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Report to the Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Affairs United States Senate

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BANK SECRECY ACT

Treasury Can Improve Implementation of the Act

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The Honorable William V. Roth, Jr.
Chairman, Permanent Subcommittee
on Investigations
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

This report responds to your March 19, 1985, request and subsequent meetings with your representatives asking us to review the Department of the Treasury's management of the Bank Secrecy Act and to study how law enforcement personnel use the Act and the data generated under it. This report shows that, beginning in 1985, Treasury has taken steps to improve implementation of the Act and that opportunities exist for further improvements. The report also shows that federal law enforcement personnel in Florida and California are using the Act and the data generated by it, primarily to detect and punish those engaged in money laundering schemes.

As arranged with your office, we are sending copies of this report to the Secretary of the Treasury, to the Commissioners of the Internal Revenue Service and the U.S. Customs Service, and to other interested parties.

Sincerely yours,

W. J. Anderson

William J. Anderson
Director

Executive Summary

Purpose

The Currency and Foreign Transactions Reporting Act (31 U.S.C. §5311 et seq.), commonly known as the Bank Secrecy Act, was enacted in 1970. The Act requires individuals and financial institutions to report certain foreign and domestic financial transactions to the federal government. Through its reporting and recordkeeping requirements, the Act aims at providing an audit trail of large flows of currency and those persons, companies, and financial institutions responsible for that flow. This audit trail is meant to be used by law enforcement agencies in their detecting and investigating criminal activities. Failure to comply with the Act's requirements may lead to civil and/or criminal penalties.

The Chairman of the Senate Permanent Subcommittee on Investigations requested that GAO:

- review the Department of the Treasury's management and oversight practices in implementing the Act, specifically the collection, analysis, and dissemination of data compiled as a result of the Act and
- describe the use of data by law enforcement agencies at selected locations.

On a related matter, GAO obtained information about how the Act and its implementing regulations are being interpreted by the courts.

Background

The Act requires three kinds of reports. First, a Currency Transaction Report must be filed by financial institutions on all currency transactions exceeding $10,000. Second, a Report of International Transportation of Currency or Monetary Instruments must be filed by institutions and individuals when moving currency or monetary instruments over $10,000 into or out of the United States. And third, a Report of Foreign Bank and Financial Accounts must be filed annually by individuals who have a financial interest in or signature authority over bank accounts, securities, accounts, or other financial accounts in a foreign country.

Treasury is responsible for enforcing the Act's requirements and for collecting, analyzing, and disseminating Act-related data to law enforcement agencies. Treasury's Assistant Secretary for Enforcement is responsible for overseeing and coordinating the Act's implementation. He has delegated the authority for ensuring compliance with the Act to the Internal Revenue Service (IRS), the U.S. Customs Service, and a number of federal financial regulatory agencies. (See pp. 9 and 10.)

Results in Brief

Treasury began taking a more active role in implementing the Act following the February 1985 conviction of the Bank of Boston for criminal violations of the Act. Since then, Treasury has taken some actions to improve compliance with and enforcement of the Act. However, other opportunities exist for further improvements. To take advantage of these opportunities, Treasury needs more information about how IRS, Customs, and the financial regulatory agencies are administering the Act and how law enforcement agencies use the Act.

In Florida and California, the locations GAO visited, the Act and the data it generates are being used by law enforcement agencies to disrupt money laundering and drug trafficking operations.

Recent circuit court rulings have highlighted an inconsistency between the Act and its implementing regulations. Because of different interpretations among circuit courts, what may be illegal in one location may be legal in another.

Principal Findings

Treasury's Management

In June 1985, Treasury organized an interagency working group to improve existing examination procedures because it recognized that current procedures were not adequate to detect violations of the Act. (See p. 16.) In July 1985, Treasury formalized the role of staff already reporting to the Assistant Secretary for Enforcement by establishing the Office of Financial Enforcement under the Assistant Secretary to assist in carrying out the responsibilities of implementing the Act. This office is authorized four staff positions of which two are presently filled. (See p. 10.)

Treasury lacks specific and current information about the way supporting agencies are carrying out their delegated duties. For example, some agencies do not provide any information to Treasury headquarters about their activities and others provide information of limited utility. Because Treasury does not have such information, it cannot determine the number of financial institutions examined or the number of violations identified. Also, the extent that the Act is being used in criminal investigations and prosecutions is not known by Treasury. (See pp. 15 to 19.) Without such information Treasury cannot determine whether agencies are carrying out their delegated duties and making needed

improvements, or whether the Act is useful to the law enforcement community.

Data Collection

Data processing functions are divided between IRS and Customs. Between January 1985 and March 1986, the number of unprocessed Currency Transaction Reports at IRS' Detroit Data Center increased from about 196,000 to 1,300,000. IRS set up a new division at the Center and used contract personnel to eliminate this backlog of reports. The Center had unanticipated problems, however, in processing the 1984 Reports of Foreign Bank and Financial Accounts, but estimated that these reports would be processed by mid-August 1986. Customs' San Diego Data Center was processing the Reports of International Transportation of Currency or Monetary Instruments within about a month of receipt. (See pp. 19 to 22.)

Data Analysis and Dissemination

Customs analyzes Act-related data for investigations and intelligence purposes. Until August 1985, Customs and Treasury did not have information on how valuable the analyses are to their users. Customs now includes feedback forms with reports sent to law enforcement agents. (See pp. 22 and 23.) Customs has also proposed revised guidelines for disseminating data, which are being reviewed in Treasury headquarters. The new guidelines would shorten the time required for law enforcement officials to obtain certain types of data. (See pp. 23 to 26.)

Data Use

In Florida and California, Customs and IRS are the primary users of the Act and the data it provides. Other agencies, such as the Federal Bureau of Investigation and the Drug Enforcement Administration, use the Act and its data in investigations and prosecutions for crimes other than currency violations. (See app. I.)

Legal Issues

Money launderers sometimes conduct multiple, structured currency transactions which total more than $10,000 but which are each under the $10,000 reporting threshold. The purpose of these transactions is to avoid the Act's reporting requirement. One Court of Appeals has upheld convictions of money launderers for this practice, but two others have held that this practice is legal and have overturned lower court convictions. Treasury and the Department of Justice are considering changes to the Act's implementing regulations to clarify issues surrounding such

transactions. (See pp. 26 and 27.) GAO agrees that efforts to clarify these issues are needed.

Recommendations

GAO is recommending that the Secretary of the Treasury make several improvements in the implementation of the Act. Most of these improvements would involve establishing controls to provide more management information about the activities of the agencies implementing the Act and to provide assurance that the primary purpose of the Act is being met. GAO listed some specific areas where it believes opportunities for improvements exist. (See p. 29.)

Agency Comments

GAO discussed the findings contained in this report with officials from Treasury's Office of Financial Enforcement, the Internal Revenue Service, and the U.S. Customs Service and their comments are incorporated as appropriate. These officials generally agreed with the findings. However, GAO did not request official agency comments on a draft of this report.

Contents

Abbreviations

CMIR	Report of International Transportation of Currency or Monetary Instruments
CTR	Currency Transaction Report
DEA	Drug Enforcement Administration
FBAR	Report of Foreign Bank and Financial Accounts
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
IRS	Internal Revenue Service
TECS	Treasury Enforcement Communication System
TFLEC	Treasury Financial Law Enforcement Center

Introduction

In 1970, the Congress passed the Currency and Foreign Transactions Reporting Act (31 U.S.C. §5311 et seq.), commonly called the Bank Secrecy Act, to track the financial resources associated with criminal activities, such as drug trafficking. By imposing reporting and recordkeeping requirements on large cash transactions, the Bank Secrecy Act (Act) was designed to assist law enforcement agencies in identifying persons and/or organizations using financial institutions to "launder money," thereby making cash generated by criminal activities appear to come from legitimate sources.

