



August 2022

BANK SECRECY ACT

Action Needed to Improve DOJ Statistics on Use of Reports on Suspicious Financial Transactions

Accessible Version

Why GAO Did This Study

BSA provisions for reporting suspicious financial transactions are intended to help law enforcement detect and investigate illicit finance activity. In [GAO-19-582](#), GAO reported that financial institutions wanted more feedback on the usefulness of the BSA reports they file with FinCEN.

The 2021 NDAA directs DOJ to annually report statistics on law enforcement agencies' use of BSA reports, and directs FinCEN to provide additional feedback. The 2021 NDAA also contains a provision for GAO to report on practices that could improve BSA-related feedback. Among its objectives, this report examines steps DOJ and FinCEN have taken to implement these provisions.

GAO reviewed applicable laws, regulations, and agency documents, and interviewed officials from FinCEN, DOJ, other law enforcement agencies, and industry associations.

What GAO Recommends

GAO recommends that DOJ (1) include BSA data in its agency-wide data strategy and determine how to improve collection of BSA data from DOJ component agencies, and (2) involve its Chief Information Officer and Bureau of Justice Statistics in the design of its annual BSA statistical report.

View [GAO-22-105242](#). For more information, contact Michael E. Clements at (202) 512-8678 or ClementsM@gao.gov.

BANK SECRECY ACT

Action Needed to Improve DOJ Statistics on Use of Reports on Suspicious Financial Transactions

What GAO Found

The Financial Crimes Enforcement Network (FinCEN) is responsible for administering the Bank Secrecy Act (BSA), which requires financial institutions to file reports about suspicious financial transactions. FinCEN provides BSA report access to law enforcement agencies, which use those reports to support investigations. FinCEN receives limited data from law enforcement agencies on their use of BSA reports or their impact on case outcomes because agencies largely do not collect such data. As a result, FinCEN cannot provide comprehensive feedback to financial institutions on the usefulness of the BSA reports they file.

Feedback Loop for Bank Secrecy Act (BSA) Reporting



Source: GAO analysis of agency documentation and interviews. | [GAO-22-105242](#)

The 2021 National Defense Authorization Act (NDAA) directs the Department of Justice (DOJ) to provide annual statistics to the Secretary of the Treasury on agencies' use of BSA reports, including how often reports contributed to arrests and convictions. But none of the agencies that DOJ contacted, including DOJ component agencies, provided the statistics described in the NDAA. DOJ's first annual report focused on qualitative information and statistics already available to FinCEN. DOJ stated that agencies faced challenges collecting data that connect their use of BSA reports to case outcomes using current data systems.

DOJ has opportunities to leverage existing initiatives and expertise to improve its annual statistical report on agencies' use of BSA reports.

- DOJ has been implementing a comprehensive, agency-wide data strategy to improve its data collection and infrastructure, but BSA-related data are not included in the strategy's scope. Including these data would give DOJ an opportunity to examine how to improve its component agencies' data collection on their use of BSA reports.
- DOJ's first annual statistical report on BSA reflected some methodological weaknesses. For example, it did not include data from two agencies that track some uses of BSA reports because DOJ did not have procedures for following up on its data requests. The DOJ office responsible for providing BSA statistics did not collaborate with DOJ's Chief Information Officer or Bureau of Justice Statistics in the report's design. By involving the expertise of these DOJ offices in the development of future annual reports, DOJ could better ensure a rigorous methodology for collecting and presenting the report's required statistics.

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AML

anti-money laundering

AUSTRAC	Australian Transaction Reports and Analysis Centre
BSA	Bank Secrecy Act
BSAAG	Bank Secrecy Act Advisory Group
CTR	currency transaction report
DOJ	Department of Justice
FATF	Financial Action Task Force
FBI	Federal Bureau of Investigation
FinCEN	Financial Crimes Enforcement Network
FINTRAC	Financial Transactions and Reports Analysis Centre of Canada
FIU	financial intelligence unit
IRS	Internal Revenue Service
IRS-CI	Internal Revenue Service - Criminal Investigation
MLARS	Money Laundering and Asset Recovery Section
NDAAs	National Defense Authorization Act for Fiscal Year 2021
OMB	Office of Management and Budget
SAR	suspicious activity report
UK	United Kingdom
UKFIU	United Kingdom Financial Intelligence Unit

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August 12, 2022

The Honorable Sherrod Brown
Chairman
The Honorable Pat Toomey
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

Illicit finance activity, such as fundraising by terrorist groups and money laundering by drug-trafficking organizations, can pose threats to national security, the well-being of citizens, and the integrity of the U.S. financial system.¹ To help detect and deter the use of financial institutions for illicit finance activity, the Bank Secrecy Act and related anti-money laundering authorities and requirements (collectively, BSA/AML) generally require financial institutions, such as banks, broker-dealers, and money transmitters, to take certain steps. These include collecting and retaining records of customer transactions, verifying customers' identities, maintaining AML programs, and reporting suspicious transactions.² Federal, state, and local law enforcement agencies can use these BSA reports in their investigations.

¹Money laundering is generally the process of converting proceeds derived from illicit activities into funds and assets in the financial system that appear to have come from legitimate sources. See 18 U.S.C. § 1956 (criminalizing the laundering of monetary instruments).

