branches: Main Street, Back Street, and Front Street.

WHY

HOW

All deposits consisted of \$100 bills. Several tellers have attempted to question Mr. McIntosh about the source and reason for the cash deposits, to which he replied only that it was from the sale of seeds. Bank staff has reported that Mr. McIntosh appeared nervous and anxious, constantly looking over his shoulder and avoiding eye contact. Tellers and bank staff at his home branch on Main street have reported that his appearance and manner is a stark contrast to his usual well groomed and easy-going persona. We believe these transactions are suspicious because they are inconsistent with Mr. McIntosh's known income and deposit transaction history. Prior to this series of transactions, Mr. McIntosh's only deposit consisted of the direct deposit of his payroll from Fuji Grocery. Supporting documentation includes copies of deposit tickets, statements, signature cards.

16

## Post Filing Customer Issues

- Confidentiality
- Behavior changes
- “Good customer” mantra
- Law enforcement needs
- Financial Loss Exposure
- Reputation Risk
- Workload for ongoing monitoring
- Repetitive Filings

17

CRIMINAL  
JUSTICE

## Is this a customer that you want to keep?

- **What should you consider?**
- **When should you make that decision?**
- **Who should be involved in that decision?**
- **How do you document it?**

18

CRIMINAL  
JUSTICE

## What Should You Consider?

- What is the activity?
- Has anyone spoken to the customer?
- Is the activity likely to continue?
- Is there financial loss exposure to the bank?
- What is the reputation risk to the bank?
- Has law enforcement made a request to keep open?
- What are repercussions for closing/open?
- Have you exhausted all information resources (ie: 314B)?
- What is the estimated long term increase in ongoing monitoring of this customer's activities?

19



CRIMINAL  
JUSTICE



## When Should You Make the Decision?

- Process should be specified in policy
- Should include an escalation process
- Be consistent in process application
- Be flexible when needed

20



CRIMINAL  
JUSTICE



## Who Should be Involved?

- BSA Officer
- Risk Officer
- Compliance Officer
- Security Officer
- Relationship Manager
- Branch Administrator
- Lending
- Executive Mgmt
- HR
- Legal
- SAR Committee
- Board

21



## How Do You Document Exit Decision?

- Meeting minutes
- Email
- Case files
- Document telephone decisions
- Clearly define and document reasons for decision

22



## Communication

- **Communication within bank**
  - Systems/Operational touch points
  - Share with head office or holding company?
  - Address credit/loss exposures
- **Communication to customer**
- **Other Communications**
  - Notify law enforcement if active case
  - File final SAR if applicable
  - Mgmt/Board Reporting

23



CRIMINAL  
JUSTICE



## Resources

- SAR Activity Reviews
- FinCEN Advisories
- FinCEN Guidance on Preparing a Complete and Sufficient SAR Narrative  
[http://www.fincen.gov/sarnarrcompletguidfinal\\_112003.pdf](http://www.fincen.gov/sarnarrcompletguidfinal_112003.pdf)
- Guidance on Sharing SARs with Head Office and Controlling Companies  
[http://fincen.gov/statutes\\_regs/guidance/html/sarsharingguidance01122006.html](http://fincen.gov/statutes_regs/guidance/html/sarsharingguidance01122006.html)

24



CRIMINAL  
JUSTICE





Thank You For Participating!

**Holly Ford**  
hollyford@bankofmarin.com

**Ann Marie Tarantino**  
annmarie.tarantino@fnbli.com