The Department of the Treasury (Treasury) is responsible for enforcing the reporting and recordkeeping requirements mandated by the Act and the implementing regulations. For the Act's objectives to be achieved, full compliance with these requirements is essential.

At the request of the Chairman, Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs, we reviewed Treasury's management of the Act and studied how law enforcement agencies use the Act and data generated under it. As pointed out in the Chairman's March 1, 1985, request letter, the Act is a key tool in the investigation and prosecution of drug traffickers, organized crime elements, and other major criminal enterprises. The Act also provides law enforcement agencies an opportunity to enlist the support of financial institutions in the pursuit of money launderers.

Background

The primary purpose of the reporting and recordkeeping requirements of the Act is to identify the source, volume, and movement of United States currency being transported into and out of the country or being deposited in financial institutions in order to aid law enforcement officials in the detection and investigation of criminal, tax, and regulatory violations. Treasury has been assigned overall responsibility for implementing the Act. Under the Act, Treasury is required to collect, store, and utilize reports filed under the Act and to disseminate this information to law enforcement agencies.

The Act requires individuals as well as banks and other financial institutions to report certain of their foreign and domestic financial transactions to the federal government. The Act also requires that individuals and financial institutions keep records of such transactions and relations with foreign financial institutions.

Through the reports, the Act attempts to provide an audit trail to identify the flow of currency and certain monetary instruments, and to identify those persons, companies, or financial institutions responsible for that flow. Accordingly, the regulations implementing the Bank Secrecy Act require the filing of the following financial transaction documents:

a) Currency Transaction Report (CTR)—A CTR is required to be filed by financial institutions for each deposit, withdrawal, exchange of currency, or other payment or transfer, by, through, or to such financial institutions which involves a transaction in currency of more than $10,000.

b) Report of International Transportation of Currency or Monetary Instruments (CMIR)—A CMIR is required to be filed at the time of transporting currency or monetary instruments over $10,000 from or into the United States.

c) Report of Foreign Bank and Financial Accounts, (FBAR)—An FBAR is required to be filed annually by individuals who have a financial interest in or signature authority over bank accounts, securities accounts, or other financial accounts in a foreign country.

Violations of the Act can result in criminal and/or civil penalties depending on the nature of the offense. The criminal penalties provide that individuals who willfully violate the Act or its regulations can be fined up to $500,000. A variety of civil remedies are available to the Secretary of the Treasury. Civil penalties can be imposed in addition to, or in lieu of, criminal fines.

How the Act Is Administered

Treasury is assigned overall responsibility for implementing the Act. Treasury has delegated most of the day-to-day operating authority for implementing the requirements of the Act to three bureaus within Treasury and five regulatory agencies outside of Treasury.

Treasury has assigned one of its bureaus, the Internal Revenue Service (IRS), primary investigative jurisdiction for possible criminal violations of the Act by financial institutions. Another Treasury bureau, the U.S. Customs Service (Customs), has investigative jurisdiction for violations involving the transportation of currency. Treasury headquarters' Office of Financial Enforcement, with support from Treasury's General Counsel, is responsible for investigations of civil liability.

Treasury has also assigned Customs the overall authority for collecting, analyzing, and disseminating all information collected pursuant to the Act. IRS acts as the initial collection agency for CTRs and FBARs.

Treasury has delegated the authority for assuring compliance with the reporting and recordkeeping requirements authorized by the Act and the implementing regulations as follows:

- Office of the Comptroller of the Currency, a Treasury bureau, for all National banks.
- Federal Reserve System for all State-chartered Federal Reserve member banks.
- Federal Deposit Insurance Corporation for all other federally insured banks and branches of foreign banks operating in the United States.
- Federal Home Loan Bank Board for all federally insured savings and loan associations.
- National Credit Union Administration for all federal credit unions.
- Securities and Exchange Commission for securities brokers and dealers.
- IRS for all other financial institutions.
- Customs for reports of transportation of currency into or out of the country.

Although Treasury has delegated the bulk of the operating authority for implementing the Act to IRS, Customs, and the financial regulatory agencies listed above, Treasury retains the overall responsibility for ensuring that the Act is implemented. This overall responsibility—monitoring, overseeing, and coordinating the procedures and efforts of the various agencies assigned to carry out the numerous and complex requirements of the Act—resides with Treasury's Office of the Assistant Secretary for Enforcement. In July 1985, the Office of Financial Enforcement was established under the Assistant Secretary to assist in carrying out these responsibilities. The Office of Financial Enforcement serves as the Assistant Secretary's principal advisor on all matters relating to the implementation and enforcement of the Act. This office formalized the role of staff already reporting to the Assistant Secretary. Previously, these duties and responsibilities were carried out by a Treasury headquarters staff member and staff members detailed from Treasury bureaus from time to time. Although the office is authorized four professional staff positions, two positions were vacant as of June 1986 because one position had not been filled and the Acting Director retired in April 1986.

Objectives, Scope, and Methodology

In requesting this study, the Chairman of the Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, asked that we conduct a review of how Treasury has implemented the Bank Secrecy Act. As agreed with subcommittee representatives, the objectives of this assignment were to:

- Evaluate Treasury's management and oversight practices in implementing the Bank Secrecy Act.
- Review the collection of information obtained through the Act's reporting and recordkeeping requirements.
- Evaluate Treasury's involvement in planning for the analyses of data compiled as a result of the Act.
- Evaluate the dissemination of information to the law enforcement community.
- Describe the use of the data by law enforcement agencies at a limited number of judgmentally selected locations.

To accomplish these objectives, we interviewed officials at Treasury, IRS, and Customs headquarters offices and obtained documentation about the procedures for receiving, compiling, and disseminating information contained in the CTRs, CMIRs, and FBARs. During our interviews with officials at these agencies, we concentrated on Treasury's management and oversight of implementing the Act because, first, Treasury has overall responsibility for ensuring all aspects of the Act are enforced and, second, the data must be collected, processed, and analyzed before it can be of value to law enforcement agents in their efforts against major criminal enterprises in this country. Thus, we ascertained the procedures employed for enforcing the reporting and recordkeeping requirements of the Act, how the data which is to be compiled as a result of the Act is collected and analyzed, and how law enforcement agencies can obtain access to the data. In addition, we also interviewed officials at IRS's Detroit Data Center, where the CTRs and FBARs are processed, and obtained documentation concerning the procedures for processing these reports and the extent of processing delays.

We conducted interviews and case file reviews at IRS, Customs, the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), and U.S. Attorneys' offices in Florida and California to determine how these agencies use the Act and data compiled as a result of the Act. We selected Florida and California as locations to visit because these states are known to be major areas for drug trafficking and money laundering activities. During our interviews with law enforcement agents and U.S. Attorneys in Florida and California, we asked them how they

had used the Act and its data in their investigation and prosecutions of criminals. We also asked these agents to identify key cases for us to review which would demonstrate how the Act and its data had been successfully used. In California, we also interviewed officials and obtained documentation at Customs' San Diego Data Center concerning the Center's procedures for processing currency or monetary instruments reports; whether the Center was experiencing any problems in processing information from these reports into the financial data base; and the extent to which the Center had unprocessed reports.

We discussed the matters contained in the report with officials from Treasury's Office of Financial Enforcement, IRS, and Customs, and their comments are incorporated as appropriate. These officials generally agreed with our findings. As requested by the subcommittee, we did not obtain official agency comments on a draft of this report. Our review was conducted in accordance with generally accepted government auditing standards. Our work was conducted from April 1985 to February 1986.