²Bank Secrecy Act, Pub. L. No. 91-508, 84 Stat. 1114-24 (1970) (*codified as amended* in scattered sections of 12 U.S.C., 18 U.S.C., and 31 U.S.C.). Regulations implementing the Bank Secrecy Act primarily appear in 31 C.F.R. Ch. X. The Bank Secrecy Act defines financial institutions as insured banks, licensed money transmitters, insurance companies, travel agencies, broker-dealers, and dealers in precious metals, among other types of businesses. See 31 U.S.C. § 5312(a)(2). Unless otherwise noted, we use the BSA definition of financial institutions in this report.

Members of Congress, industry associations, and other stakeholders have raised questions about the benefits of BSA reporting to law enforcement and costs for financial institutions. In 2020, we found that total direct BSA compliance costs generally were proportionally greater for smaller financial institutions we reviewed (about 2 percent of the operating expenses) than for larger ones (less than 1 percent). We also reported that although they were supportive of BSA, some banks and their trade associations cite BSA/AML requirements as a significant compliance burden and generally question whether the benefits of the reporting requirements outweighed the costs in light of limited public information about law enforcement use of BSA reports.³ Furthermore, a report from industry representatives stated that the Financial Crimes Enforcement Network (FinCEN), a bureau in the Department of the Treasury that administers BSA/AML and collects and disseminates BSA data, does not have the information needed to identify types of reporting not frequently used by law enforcement. With such information, reporting of suspicious financial activity could be streamlined.⁴

Given such questions, financial institutions have requested more feedback on the usefulness of their BSA reporting to law enforcement. In a 2019 report, we found that few law enforcement and supervisory agencies generated metrics on the usefulness of BSA reporting, such as the number of BSA reports that led to new investigations.⁵ We also found that FinCEN had not consistently communicated metrics from agencies that generated them. Instead, FinCEN made some metrics available on an ad hoc basis and did not widely provide institution-specific feedback.

The National Defense Authorization Act for Fiscal Year 2021 (NDAA) placed several new requirements on the Department of Justice (DOJ) and FinCEN relating to feedback on the use of BSA reports. Section 6201

³GAO, *Anti-Money Laundering: Opportunities Exist to Increase Law Enforcement Use of Bank Secrecy Act Reports, and Banks' Costs to Comply with the Act Varied*, [GAO-20-574](#) (Washington, D.C.: Sept. 22, 2020).

⁴Robert M. Axelrod, *Making SARs More Effective: Broader Based Feedback from Law Enforcement Needed by Financial Institutions*, Bloomberg BNA Banking Report (Feb. 5, 2013), accessed May 21, 2022, at <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/finance/us-fas-sar-feedback-bloomberg-032113.pdf>.

⁵GAO, *Bank Secrecy Act: Agencies and Financial Institutions Share Information but Metrics and Feedback Not Regularly Provided*, [GAO-19-582](#) (Washington, D.C.: Aug. 27, 2019).

requires DOJ to annually produce a report with statistics, metrics, and other information on the use of BSA reporting that could be used in feedback to financial institutions and other entities subject to BSA requirements. Sections 6203 and 6206 require FinCEN to provide additional feedback to financial institutions on the usefulness of BSA reports and to share threat pattern and trend information.⁶

NDAA also includes a provision for us to review U.S. and foreign government practices for creating feedback loops with regulated entities to share information on the usefulness of data they report to their federal governments.⁷ This report (1) examines FinCEN's efforts to provide feedback on the use and usefulness of BSA reports to financial institutions, (2) assesses DOJ efforts to provide information on the usefulness of BSA reports to law enforcement and other agencies in support of FinCEN's feedback efforts, and (3) describes the feedback practices of international financial intelligence units.

For the first objective, we reviewed NDAA requirements and FinCEN documentation, including FinCEN alerts, advisories, notices, bulletins, and speeches; its Law Enforcement Awards program; and other information published on the FinCEN website related to feedback practices. We also reviewed FinCEN's BSA Value Study, including its methodology, data sources, and analysis, and supporting documentation to identify the data the agency would need to provide comprehensive feedback on the use of BSA reports. We interviewed FinCEN officials to identify agency practices for providing feedback to the private sector and the agency's current and planned responses to address NDAA requirements.

For the second objective, we reviewed relevant laws, related guidance, and reports. We compared DOJ's report in response to NDAA section 6201 against the applicable NDAA requirements and assessed whether DOJ's efforts to address that section met standards for federal data improvement and previously identified elements of sound evaluation

⁶William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, §§ 6201, 6202, 6206, 134 Stat. 3388, 4565–4568, 4571–4572 (2021).

⁷Pub. L. No. 116-283, § 6503, 134 Stat. at 4628–4629. NDAA section 6503 includes a provision for us to review any practice or standard inside or outside the United States for providing feedback "through sensitive information and public-private partnership information sharing efforts, specifically related to efforts to combat money laundering and other forms of illicit finance."

design. We also reviewed GAO reports and Office of Management and Budget (OMB) documents on the implementation of the Federal Data Strategy and how agencies should implement it. We also reviewed OMB documents to identify practices for improving data collection, collaboration, and communication in federal agencies and OMB progress reports on implementing the Federal Data Strategy. We interviewed officials from the Federal Bureau of Investigation, DOJ, the Executive Office for United States Attorneys, FinCEN, U.S. Secret Service, Drug Enforcement Administration, Immigration and Customs Enforcement, and the Internal Revenue Service (IRS), and a judgmental selection of representatives of two financial industry associations, whose views are not generalizable.