Opportunities Exist for Improving Treasury's Implementation of the Bank Secrecy Act

Until February 1985 when the Bank of Boston pled guilty to criminal violations of the Act, Treasury headquarters did not play an active role in managing and overseeing the activities of the agencies and bureaus which administer the Act. Since that time, Treasury headquarters has taken some actions to improve compliance with and enforcement of the Act.

In June 1985, Treasury organized an interagency working group to modify and improve Act-related bank examination procedures because it recognized that compliance efforts had not been sufficient. As of June 1986, some changes to the examination procedures had been agreed on by Treasury and the examining agencies. There are other examination-related issues still under consideration by the working group. In July 1985, Treasury established the Office of Financial Enforcement under the Assistant Secretary for Enforcement to assist in overseeing implementation of the Act. This action formalized the role of staff already reporting to the Assistant Secretary. As of June 1986, two of the office's four authorized professional staff positions were filled. One of the staff positions had not been filled since the establishment of the office and the position of Director was vacant because of the retirement of the Acting Director.

Treasury has also increased the number of civil reviews of noncompliance with the Act and has imposed more civil penalties for noncompliance. Treasury officials told us that most of the 76 civil reviews opened during 1985 resulted from voluntary admission of possible noncompliance by financial institutions. Finally, Treasury began working with the Department of Justice in 1986 to develop regulatory changes aimed at preventing certain transactions intended to avoid the reporting requirements of the Act.

Federal managers are responsible for instituting and encouraging adherence to policies, procedures, and controls which provide reasonable assurance against irregularities and improprieties. Strong internal management controls play an important part in helping federal managers achieve the goals and objectives specified by laws such as the Bank Secrecy Act. Strong management controls would alert managers to the existence of potential or actual problems and allow them to take quick and appropriate remedial action.

Although the recent actions by Treasury can help improve implementation of the Act, other opportunities still exist for Treasury headquarters

to further improve implementation of the Act. Most of these opportunities exist because Treasury headquarters lacks specific and current information about the way IRS, Customs, and the financial regulatory agencies are carrying out their delegated duties. Treasury headquarters also lacks policies, procedures, and controls designed to obtain such information. Specifically,

- Treasury needs more detailed information about the number of financial institutions examined, and the nature and extent of violations found to improve its ability to oversee and encourage improvements in the compliance process.
- Treasury needs regular reports from Customs about Customs' enforcement efforts to improve Treasury's ability to assess these efforts.
- Treasury needs information about the extent to which the Act is used in criminal prosecutions to improve its ability to determine the usefulness of the Act to the law enforcement community.
- Treasury needs to monitor Customs' analyses of the Act's data to ensure that Customs analyses are meeting the needs of the law enforcement community.
- Treasury needs to update the guidelines for dissemination of Act data to facilitate access by the law enforcement community.

Treasury Lacks Information to Monitor Program Implementation

Treasury's oversight of the Bank Secrecy Act enforcement efforts by the regulatory agencies, IRS, and Customs could be improved. Treasury acknowledges that the efforts by the regulatory agencies have not been sufficient to assure compliance with and detect violations of the Act by financial institutions. Treasury has been aware of this situation since at least 1980, but has not implemented improvements in compliance examinations. Treasury is conducting more civil reviews and imposing more civil penalties on financial institutions for violations, but Treasury officials told us these increases have resulted primarily from voluntary admission of possible noncompliance by the institutions. Treasury delegated to Customs the authority for enforcing compliance with the Act's requirement to report transportation of currency from or into the United States but has not monitored or routinely received information about Customs' compliance enforcement efforts.

Compliance Examinations of Financial Institutions Do Not Detect Serious Violations

Treasury has delegated the authority to IRS and the financial regulatory agencies to examine financial institutions to assure compliance with the reporting and recordkeeping requirements of the Act. Treasury officials told us that the current examination procedures generally do not detect serious compliance problems and that the examining agencies have not been successful in assuring compliance and detecting noncompliance with these requirements. Treasury has been aware since at least 1980 that examining agencies are not detecting serious violations. Treasury's Assistant Secretary for Enforcement stated during an October 1980 hearing before the House Banking Subcommittee on General Oversight and Renegotiation that "it has become apparent that serious violations at a number of banks have not been detected by the bank examiners." He added that the violations generally came to light as a result of other investigations and analyses.

As part of this review, we did not evaluate the examination procedures or the efforts of the regulatory agencies to assure compliance with the Act. However, on October 29, 1985, we testified before the Permanent Subcommittee on Investigations on the results of a GAO evaluation on the compliance examination program. In our testimony we concluded that the examination procedures used by the five depository institutions' regulatory agencies could be strengthened. We also concluded that Treasury and all the agencies could better communicate and coordinate their Bank Secrecy related activities with one another and thereby enhance the overall compliance effort. We noted that IRS is experiencing difficulty identifying those financial institutions it should examine for compliance with the Act. These conclusions are similar to those in a report we issued in 1981.[1] At that time, we made a number of recommendations for strengthening the compliance examination process which were not accepted or implemented by these agencies.

In June 1985, Treasury officials organized an interagency working group to modify existing Bank Secrecy Act examination procedures and develop new procedures where appropriate. As a result, Treasury has compiled a list of recommendations to the agencies for specific changes and enhancements to the examination procedures. The agencies are in the process of determining which changes and enhancements they expect to uniformly adopt. The options include some of the recommendations we made in 1981.

[1] Bank Secrecy Act Reporting Requirements Have Not Yet Met Expectations, Suggesting Need For Amendment (GAO/GGD-81-80, July 23, 1981).

Treasury Needs More Information About the Compliance Examination Efforts

Treasury does not receive the information needed to monitor the efforts of the examining agencies. Although the Act's implementing regulations require periodic reporting from the regulatory agencies and IRS on their efforts to assure compliance, Treasury lacks detailed information about the number of institutions examined, the number found in violation, and the nature of the violations found by the examining agencies. Treasury lacks this information because not all agencies submit these reports to Treasury and the reports that are submitted are not timely or consistent. The Acting Director, Office of Financial Enforcement, told us that these reports were not useful as a management tool to measure the effectiveness of the Act's enforcement efforts because of these inconsistencies.

Based on periodic reports submitted to Treasury by some of the examining agencies, we determined that of 6,727 financial institutions examined in calendar year 1985 by IRS, the Office of the Comptroller of the Currency, and the Federal Home Loan Bank Board, 1,103 were found to have had at least one violation. Because of differences in reporting formats among these examining agencies, we were unable to determine the nature or extent of the violations identified. We could not determine the number of institutions examined and/or how many had violations among those examined by the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Securities and Exchange Commission. We could not make these determinations because two of the regulatory agencies do not submit periodic reports to Treasury, one did not report on the number of violations found until the fourth quarter of calendar year 1985, and one had not, as of April 30, 1986, submitted its fourth quarter 1985 report.

Civil Actions Against Financial Institutions Increased in 1985

Between 1970 and 1985, Treasury assessed civil penalties of about $800,000 against seven financial institutions. In all instances, the civil action was adjunct to a criminal investigation and prosecution or in lieu of criminal action. According to Treasury's Acting Director of the Office of Financial Enforcement, referrals from regulatory agencies recommending civil penalties increased during 1985 over previous years, but he could not provide specific data on the number of referrals. These referrals were not considered to be for significant violations by Treasury's Office of Financial Enforcement. According to the Acting Director, only one referral led to a civil review by Treasury in 1985.

During 1985, Treasury began conducting more civil reviews and imposing more civil penalties for noncompliance. Treasury officials told us that most of the financial institutions under review came forward voluntarily to Treasury, as a result of publicity generated after the Bank of Boston pleaded guilty to violations of the Bank Secrecy Act in February 1985. Subsequently, in 1985, Treasury opened civil reviews of noncompliance by 76 financial institutions. In 16 of these 76 reviews, there were also ongoing criminal investigations. Eleven of the 76 institutions were assessed civil penalties amounting to $5.1 million during 1985; one review was closed without a civil penalty being assessed. The remaining 64 civil reviews are still pending.

Table 2.1 shows the history of civil compliance reviews and penalty assessments against financial institutions through December 1985. In column five, the number of CTRs filed by all financial institutions in a given month is displayed. Although we did not attempt to demonstrate a link between enforcement and compliance, Treasury and IRS officials believe there is a direct cause and effect relationship.

Table 2.1: Summary of Civil Reviews and Penalties Assessed by Treasury for Violations of the Bank Secrecy Act

Month	Number of Civil Reviews Opened[a]	Number of Civil Penalties Assessed	Amount of Civil Penalties Assessed	CTRs Received Monthly
Cumulative Thru 12/84	unknown[b]	7	$803,650	59,000[c]
1/85	•	•	•	68,000
2/85	1	•	•	63,000
3/85	11	•	•	76,000
4/85	12	•	•	127,000
5/85	13	•	•	130,000
6/85	8	4	1,185,000	160,000
7/85	5	•	•	180,000
8/85	10	1	2,250,000	184,000
9/85	4	•	•	196,000
10/85	3	1	269,750	188,000
11/85	5	2	865,000	205,000
12/85	3	3	547,890	255,000

[a]Treasury opened 76 reviews during 1985 but could not determine the month in which one of the reviews was opened.

[b]Detailed records unavailable.

[c]GAO estimate based on receipts in CY84.

Treasury Does Not Monitor Customs' Enforcement Efforts

Treasury does not monitor Customs' enforcement efforts with respect to the reporting of transportation of currency and monetary instruments in excess of $10,000 into or out of the United States. The Act provides for civil and criminal penalties for violation of this reporting requirement. In addition, the Act provides for seizure and forfeiture of currency and/or monetary instruments upon failure to file required reports.

Customs does not routinely report to Treasury on its enforcement efforts, although the Act's implementing regulations require Customs to do so. As a result, Treasury does not know how often violations are identified by Customs. Although the documents we reviewed and our interviews with law enforcement officials indicate that Customs identifies violations and makes extensive use of the seizure and forfeiture provisions of the Act, Treasury does not know the extent of that use, the frequency and value of seizures for violations of the Act, or the remission or mitigation decisions made by Customs concerning those seizures. Such information would be useful to Treasury headquarters to measure the effectiveness of Customs' enforcement efforts.

Treasury Does Not Obtain Information on the Use of the Act for Criminal Prosecutions

As will be discussed in appendix I, law enforcement personnel are using the criminal penalties provisions of the Act. Treasury's Office of Financial Enforcement could not provide us with information about individuals or businesses which have been prosecuted for violations of the Bank Secrecy Act or as a result of investigations which used Act data because Treasury does not maintain such information. This is important information for Treasury to know because it is a key element in determining how the Act is being used and what the results of using the Act are. Without such information, Treasury is limited in its ability to measure the usefulness of the Act.

Treasury's Efforts to Collect Data Required Under the Act

Treasury has delegated the day-to-day operating authority for collecting data required under the Act to IRS and Customs. Treasury has assigned oversight responsibility for this function to its Office of Financial Enforcement. This office's assigned responsibilities include (1) advising IRS and Customs on the design and operation of the systems used to collect, analyze, and disseminate data from reports filed and (2) coordinating and monitoring IRS and Customs' data collection activities.

The Acting Director, Office of Financial Enforcement, told us that Treasury headquarters has not actively managed and coordinated the collection process at IRS and Customs and that Treasury's involvement has

been on an ad hoc basis. He added that, typically, Treasury was informed by IRS and Customs of decisions affecting the collection processes rather than being involved in the decision making. The need for more involvement by Treasury headquarters in advising, coordinating, and monitoring the data collection activities of IRS and Customs was recognized in the 1985 Treasury order establishing the Office of Financial Enforcement. In establishing this office, one of the positions was designated as a Data Systems Advisor, which was filled by a staff member already on detail from Customs to Treasury headquarters. More involvement by Treasury headquarters should alert Treasury management earlier about management problems such as a backlog of unprocessed reporting forms, and allow more expeditious action to address problems.

How Data Is Collected and Processed

Treasury has assigned Customs the overall authority for collecting information reported pursuant to the Act. To carry out these duties, Customs established the procedures for entering the Act's data into an automated financial data base which is part of the computerized information system known as the Treasury Enforcement Communication System (TECS). When the Act's information is added to the financial data base, it can then be accessed by law enforcement personnel through TECS computer terminals. As of January 2, 1986, over five million Act-generated documents were accessible through TECS. Roughly 90,000 inquiries per month are made of the financial data base compiled as a result of the Act.

The CTRs and FBARs are collected at the IRS data center in Detroit, Michigan, and the CMIRs are collected at a Customs data center in San Diego, California. The receiving facility performs the necessary processing to convert the document into computer readable format. Magnetic tapes containing the data are then sent to a Customs computer facility in Franconia, Virginia, for incorporation into the TECS data base.

Currency Transaction Reports

Since October 1984, CTRs have been filed with and processed by the IRS Data Center in Detroit, Michigan. The inventory of CTRs received but not processed increased from approximately 196,000 forms in January 1985, to approximately 1,300,000 forms as of March 1, 1986, an increase of more than 500 percent. As a result, information available through the TECS in March 1986 did not include CTR data on reports received after October 1985.

The major factor contributing to, and preventing the elimination of, the backlog of unprocessed CTRs was the large increase in the number of CTRs received during 1985. The initial significant increase occurred in the Spring of 1985 following the Bank of Boston's pleading guilty in February 1985 to violations of the Act. Receipts for April and May of 1985 were about 126,000 and 129,000, respectively, while prior receipts averaged about 63,000 per month. Based on the historical monthly receipts, the Center was set up to process about 60,000 CTRs a month. Beginning in November 1985, however, over 200,000 CTRs have been received each month.

IRS has taken a number of initiatives to increase their processing capabilities to eliminate the backlog of unprocessed CTRs by April 30, 1986. The Detroit Center modified its personnel staffing procedures to provide greater flexibility. Permanent employees have been augmented by a substantial number of temporary employees. Additionally, contracting is envisioned for resolving the problems of backlog, hiring delays, and peak processing. Temporary or contract personnel will only be used as funding allows. Center officials told us that they estimate that the Center will be capable of processing about 200,000 CTRs per month. According to a Center official, the backlog of CTRs was eliminated and the Center reached its 30-day processing goal during the last week of May 1986.

Additionally, a Currency and Banking Reports Division was established at the Detroit Data Center to plan, coordinate, manage, control, and perform the analysis, design, programming, and maintenance of automated systems and information processing for IRS Criminal Investigation programs. This division will be responsible for creating and maintaining an integrated financial data base, which will minimize IRS' dependency on Customs for access to Customs' automated financial data base.

Report of Foreign Bank and Financial Accounts

Beginning with the calendar year 1984 FBARs, the IRS Detroit Data Center was given the responsibility for collecting and processing FBARs. Originally, the Center estimated that the processing program for 1984 FBARs would be fully developed, tested, and operational by March 1, 1986. However, the Center has experienced unanticipated difficulties during the testing phase and, thus, the revised implementation date is mid-August 1986. As of March 1, 1986, approximately 113,000 FBARs had been received by the Center. The anticipated volume is 125,000 FBAR filings per year. Center officials told us that manual and computer

processing of FBARs is a difficult task because a single form allows multiple account numbers and can pertain to multiple taxpayers.