For the third objective, we reviewed documents from the Financial Action Task Force (FATF), the Egmont Group, and the Future of Financial Intelligence Sharing.⁸ To identify feedback practices of international organizations relating to combatting money laundering and illicit finance, we reviewed documentation from Australia, Canada, and the United Kingdom. We selected these countries because their financial intelligence units produce English-language documentation and they work within legal systems similar in some respects to the U.S. system. We also interviewed representatives of the financial intelligence units (FIU) in Canada and the United Kingdom.⁹ See appendix I for more information on our scope and methodology.

We conducted this performance audit from May 2021 to August 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁸The Financial Action Task Force is an intergovernmental body that sets standards for combatting global money laundering and terrorist financing. The Egmont Group is an informal group of 166 FIUs that was established in 1995 and whose goal is to provide a forum for FIUs to improve cooperation. The Future of Financial Intelligence Sharing is a partnership between the Royal United Services Institute, a defense and security institute, and NJM Advisory, with a mission to lead independent research into the role of public-private financial information-sharing to detect, prevent, and disrupt crime.

⁹Officials from Australia's foreign intelligence unit were not available for interview.

Background

Bank Secrecy Act/Anti-Money Laundering Framework

FinCEN is responsible for BSA/AML administration, has authority to enforce compliance with BSA requirements, and serves as the repository of BSA reporting from banks and other financial institutions. It also analyzes information in BSA reports and shares such analyses with appropriate federal, state, local, and foreign law enforcement agencies. FinCEN publishes analyses on its website containing trends and methods in money laundering and other financial crimes. FinCEN has delegated its examination authority to certain federal agencies, including the federal functional regulators that supervise institutions for BSA compliance—Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, National Credit Union Administration, Office of the Comptroller of the Currency, Commodity Futures Trading Commission, and Securities and Exchange Commission—and IRS.¹⁰

U.S. financial institutions assist government agencies in the detection and prevention of money laundering and terrorist financing by complying with BSA/AML requirements such as maintaining effective internal controls and reporting suspicious financial activities. Most financial institutions must develop, administer, and maintain effective BSA/AML programs. At a minimum, those financial institutions must

¹⁰31 C.F.R. § 1010.810. Under FinCEN regulation, a “federal functional regulator” is defined as the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Board of Directors of the Federal Deposit Insurance Corporation, National Credit Union Administration, Securities and Exchange Commission, or Commodity Futures Trading Commission. 31 C.F.R. § 1010.100(r). We collectively refer to these agencies and IRS as supervisory agencies and focus on them because they are responsible for examining financial institutions for compliance with the BSA/AML requirements. FinCEN issued a final rule in 2014 that defines Fannie Mae and Freddie Mac as financial institutions for certain purposes and requires each to implement an anti-money laundering program and report suspicious activities. 79 Fed. Reg. 10365 (Feb. 25, 2014). We did not include the Federal Housing Finance Agency (the safety and soundness regulator for Fannie Mae and Freddie Mac) in this review because of the more limited scope of its BSA oversight activities. For a report on this issue, see Federal Housing Finance Agency, Office of Inspector General, *FHFA Should Re-evaluate and Revise Fraud Reporting by the Enterprises to Enhance its Utility*, EVL-2018-004 (Washington, D.C.: Sept. 24, 2018).

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- establish a system of internal controls to ensure ongoing compliance with the BSA and its implementing regulations;
 - provide AML compliance training for appropriate personnel;
 - provide for independent testing;
 - designate a person or persons responsible for coordinating and monitoring day-to-day compliance; and
 - establish risk-based procedures for conducting customer due diligence.¹¹

DOJ conducts investigations of financial institutions and individuals for both civil and criminal violations of BSA/AML laws and regulations. DOJ prosecutes violations of federal criminal money laundering statutes and violations of the BSA. Typically, several law enforcement agencies play a role in conducting BSA-related criminal investigations, including DOJ's Federal Bureau of Investigation (FBI) and Drug Enforcement Administration, U.S. Secret Service, IRS-Criminal Investigation (IRS-CI), and Immigration and Customs Enforcement-Homeland Security Investigations.

BSA Reporting and Use

BSA/AML regulations require banks and other financial institutions to monitor customer transactions to identify suspicious activity that may indicate money laundering or other criminal activity and report such activity. The two principal BSA reports are suspicious activity reports (SAR) and currency transaction reports (CTR). Financial institutions must submit SARs to FinCEN when customer and bank activities meet certain criteria. In particular, institutions must file a SAR when a transaction involves or aggregates \$5,000 or more in funds or other assets and when they know, suspect, or have reason to suspect that a transaction involves funds derived from illegal activities, among other things. In 2019, banks and other financial institutions submitted more than 2.3 million SARs, of which banks accounted for about half. Banks and other financial institutions generally are required to file CTRs for each transaction in currency of more than \$10,000. Additionally, they generally must report

¹¹Customer Due Diligence Requirements for Financial Institutions, 81 Fed. Reg. 29398 (May 11, 2016), codified at 31 C.F.R. §§ 1020.210(b), 1023.210(b), 1024.210(b), 1026.210(b).

the international transportation of currency and monetary instruments in excess of \$10,000.