Report of International Transportation of Currency or Monetary Instruments

Customs' San Diego Data Center collects and processes CMIRs. These forms are sent to the San Diego Data Center on a weekly basis from United States ports of entry. The Center processes the reports and produces a magnetic tape. The Center then mails tapes of the data to Customs' Franconia facility for entry into the financial data base.

Presently, there is no appreciable backlog of CMIR forms awaiting input. Using contract personnel, the Center processes about 2,500 CMIRs a week. It takes approximately 1 month to get CMIR data into the system. The number of CMIRs received during 1985 was 131,046; a decrease of about 37 percent from the 207,041 CMIRs received in 1984. This reduction in filings coincides with the increase in the reporting threshold from $5,000 to $10,000 in 1985. According to statistics at the San Diego Data Center, the dollar value of the CMIRs increased from $25.6 billion in 1984 to $33.5 billion in 1985.

Treasury Does Not Monitor Customs' Analyses of the Act's Data

Treasury has delegated to Customs the day-to-day authority for analyzing data compiled as a result of the Act for use in investigations and for strategic intelligence. Currently, Treasury does not routinely receive management information from Customs and has not given Customs guidance in planning the types of studies or methodologies to be pursued. Treasury has not systematically monitored the usefulness of analytical reports, and Customs had no formal method of receiving feedback on the usefulness of reports until August 1985. More involvement by Treasury headquarters in advising, coordinating, and monitoring Customs' analytical activities is needed to assure that Customs' analyses are meeting the needs of the law enforcement community.

Customs' Financial Analysis Division does not formally plan how it will analyze data compiled as a result of the Act. Some analyses are initiated at the discretion of senior analysts, supervisors, or upper management, and others are self-initiated by junior analysts. The division director monitors and directs this process to assure organizational objectives are met. The division does not have written plans designating the types of studies or analyses to be done and the types of methodologies to be used. Treasury headquarters has not requested such plans and has not provided input to Customs as to the future priorities or directions of analyses.

Prior to August 1985, Customs did not have a formal mechanism for measuring the usefulness of their products to the law enforcement community and for highlighting areas needing improvement. A formal feedback process was begun in August 1985 when the Financial Analysis Division began attaching feedback forms to each report sent to the field. The feedback forms should increase management information on report usefulness. However, in our limited review of selected Customs' field offices in California and Florida we noted deficiencies in the system for tracking analytical reports from headquarters to the field. Of the 10 reports the Analysis Division told us that it sent Customs' San Diego field office between January 1984 and July 1985, San Diego could locate only seven. However, San Diego found an additional 12 reports it believed had come from the division during that period. We could not track reports at the Customs field offices in Florida that we visited because they did not maintain centralized records of reports received. In addition, Customs' Office of Internal Affairs indicated in a December 1985 report that Customs' New York field office had no log or report tracking system in place.

Law enforcement personnel we met with in California told us that, although they considered some of the analytical reports they had received to be significant and helpful, they considered most of the reports to be of limited value and retained them only as general background information. During our work in Florida, we were unable to readily trace the use of specific analytical reports because the law enforcement agencies did not keep centralized records of such use. The Acting Director of Treasury's Office of Financial Enforcement told us that, due to a lack of personnel, Treasury headquarters has not been actively involved in the planning process in the Financial Analysis Division. Since Customs does not prepare formal plans for analytical work, and Treasury headquarters does not monitor the Analysis Division's actions, Treasury has no way of assuring that the division's use of resources for analysis are in line with the priorities and needs of Customs, IRS, Treasury, and other federal law enforcement agencies.

Dissemination Guidelines Need to Be Updated by Treasury

Treasury delegated to Customs the authority to facilitate the timely exchange of Act report data between federal agencies. Customs fulfills this role through the Information Management Branch, Customs' Office of Investigation. Various Customs entities, financial institutions, and federal, state, local, and foreign law enforcement agencies request raw data from the Information Management Branch on organizations, geographic areas, or persons. The number of requests has increased since

1982, and the Branch has seen an acceleration of this increase during late 1985 and early 1986.

Despite increased requests, use of Act data by federal and other law enforcement agencies has been hindered by Treasury's current dissemination guidelines. FBI, DEA, and Customs officials told us that revised guidelines would facilitate agencies' access by allowing them to request some data at the field level rather than from Customs headquarters. We recommended this revision in our 1981 report. In addition, Customs proposed revised dissemination guidelines in 1982 and again in 1986, but as of May 28, 1986, the revisions were still in the review process within Treasury.

Current Dissemination Guidelines

Treasury issued the current dissemination guidelines on April 2, 1979, outlining how information gathered pursuant to the Act could be distributed to law enforcement agencies. A stated purpose of the guidelines was to avoid unfair or erroneous distribution or use of the data. These guidelines basically describe dissemination to federal agencies already having "blanket approval" to receive Act data. Treasury has granted this approval to 20 agencies, including the FBI, DEA, the Securities and Exchange Commission, Secret Service, and Treasury's Bureau of Alcohol, Tobacco, and Firearms. To obtain such an approval, the head of the federal agency must receive initial authorization from the Secretary of the Treasury. Thereafter, the agency's designated official may request Act data from the Commissioner of Customs or his designee.

Treasury's Deputy Assistant Secretary for Enforcement approves requests for Act data on a case-by-case basis for agencies not having blanket approval. Such agencies include all state, local, and foreign governments, and any federal agencies which have not yet received a blanket approval.

All requests for data compiled under the Act must (1) certify that an investigation or proceeding is being conducted on the person(s) in the named request; (2) certify the nature of the investigation or the violation of federal law; and (3) include information sufficient to identify the person(s) named to permit a valid examination of the data base.

Current Guidelines Discourage Requests for Act Data

According to FBI and DEA officials, the effect of the current guidelines is to discourage their agents from regularly requesting Act data. The agents must prepare a written request to Customs headquarters instead of directly requesting and receiving the data from a nearby Customs field office having access to TECS. The current procedure causes processing time to be lengthy and, in many investigations, agents need the data in a timely manner. In our 1981 report, we recommended the guidelines be amended to eliminate this deterrent to the use of Act data. The Customs' Office of Internal Affairs concurred with our opinion in their recent audit report of December 1985.

In addition, in a May 1985 memorandum, the Customs Assistant Commissioner, Office of Enforcement, noted that the current guidelines do not allow for effective liaison between Customs and agencies requesting data because Customs field offices are not aware of the requests being made. Thus, the potential for sharing additional information and conducting cooperative cases is reduced.

In 1982, Customs submitted a proposed revision of the dissemination guidelines to Treasury. According to the Director of Customs' Financial Investigations Division, however, Treasury did not move the revision through the process necessary to implement the change. The Acting Director of Treasury's Office of Financial Enforcement stated that the revision was not enacted due to difficulty in obtaining a Privacy Act notice of clearance, which was necessary to assure that any regulatory changes adhere to the guidelines of the Privacy Act. Treasury did not receive this clearance until late 1985.

In January 1986, Customs again revised the dissemination guidelines. As of March 24, 1986, the proposed revision had been reviewed by Customs' General Counsel and forwarded to Treasury for approval. As of May 28, 1986, final approval by Treasury headquarters was still pending.

The following are highlights of changes proposed in the revision:

1) Federal agencies with blanket approval would be able to address written name check requests to a Customs Special Agent-in-Charge at a local field office. However, requests for special computer printouts (data dumps) would still have to be approved at the headquarters level due to Privacy Act considerations.

2) Procedures for agencies not having blanket approval would not change, except that federal, state, and local law enforcement officials involved in financial investigative task forces would also be able to obtain name checks from the Special Agent-in-Charge at the field level.

Customs officials believe these changes would increase outside agencies' use of the data as well as easing the increasing workload at the Information Management Branch. These officials also believe that because simple name check requests would be filled in the field, the Information Management Branch would be able to focus on large data requests (computer printouts) and become more proactive in processing such requests. In our opinion, Customs' proposed changes are desirable and should be approved by Treasury.

Legal Issues Relating to Interpretation of Reporting Requirements

Under present law, money launderers are successfully prosecuted in some courts for causing financial institutions not to file reports on multiple currency transactions totalling more than $10,000 or causing financial institutions to file incorrect reports. In such cases, defendants are charged with violations of 18 U.S.C. §2 (aiding and abetting or causing another to commit an offense) and 18 U.S.C. §1001 (concealing from the government a material fact by a trick, scheme, or device). For example, in United States v. Tobon-Builes,[2] the Court of Appeals for the Eleventh Circuit upheld a conviction under 18 U.S.C. §1001 where the defendants had engaged in a money laundering scheme in which they had structured a series of currency transactions, each one less than $10,000 but totalling more than $10,000, to evade the reporting requirements.

In contrast, the Court of Appeals for the Ninth Circuit in a recent decision (United States v. Varbel[3]) overturned Federal District Court convictions of suspected money launderers. The Court of Appeals noted that Treasury's regulations are not as broad as the Act itself. The Court found that there is a difference between the reporting requirements of the Act and the government's implementing regulations. The Act extends the reporting requirements to financial institutions and any other participants in the transactions. Treasury's implementing regulations, however, limit the requirement to financial institutions. The Court concluded that the defendents were not required to inform the banks of multiple currency transactions totalling more than $10,000. In addition,

[2]706 F.2d 1092 (11th Cir. 1983) reh'g denied, 716 F.2d 914 (11th Cir. 1983).

[3]780 F.2d 758 (9th Cir. 1986).

the Court of Appeals for the First Circuit overturned a conviction in United States v. Anzalone,[4] holding that structuring currency transactions to avoid the reporting requirements did not violate 18 U.S.C. §1001.

In April 1986 hearings before the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance, House Committee on Banking, Finance, and Urban Affairs, IRS' Assistant Commissioner for Criminal Investigations testified that difficulties with prosecutions are caused by two aspects of the Act's implementing regulations. First, the responsibility to file a CTR is placed solely on the financial institutions. Therefore, money launderers, as bank customers, are not required to file CTRs. Second, there is no requirement that multiple currency transactions on the same day, each less than $10,000 but totalling more than $10,000 in the aggregate, be combined and reported.

Treasury's Assistant Secretary for Enforcement also testified at the April 1986 hearings that Treasury and the Department of Justice are jointly considering regulatory amendments aimed at solutions to the problem of structuring transactions to avoid the reporting requirements of the Act. These revisions are to be published in the Federal Register in the near future.

In addition to the regulatory changes discussed above, a series of legislative proposals were introduced before the Congress during 1985 and 1986. These proposals cover a broad spectrum of issues surrounding the Act and would probably affect how Treasury implements the Act in the future. It was not within the scope of this review, however, to analyze these proposals and we take no position on them at this time.

[4]766 F.2d 676 (1st Cir. 1985).

Conclusions and Recommendations

Conclusions

After the Bank of Boston pled guilty in February 1985 to violations of the Bank Secrecy Act, the Department of the Treasury began taking a more active role in implementing the Bank Secrecy Act. In June 1985, Treasury established an interagency working group composed of Treasury and regulatory agency officials, which began developing changes to strengthen the compliance examination procedures. In July 1985, Treasury established an Office of Financial Enforcement under the Assistant Secretary for Enforcement to assist in carrying out the responsibilities of implementing the Act. This office gave formal status to an informal staff group which had previously assisted the Assistant Secretary. By designating one of the four authorized professional staff positions in the new office as a Data Systems Advisor, Treasury recognized the need for increased oversight and monitoring of the data collection efforts by IRS and Customs. The number of civil actions by Treasury for noncompliance by financial institutions increased in 1985, although these reviews resulted mostly because financial institutions began voluntarily admitting noncompliance with the Act.

The Act's implementing regulations require periodic reporting from the financial regulatory agencies, IRS, and Customs on compliance examinations and enforcement efforts. Treasury has not insisted on this requirement being fulfilled, and therefore has incomplete knowledge of these activities. Also, the extent to which the Act and data generated under the Act are used in criminal prosecutions is not known by Treasury. Without such information, Treasury cannot measure the effectiveness of agencies' Act-related efforts or the usefulness of the Act to the law enforcement community.

Treasury headquarters has not monitored Customs' analytical activities. Customs has no formal planning process for its analyses, and until August 1985, lacked a formal feedback system for determining the usefulness of analytical reports to field offices. Without systematically monitoring the analytical operations and the effectiveness of the analyses performed by Customs, Treasury headquarters is unable to evaluate Customs' analytical efforts, and cannot be assured that the analyses of the Act's data are meeting the needs of the law enforcement community.

Customs has taken the initiative to revise the guidelines for dissemination of Act data. In our opinion, the changes proposed by Customs are needed to facilitate access by other agencies regularly requesting Act data. Treasury has not yet approved the proposed revisions.

In 1986, Treasury and the Department of Justice began considering changes to the Act's implementing regulations aimed at clarifying issues concerning conducting multiple, structured currency transactions intended to avoid the reporting requirements of the Act. We agree that efforts to clarify these issues are needed.

Recommendations

We recommend that the Secretary of the Treasury, through the Assistant Secretary for Enforcement, establish management controls aimed at providing more information to Treasury headquarters about the activities of the agencies and bureaus to which Treasury has delegated authority to implement the Bank Secrecy Act. Such controls would help Treasury headquarters to improve the implementation of the Act and would provide assurance to Treasury headquarters that the primary purpose of the Act—aiding law enforcement officials in the detection, investigation, and prosecution of criminal activities—is being met. Some of the areas where Treasury headquarters could improve implementation of the Act include:

- Establishing formal reporting procedures for agencies and bureaus with Act-related duties which will ensure that Treasury headquarters regularly receive significant and comparable information about compliance and enforcement efforts.
- Developing procedures for referring financial institutions found in violation of the Act to Treasury for consideration for a civil review leading to possible civil penalties.
- Obtaining information from law enforcement agencies which would identify cases when the Act and/or its data is used in criminal investigations and prosecutions.
- Requiring Customs to establish a system for planning its analytical activities and modifying these plans based on feedback from law enforcement officials to ensure that Customs' analyses are meeting the needs of the law enforcement community.
- Expediting the approval and implementation of the revised dissemination guidelines submitted by Customs.

Selected Examples of Use of the Bank Secrecy Act And/Or the Data Generated by the Act

The Act and data generated by it are being used by federal law enforcement personnel in Florida and California, the locations we visited during this review, in their investigations and prosecutions of criminal activities. The Act is currently the principal tool available to law enforcement agencies to detect and measure the financial activities of and to punish individuals engaged in money laundering schemes. Our work indicates that Customs and IRS are the primary users of the Act and the data generated under it in Florida and California. The FBI and DEA are secondary users of the Act and its data because they (FBI and DEA) rely on the Treasury agencies (IRS and Customs) to investigate and prosecute individuals for currency-related violations. FBI, DEA, and other agencies become involved in cases when there are criminal activities involved in addition to currency violations.