FinCEN and federal, state, and local law enforcement agencies can use BSA reports to help investigate and prosecute fraud, drug trafficking, terrorist acts, and other criminal activities. Most agencies access SARs through FinCEN's online SAR portal, and FinCEN is responsible for providing access and credentials to agencies that use SARs. Some of the largest users of SARs, including FBI and IRS, receive copies of the SAR database and access SARs through their own searchable systems.

NDAAs Requirements for BSA Feedback

The National Defense Authorization Act for Fiscal Year 2021 placed several requirements on DOJ and FinCEN relating to the provision of feedback to BSA reporting entities. Specifically, sections 6203 and 6206 require FinCEN to provide additional feedback to each financial institution and share threat pattern and trend information. Section 6203 requires FinCEN, to the extent practicable, to periodically disclose to each financial institution summary information on SARs that proved useful to law enforcement. Information related to ongoing or closed investigations that implicate national security are excluded from this requirement. Section 6206 directs FinCEN to review SARs and publish information on threat patterns and trends. These publications are to include typologies relating to emerging money laundering and terrorist financing threat patterns and trends.

NDAAs section 6201 requires DOJ to annually produce a report containing statistics, metrics, and other information on the use of BSA reports. DOJ is to prepare the report in consultation with Treasury, federal law enforcement agencies, the Director of National Intelligence, federal functional regulators, and the heads of other appropriate federal agencies. Section 6201 also directs DOJ to submit the report to Treasury, which is to use the information to help assess the usefulness of BSA reporting, enhance feedback and communications with financial institutions and other entities subject to BSA requirements, and assist FinCEN in considering revisions to reporting requirements.

The statistics the report is to contain include

- the frequency with which the reported data contain actionable information leading to further procedures by law enforcement

agencies, including the use of a subpoena, warrant, or other legal process;

- calculations of the time between the date on which the data were reported and the date on which they were used;
- an analysis of transactions associated with the reported data, including whether the suspicious accounts that are the subject of the reported data were held by legal entities or individuals;
- the number of legal entities and individuals identified by the reported data;
- information on the extent to which arrests, indictments, convictions, criminal pleas, civil enforcement or forfeiture actions, or actions by national security, intelligence, or homeland security agencies were related to the use of the reported data; and
- data on the investigations carried out by state and federal authorities resulting from the reported data.

Financial Intelligence Units and Financial Action Task Force

FIUs are central national agencies responsible for the receipt and analysis of suspicious transaction reports and other information relevant to money laundering and terrorist financing, and for disseminating that analysis. FinCEN is the FIU for the United States. The first FIUs, including FinCEN, were established in the early 1990s. As of 2022, more than 160 were part of the Egmont Group, the international association of FIUs. Although members of the Egmont Group share the same core functions of receiving, analyzing, and disseminating financial information to combat money laundering and financing of terrorism, they have different structures, responsibilities, and authorities based on their countries' laws and regulations and financial markets.

While individual FIUs around the world combat illicit finance in their countries, FATF is an intergovernmental body that sets standards for combating money laundering, financing of terrorism, and other related threats to the integrity of the international financial system. FATF has 39 members, including the United States.

FATF has developed 40 recommendations designed to provide a comprehensive and consistent framework to combat money laundering and terrorist financing. These recommendations, which have been

revised several times since their original development in 1990, are recognized as the international standard for AML and countering the financing of terrorism and are endorsed by over 180 countries. For example, in 2003, FATF adopted a revised set of recommendations that, for the first time, included explicit recommendations on the establishment and functioning of FIUs. FATF also conducts peer reviews of each member on an ongoing basis to assess levels of implementation of FATF recommendations.

FinCEN Has Used Existing Efforts to Address Feedback Requirements, but DOJ Report Could Facilitate Additional Feedback

FinCEN Has Not Developed New Feedback Mechanisms, but Plans to Expand Efforts Through New Office

NDAAs require FinCEN to provide new types of feedback on the use and usefulness of BSA reports; specifically, NDAA requires FinCEN to provide institution-specific feedback and publish analyses of trends in illicit finance.¹² FinCEN has taken steps to address these requirements through existing efforts.

Officials stated that FinCEN uses the following programs to solicit information from the private sector and provide feedback in a manner consistent with the requirements of section 6203 to provide institution-specific feedback.¹³

- **Bank Secrecy Act Advisory Group (BSAAG).** BSAAG advises Treasury on BSA reporting requirements and informs private-sector representatives on how BSA information is used. BSAAG is chaired by FinCEN's Director, with membership open to financial institutions, trade groups, regulators, and law enforcement. BSAAG's discussions are not open to the public.

¹²Pub. L. No. 116-283, §§ 6201, 6203, 123 Stat. at 4565–4566, 4568.

¹³Specifically, Section 6203 requires FinCEN, to the extent practicable, to provide summary information to financial institutions on SARs that were used by law enforcement, discuss trends in suspicious activity with a variety of financial institutions based on FinCEN's review of SARs from those institutions, and to solicit feedback from compliance officers in a variety of financial institutions.

- **FinCEN Exchange.** FinCEN's voluntary public-private partnership brings together law enforcement, national security agencies, and financial institutions to help combat financial crime. The Exchange supports priority national security and counter-illicit finance investigations and policies and provides proactive outreach to allow industry to better prioritize its efforts. With the enactment of section 6103 of the NDAA, the Exchange was codified into law.¹⁴
- **FinCEN publications.** FinCEN publishes alerts, notices, advisories, and bulletins on its website to inform financial institutions about money laundering and terrorist financing threats and vulnerabilities. These publications are designed to help financial institutions guard against illicit finance threats, and may contain information including illicit activity typologies (techniques used to launder money or finance terrorism), red flags that facilitate monitoring, and guidance on complying with FinCEN regulations to address threats.
- **FinCEN Law Enforcement Awards program.** The annual awards highlight instances in which law enforcement agencies used BSA data to successfully pursue and prosecute criminal investigations. The awards provide synopses of those cases, which agencies and others can access online. FinCEN also sends letters to financial institutions that filed BSA reports that contributed to nominated cases.
- **FinCEN interactions with on-site law enforcement liaisons.** These positions are filled with staff from law enforcement agencies, who help facilitate operational and investigative work with law enforcement agencies and the exchange of information with financial institutions related to BSA reporting.
- **FinCEN speeches.** FinCEN officials also deliver prepared remarks to industry organizations and FinCEN publishes those remarks on its website.

While these programs existed prior to the requirements of the NDAA, FinCEN also has created additional content within these formats to address NDAA sections 6203 and 6206. According to FinCEN officials, these efforts include:

- **Developing region-based exchanges.** FinCEN develops material on region-specific trend information for the FinCEN Exchange that is based on analysis of SAR data in response to section 6203 requirements. Officials told us that FinCEN hosted an exchange

¹⁴Pub. L. No. 116-283, § 6103, 123 Stat. at 4553–4555 (codified at 31 U.S.C. § 310(d)).

focused on the Southwest border region in 2021 and the agency has been developing similar exchanges for other regions.

- **Issuing publications.** FinCEN issued publications that provide information on illicit financial activity related to ransomware and wildlife trafficking, including how financial institutions might identify and respond to those activities. FinCEN officials told us that these publications are responsive to the requirements of section 6206 to publish trend analysis.

FinCEN also plans to expand feedback on the use of BSA reports through the creation of a domestic liaison office. FinCEN officials stated this office would be dedicated to outreach and help fulfill requirements of NDAA on engagement with individual institutions. Officials said efforts related to section 6203 would be the responsibility of the office's director.

FinCEN officials noted that the agency's efforts may be limited by its resources. While the domestic liaison office has been authorized, there have been no additional funds appropriated for the office and officials said the agency has not hired new staff, including a Chief Domestic Liaison.¹⁵ As a result, FinCEN has not developed a strategy for additional section 6203-related efforts. Officials also noted that some of the NDAA requirements contain the caveat "to the extent practicable," and that given the agency's current resources it is not practicable to provide institution-specific feedback to all reporting entities.¹⁶ For example, officials noted that although a domestic liaison would work to provide more institution-specific feedback, one-on-one engagements with all financial institutions might not be practical because of the large number of institutions.

FinCEN Feedback on Impact of BSA Reports Is Limited, but a New Requirement Could Provide Additional Data