This appendix will discuss how law enforcement agencies in Florida and California have made specific use of the Act and its data and will describe a few selected cases. As previously noted, we selected these locations because of the high volume of drug trafficking and money laundering activities known to be conducted in these states. As agreed with subcommittee representatives, we collected anecdotal information from law enforcement personnel on such uses. Thus, it was not within the scope of this review to verify the reported accomplishments of the various programs discussed.

Use of the Act by Law Enforcement Personnel

Federal law enforcement agencies in Florida and California are using the Act and data generated by the Act in a variety of ways, including: (1) to disrupt money laundering and cash movements associated with drug trafficking; (2) to enforce laws relating to controlled substances; and (3) to enforce civil and criminal tax laws. Since 1977, such uses have been made of provisions of the Act and reporting under the Act by federal agencies through various multi-agency task force operations, such as BANCO, led by DEA, and GREENBACK, led by Treasury. Also, Customs' use of the Act's data has led to seizures of currency being physically transported out of the country and IRS has used the Act and its data to target individuals and groups not complying with various tax laws.

Since money laundering, per se, is not a crime, the Act has been used to prosecute individuals for failing to comply with the reporting and recordkeeping requirements of the Act. By making it more difficult for criminals to use financial institutions to legitimize their ill-gotten gains, officials hope to force criminals into more visible activities such as physically transporting bulky quantities of currency across the border.

In cases where other criminal charges are involved, such as possession and distribution of controlled substances, the violations of the Act can be cited as additional counts and can provide an indication of the amount of money involved in the criminal activity. Officials cited the following additional benefits of the Act:

- provides a deterrent by making it more difficult to use traditional financial institutions to hide the profits from illegal activities,
- provides a mechanism for enlisting the support and cooperation of banks and other financial institutions in identifying possible currency violations, and
- provides authority to seize unreported currency being transported into or out of the country.

In addition to the Act itself, the data generated by the reporting requirements of the Act (CTRs, CMIRs and FBARs) is valued by enforcement personnel. The data is used to:

- identify investigatory targets for possible currency, tax, and other criminal violations,
- provide corroborating evidence against individuals identified through other sources, such as informants or other agency referrals, and
- show knowledge of the reporting requirements of the Act by identifying previously filed reports.

Selected Case Examples

The following cases were identified by federal law enforcement personnel we met with in Florida and California as examples of how the Bank Secrecy Act and its data have been used successfully.

Jose "Cheo" Fernandez-Toledo

Cheo Fernandez is currently serving a 17 year sentence as a result of various conspiracy and narcotics charges. He also received a 4 year consecutive sentence for conspiring to defraud the United States by obstructing the IRS in its collection of income tax. Data compiled under the Bank Secrecy Act helped prove that Fernandez and others conspired to avoid paying income tax on proceeds from Fernandez's marijuana smuggling activities. The Fernandez investigation, which began in late 1979, was a multi-agency effort led by the FBI.

In November 1983, law enforcement officials arrested Cheo Fernandez and others after conversations were intercepted regarding the intended murder of suspected confidential informants, money-laundering and drug smuggling activities, as well as the destruction of evidence.

As a result of the intercepted discussions about murdering suspected informants, the U.S. Attorney's Office was in a hurry to indict Fernandez. The U.S. Attorney's Office could not obtain approval from the IRS quickly enough to include tax violations in the first indictment. Consequently, a second indictment was issued after the IRS approved the request.

The first indictment against Cheo Fernandez and his co-conspirators charged them with violations of various federal statutes including conspiracy and substantive violations under the Racketeer Influenced and Corrupt Organizations Act.

The second indictment charged that Fernandez knowingly conspired to defraud the United States by obstructing the IRS in its collection of income taxes. In the subsequent trial, data compiled under the Act was critical in corroborating government witness testimony and providing trial evidence to support the conspiracy and tax charges.

In April 1983, the arrest of and statements from one Ramon Milian-Rodriguez established him as Fernandez's money-launderer. When Milian-Rodriguez first began to launder Fernandez's money, he used banks for depositing cash, purchasing cashiers checks, and wire transferring money out of the country. When associates deposited cash into Fernandez's accounts, banks usually complied with the Act's reporting requirements by filing CTRs, but investigators found the forms incomplete, inaccurate, and sometimes, not filed at all.

As Milian-Rodriguez's money-laundering techniques became more sophisticated, he purchased a Lear jet to fly money directly to Panama and to avoid the filing of currency reports. Although Milian-Rodriguez would sometimes file CMIRs when transporting money out of the country, he would drastically underreport the amounts.

The FBI obtained any financial data compiled under the Act or resulting intelligence from Operation GREENBACK agents and primarily used this information as lead material or to corroborate information obtained elsewhere. The FBI pursued Fernandez's drug trafficking activities and relied upon IRS agents at GREENBACK to pursue Fernandez's financial

improprieties. The IRS investigation resulted in Fernandez's second indictment and subsequent conviction.

Operation GREENBACK IRS agents provided the U.S. Attorney with both CTR and CMIR information which was used as trial evidence. By providing certified copies of these forms as evidence, the prosecution was able to prove that Cheo Fernandez and others conspired to avoid paying income tax on proceeds from Fernandez's marijuana smuggling activities.

The U.S. Attorney's office used certified copies of CTRs in court to show the movement of money as arranged by Milian-Rodriguez on behalf of Fernandez. CTRs also helped prove that Milian-Rodriguez was underreporting Fernandez's income and assets and using phony corporations to launder illicit proceeds and reduce taxable income.

The U.S. Attorney's office also used CMIRs in the same manner. Although Milian-Rodriguez sometimes filed CMIRs when transporting cash, the CMIRs would usually only reflect one-tenth of the actual cash he was transporting. With Panamanian bank records, a government witness' testimony, and Milian-Rodriguez's own admissions, the government proved Fernandez had Milian-Rodriguez launder his drug money by moving it directly out of the country without filing CMIRs or by erroneously completing the forms.

The CTRs filed by banks were the key to corroborating the testimony of the government witness. Since the witness, Mario Castellanos, was heavily involved in the racketeering conspiracy and money laundering, the Act's data was crucial in corroborating his testimony, thereby establishing Castellanos as a believable witness. Milian-Rodriguez's statements and ledgers, as well as the statements of Castellanos, were compared with Bank Secrecy Act data to show that Milian-Rodriguez, at the direction of Fernandez, had cash deposited into Fernandez's domestic accounts, had the money quickly transferred to Panama, and eventually transferred the funds back into Fernandez's domestic accounts.

In addition, government attorneys used the Act's data to disprove the defense theory of the case. The U.S. Attorney used the data to impeach a defense witness who claimed he, not Fernandez, owned a disputed asset.

Edward Hayes Ward

This case used Bank Secrecy Act data to gather intelligence to investigate the defendants and their narcotics smuggling operation. The task force that worked the case was comprised of agents from IRS, DEA, Customs, and the Florida Department of Criminal Law Enforcement. Intelligence was gathered by this task force through reviews of a defendant's CMIR filings.

In October 1981, 12 of the 14 defendants in this case were sentenced in Federal District Court, Jacksonville, Florida, after extensive negotiations led to pleas being entered with the court. Edward Hayes Ward was sentenced to 20 years, plus 15 years special parole, for various violations, including Bank Secrecy Act violations and tax evasion. Other defendants received sentences which ranged from 5 to 18 years.

Violations of the Bank Secrecy Act were involved in that, between April 1977 and August 1979, Edward Hayes Ward and/or a responsible representative, acting on the behalf of Ward, did "physically" transport and/or caused to be transported a combined total of $1,450,600 into and out of the United States without filing a CMIR as required under the Act.