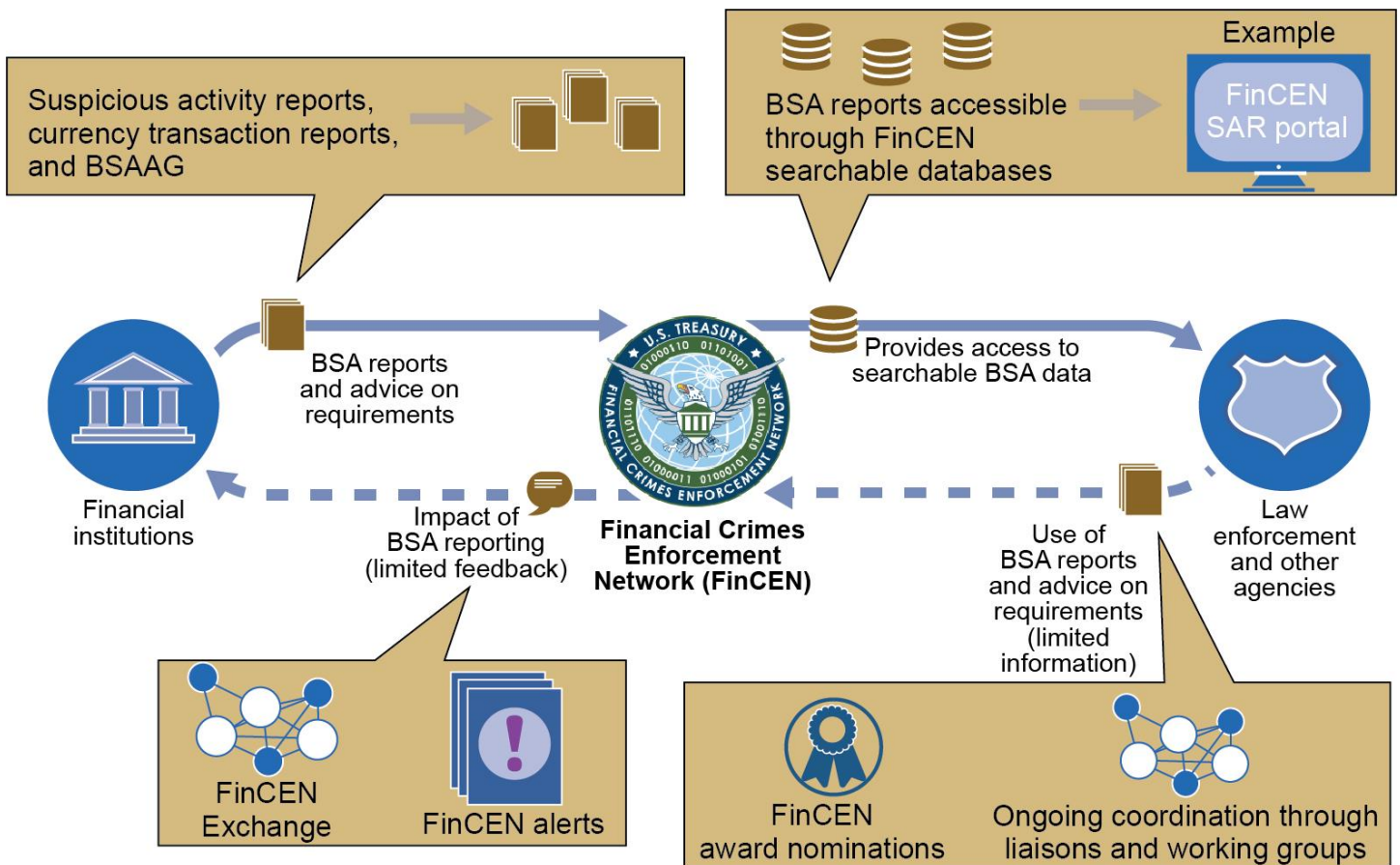
The feedback FinCEN provides through the programs discussed above does not include complete information on how agencies use BSA reports or the effects those reports have on case outcomes (see fig. 1 for feedback loop). FinCEN can provide limited feedback to financial institutions on the use and usefulness of BSA reports, such as the number of searches some agencies perform through its SAR database and information on individual cases provided by enforcement agencies.

¹⁵Pub. L. No. 116-283, § 6107, 123 Stat. at 4557–4559.

¹⁶NDAA section 6203 requires FinCEN, to the extent practicable, provide summary information to financial institutions on SARs they filed that were used by law enforcement. Pub. L. No. 116-283, § 6203(a)(1), (b)(1)(A), 123 Stat. at 4568.

For example, FinCEN reported that DOJ agencies conducted more than 500,000 searches of its SAR database in 2019. The information that FinCEN receives from law enforcement agencies on the effect of BSA reports on individual cases comes through its awards program, law enforcement liaisons, and BSAAG.

Figure 1: Feedback Loop Between Financial Institutions, FinCEN, and Users of BSA Reports



BSA = Bank Secrecy Act
 BSAAG = BSA Advisory Group
 SAR = Suspicious Activity Report

Source: GAO analysis of agency documentation and interviews. | GAO-22-105242

Text of Figure 1: Feedback Loop Between Financial Institutions, FinCEN, and Users of BSA Reports

- 1) Financial institutions report suspicious activity reports, currency transaction reports, and BSAAG (BSA advisory group) along with BSA (Bank Secrecy Act) reports and advice on requirements to the Financial Crimes Enforcement Network (FinCEN).
- 2) FinCEN provides access to searchable BSA data to Law Enforcement and other agencies. BSA reports are now accessible through FinCEN searchable databases.
- 3) Law Enforcement and other agencies use BSA reports and advice on requirements. FinCEN awards nominations and there is ongoing coordination through liaisons and working groups.
- 4) FinCEN reports to financial institutions on the impact of BSA reporting. This includes FinCEN Exchange and FinCEN alerts.

Source: GAO analysis of agency documentation and interviews. | GAO-22-105242

FinCEN cannot currently provide comprehensive feedback on the impact of BSA reports because agencies do not provide FinCEN with comprehensive data on their use of those reports or the effect they had. As a result, according to FinCEN officials, the agency cannot connect their data on report searches to the impact of those reports on case outcomes.

FinCEN requested comprehensive data from agencies on the impact that BSA reports have had on case outcomes as part of its study on the value of BSA reporting, which was completed in 2020.¹⁷ However, FinCEN found that agencies collected these data inconsistently or not at all. Few agencies tracked their use of BSA reports, according to the study, limiting FinCEN's ability to assess and provide feedback on the value of the reporting. The study concluded that FinCEN would need standardized datasets from agencies on their use of BSA for such an assessment.

¹⁷The goals of the study were to develop measures of the value of BSA reporting, improve how FinCEN and others communicate that value, make data collection more effective and efficient, and establish a baseline value estimate. FinCEN's contractor for the study interviewed and surveyed agencies that use BSA reports, analyzed publicly available reports and Congressional testimony on the use of BSA reports, and reviewed FinCEN data on agency searches. FinCEN officials told us there is no estimated date for release of the study, and added that the release will follow pending further review.

In 2019, we recommended that FinCEN review options to more consistently and publicly provide summary data on the use of BSA reporting. We added that this review could be performed concurrently with the FinCEN BSA value study or through another method.¹⁸ The section 6201 provision for DOJ to annually submit summary statistics on agencies' use of BSA reporting addresses this concern. We believe that implementing this provision would be consistent with the intent of our recommendation, but with DOJ, rather than FinCEN, responsible for producing summary statistics. FinCEN also believes that implementing this provision could address gaps in data collection identified in its study, and allow the agency to provide additional feedback on the usefulness of BSA reporting.

DOJ Report Lacks Key Statistics, and DOJ Has Excluded BSA-Related Data from Its Strategy and Not Involved Key Offices

DOJ's Report Did Not Include NDAA-Prescribed Statistics Because Agencies Did Not Provide the Necessary Data

In response to NDAA section 6201, DOJ's Money Laundering and Asset Recovery Section (MLARS) submitted its first report to Treasury in January 2022.¹⁹ According to MLARS officials, DOJ designated their section to prepare the report because of staff subject matter expertise and their role in implementing the 2021 NDAA (e.g., reviewing BSA amendment rulemaking).

But the report did not include new statistics on the use and impact of BSA reports, including the summary statistics required under the act.²⁰ For example, it did not include the frequency with which BSA reports contained actionable information; the extent to which arrests, indictments, convictions, or other actions were related to the use of the reports; and

¹⁸[GAO-19-582](#).

¹⁹U.S. Department of Justice, *FY2021 National Defense Authorization Act (NDAA), Section 6201 Department of Justice Report for the Secretary of the Treasury* (Washington D.C.: January 2022).

²⁰Pub. L. No. 116-283, § 6201(a)(1), (2), (5), 134 Stat. at 4565.

the length of time between when reports were filed and when they were used.

Instead, the report primarily included qualitative descriptions from 12 agencies on how they used BSA reports and the value of those reports to their investigations and other activities. For example, the report noted that the FBI uses SARs to inform its investigations of complex international transactions (SARs help the agency trace financial trails through numerous correspondent accounts).²¹ It also noted that the Drug Enforcement Administration uses SARs and CTRs to identify bank accounts used by drug traffickers. The report also included some statistics that were already available to FinCEN, such as findings from our September 2020 report.²²

FinCEN officials said that they have been assessing how they can use the initial DOJ report for future feedback but noted the information in the report was already available to them. MLARS officials said that they discussed holding additional meetings with FinCEN on how agencies could enhance the information they collect on the use of BSA reports.

DOJ's report did not include the statistics required by section 6201 because the agencies that provided information to MLARS face challenges tracking their use of BSA reports in ways that would allow them to generate those statistics.²³ DOJ officials and others cited several reasons for the challenges:

- **Difficulty linking BSA reports to outcomes.** DOJ's report notes that law enforcement and other agencies use BSA reports in ways that make it difficult to link a single BSA report to a specific action, such as an arrest, conviction, or sentencing. Investigators typically use BSA reports at the beginning of an investigation to develop leads and identify potential evidence, according to several law enforcement officials. For example, officials from DOJ's Criminal Division said they may review more than 100 BSA reports for one investigation, since information from one report may lead investigators to other reports,

²¹A correspondent account is established to receive deposits from, or makes payments on behalf of, a foreign financial institution, or to handle other financial transactions related to such institutions.

²²GAO-20-574. DOJ's report cited a finding from this report that 72 percent of personnel who conducted investigations from 2015 to 2018 used BSA reports.

²³IRS-CI and the Secret Service collected some information on the use of BSA reports, but MLARS did not receive this information, as discussed later in this report.

but only some of these reports may be useful. BSA reports can identify evidence (such as bank records from an institution that filed a SAR) that may support a legal action by law enforcement. However, DOJ officials told us their case tracking systems do not track sources of evidence at this level of detail and therefore cannot link a specific BSA report to a specific outcome.

- **Unclear definition of “use.”** Reporting agencies may face difficulties determining what it means to use BSA reports. Neither statute nor regulation defines “use” or what constitutes actionable information. Additionally, agencies use BSA reports for different purposes. For example, according to the DOJ report, some agencies search SARs for information related to ongoing cases, while others, such as DOJ attorneys, may review SARs to open new cases or refer reports to other agencies for follow-up.
- **Legal and regulatory limitations.** BSA reporting is subject to confidentiality requirements. For example, financial institutions and others are prohibited by law from publicly disclosing that a transaction has been reported as suspicious.²⁴ According to DOJ, this legal prohibition is meant in part to encourage financial institutions to report comprehensive information about such transactions to FinCEN. As a result, prosecutors commonly do not cite specific SARs or other BSA reports in court filings, and agencies therefore do not have an easily accessible record of which BSA reports were used in a court case. Additionally, law enforcement personnel assisting in the criminal prosecution generally are prohibited from disclosing matters occurring before a grand jury.²⁵ As a result, DOJ officials said agencies are limited in the amount of information they can track in relation to grand juries, including whether they used BSA reports.