Most of the documentary evidence which would be required to substantiate the currency reporting violations was obtained through the federal grand jury in Jacksonville, Florida. Customs investigators were able to secure financial records from the Turks and Caicos Islands in a form usable as criminal evidence. This evidence consisted of summaries of currency movements either made or caused to be made by Edward Hayes Ward. Additionally, the cooperation of offshore bank officials was obtained to the extent they were willing to travel to the United States and testify as government witnesses.

Lalinde

Operation GREENBACK initiated the Lalinde case primarily from a Treasury Financial Law Enforcement Center (TFLEC) report containing the Act's data. Lalinde was sentenced to 4 years in prison after pleading guilty to one count of conspiracy. He was also placed on 5 years probation after pleading guilty to one count of withholding material facts. In addition, eight other persons were indicted; four were convicted, and four remain at large.

In August 1984, United States Border patrol agents advised Customs/Operation GREENBACK agents that they had detained a Colombian national, Oscar Lalinde, with $15,000 of United States currency in his possession. A search of Lalinde's residence revealed a large number of

cashier's checks and a sack of United States currency. Documentation found at Lalinde's residence disclosed that he laundered over $8 million from January 1985 through August 1985.

Lalinde's name was included in a TFLEC report as a person filing suspicious CTRs, and due to this report and other information, GREENBACK agents began a preliminary investigation into the activities of Lalinde.

Because of information provided in the TFLEC report and additional bank account numbers written on a piece of paper found in Lalinde's pocket, Lalinde was questioned about Danny Marquez. Marquez was investigated and found to have CTR activity totaling $1,337,637 for the period of February 1984 to March 1984. Lalinde's CTR activity for the same period totaled approximately $702,150. Agents determined that Lalinde was working with Danny Marquez in a money laundering operation run by Alberto Botero-Uribe. Lalinde and Marquez were depositing large amounts of United States currency into 22 accounts at Tower Bank in an extensive cash-to-check conversion operation. Subsequent investigation resulted in the identification of additional individuals associated with Lalinde in the laundering operation including an employee of Tower Bank. Botero would sell checks from the Tower Bank checking accounts for Colombian pesos in Columbia. Botero had instructed Lalinde to make split cash deposits to avoid filing governmental reports.

Seizures in the case included nine checking accounts containing $185,736.89, in addition to $224,590 in currency, $24,925 in cashier's checks and $22,430 in Columbian pesos from Lalinde's residence.

Guadalupe Alcantar and the Bank of Coronado

In July 1983 the San Diego Financial Task Force subpoenaed CTRs from several banks in the San Ysidro, California, area to review large cash deposits. Among the banks subpoenaed was the San Ysidro Branch of the Bank of Coronado. Review of the bank's CTRs identified a dozen checking accounts into which approximately $6 million in currency had been deposited during the first 6 months of 1983. Many of the account holders were identified as associates of major narcotics traffickers.

In November 1983, DEA information alleged that Guadalupe Alcantar, the San Ysidro branch manager of the Bank of Coronado, was laundering large amounts of currency representing the proceeds of narcotics transactions. In March 1984, IRS and Customs special agents developed a confidential informant who, on behalf of his prior employer, had made

currency deposits with Alcantar. The informant introduced an undercover law enforcement agent to Alcantar. The agent indicated that he wanted to deposit large sums of money into the banking system, but did not want his name connected to the currency.

In electronically monitored undercover conversations, Alcantar demonstrated knowledge of the CTR filing requirements and suggested a nominee be used to conceal the depositor's true identity. During May and June 1984, $362,000 in currency transactions were conducted for the undercover agent on seven occasions. Neither Alcantar nor any of the other bank employees who counted or accepted the deposits requested any identification from the agent conducting the transactions. CTR's were filed for six of the seven transactions; however, the CTR's consistently showed the nominee on the account as the owner of the currency when, in fact, he had nothing to do with the transactions other than providing his name. Part 2 on all of the CTR's was left blank indicating that the person conducting the transactions was the true owner of the currency.

Guadalupe Alcantar was indicted on currency and fraud violations. Although she was a bank officer, no civil or criminal penalties have been assessed against the bank.

Barbara Mouzin and the Grandma Mafia

In September 1981, IRS and Customs agents received information from a banker that a group of individuals had asked him to accept large deposits of currency and not file CTR's. The individuals indicated that the funds would be coming from both foreign and domestic sources and would be placed in the local bank and wire transferred to both foreign and domestic accounts. Barbara Mouzin and her associates claimed to be able to supply $2 to $5 million a week.

During the following months, agents learned that Mouzin and other middle-aged women (hence, the name "Grandma Mafia") were operating a large money laundering scheme. Mouzin indicated she was setting up operations in Southern California because the heat was on in Florida.

The bank agreed to cooperate with law enforcement officials and began accepting large deposits from Mouzin and others. Later, the banker introduced Mouzin to undercover agents who posed as financial consultants. The agents created a store front operation to take over laundering of the funds. From November 1981 through June 1982, Mouzin was

involved in 51 currency deliveries totalling over $25 million; these deliveries ranged from $70,000 to $1.8 million each.

During subsequent meetings with the undercover agents, Mouzin indicated that the currency being handled was the proceeds of drug transactions. Mouzin then expressed an interest in supplying the agents and their clients with cocaine.

The case resulted in the conviction and imprisonment of 18 individuals on narcotics and Bank Secrecy Act violations. They received sentences of from 2 to 25 years. In addition, agents seized over $1 million and 35 kilos of cocaine.

Jose and Gustavo Restrepo

Jose and Gustavo Restrepo deposited over $14 million in cash during the 6-month period July to December 1982 in a savings and loan in Oxnard, California. The transactions were made on behalf of three Panamanian corporations and funds were wire transferred to banks in New York and Miami. In May 1983, Customs in Los Angeles received a report from TFLEC pointing out the sizable transactions. The transactions were particularly noticeable because the bank filed all of the CTRs at one time.

Customs and IRS' Los Angeles offices subsequently began a joint, full scale investigation of the Restrepos. Special agents determined that the Restrepos opened four different business accounts to which the currency deposits were made. None of the accounts were in the names of the Restrepos; however, the majority of deposits and wire transfers were made by them. During the course of the investigation, it was determined that the Restrepos had relocated to Miami, Florida. The information collected in Los Angeles was provided to Operation GREENBACK agents in Florida.

During March 1984, Operation GREENBACK agents observed two couriers making numerous trips between local banks and the apartment of Gustavo Restrepo. Based on these observations and the findings of the Los Angeles Financial Investigations Task Force, search and arrest warrants were executed by GREENBACK agents on April 9, 1984. On June 12, 1984, Gustavo Restrepo pleaded guilty to one count of conspiracy to violate the reporting requirements of the Bank Secrecy Act, and was sentenced to four years in prison on July 12, 1984. In addition, a total of $829,000 in currency and negotiable instruments and three vehicles were seized.

Maria Cristina Torres

In March 1985, Maria Cristina Torres was stopped by Customs Patrol Officers in the Los Angeles International Airport just prior to boarding a plane for Vancouver, Canada. Torres was questioned as part of Customs' routine outbound currency program in which officers observe, advise, and, if necessary, interview certain departing passengers regarding the Bank Secrecy Act's reporting requirements.

According to Customs officers, Torres was suspected because she appeared to be weighted down, i.e., bulky clothes, and was rushing for the plane at the last moment. Torres was advised of the currency reporting requirements and indicated that she understood the law. Torres told officials she was carrying about $3,000. A subsequent search by Customs officers revealed over $146,000 in United States currency in the pockets of Torres' jumpsuit, in her purse, and in a plastic bag she was carrying. She was convicted of failing to file a CMIR and was fined $5,000 and given 5 years probation. The currency she was carrying was forfeited to the government.