Because of these challenges, DOJ officials told us the cost of tracking their use of BSA reports and connecting specific reports with case outcomes would be prohibitive with their current data systems. They noted that cases can last years and involve thousands of documents. With current case tracking systems, officials said their agencies would need to dedicate substantial resources to reviewing documentation at the end of a case to identify the BSA reports investigators used. They noted that such identification may never be possible for some unusually long or

²⁴31 U.S.C. § 5318(g)(2)(A)(i).

²⁵See, Fed. R. Crim. P. 6(e)(2).

complicated cases. They also said that using limited resources for this purpose might affect an agency's ability to fulfill its core mission.

However, IRS-CI and the Secret Service collect some data on their use of BSA reports that could inform NDAA-required feedback. IRS-CI tracks cases it initiated based on information in BSA reports (13 percent of all its investigations in fiscal years 2020 and 2021). Similarly, Secret Service officials said they tracked the number of their investigations that used BSA reports (313 and 275 in 2020 and 2021, respectively). Secret Service officials also noted they could identify the outcomes of cases that use BSA reports, although they had not routinely done so. However, officials from both agencies said they cannot generate all of the statistics described in NDAA section 6201. For example, the agencies do not track the time between a particular report being filed and when it was used to start or support an investigation.

MLARS officials stated they do not plan to coordinate with individual agencies to improve or expand the data available for future annual reports because they do not see this as the office's role. Officials added that the office did not have the resources or expertise for such coordination or to develop new data infrastructure such as case tracking systems. Officials noted that they do not plan to make recommendations to other agencies on the tracking of BSA-related information because, in their view, doing so is not part of DOJ's responsibilities generally or as provided in section 6201. They stated that in MLARS's view, how an agency tracks or analyzes its use of BSA reports is the prerogative of that agency and subject to that agency's operational needs. However, DOJ has initiatives underway (discussed below) that may provide opportunities to improve data collection.

DOJ Data Strategy Has Not Included BSA-Related Data but Could Be Used to Improve Data Collection

Since 2019, DOJ has been implementing a comprehensive Data Strategy to improve its data collection, data infrastructure, and evidence-based

policy making.²⁶ DOJ's goal with the strategy is to optimize the impact of information and related IT investments on its mission and promote transparency and accountability.²⁷ DOJ's Chief Data Officer, Evaluation Officer, and Statistical Official, who are members of DOJ's Data Governance Board responsible for implementing the strategy, clarified that the Strategy seeks to build capabilities for data management, information sharing, controlled access, and maintaining a modern and relevant data workforce.²⁸ DOJ also has developed an implementation plan for the Data Strategy, and officials said the Strategy's initial deliverables will be published in 2022 as part of DOJ's fiscal year 2022–2026 strategic plan.

DOJ has not included data on the use of BSA reports in its Data Strategy, but doing so could provide DOJ with an opportunity to improve the collection of such data by its component agencies. For example, as part of the strategy, DOJ's Chief Information Officer coordinates with and supports component agencies in updating and improving their data infrastructure as appropriate. Additionally, DOJ has developed a preliminary "learning agenda" as part of its strategic planning process, and has been conducting its first assessment of the agency's capacity for statistics, research, evaluation, and analysis to support program and

²⁶The Foundations for Evidence-Based Policymaking Act of 2018 requires federal agencies to develop data strategies to improve their data systems and collect additional information that can be used as evidence by policy makers. Pub. L. No. 115-435, 132 Stat. 5529 (2019). The act includes a definition of evidence as "information produced as a result of statistical activities conducted for a statistical purpose." Pub. L. No. 115-435, § 302(a), 132 Stat. at 5545. According to OMB guidance, evidence can consist of quantitative or qualitative information and may be derived from sources such as foundational fact-finding (such as aggregate indicators, exploratory studies, descriptive statistics, and other research), performance measurement, policy analysis, and program evaluation. OMB recommends that agencies build a portfolio of high-quality, credible sources of evidence—rather than a single source—to support decision-making. See Office of Management and Budget, *Preparation, Submission, and Execution of the Budget*, Circular A-11, pt. 6, § 200.22 (Washington, D.C.: June 2019); and *Phase I Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Learning Agendas, Personnel, and Planning Guidance*, M-19-23 (Washington, D.C.: July 10, 2019).

²⁷Department of Justice, Office of the Chief Information Officer, *Data Strategy for the U.S. Department of Justice* (Washington, D.C.: February 2019).

²⁸5 U.S.C. §§ 313 (Evaluation Officer), 314 (statistical official); 44 U.S.C. § 3520 (Chief Data Officer). Responsibilities of these officials include assessing the agency's portfolio of evaluations and policy research; advising on statistical policy, techniques, and procedures; and managing data assets (including standardizing data formats, sharing data assets, and publishing data assets in accord with applicable law).

policy decisions. These elements of its Data Strategy could be used to identify how DOJ component agencies' data systems might better enable tracking of BSA report use. For example, DOJ could incorporate potential collection of additional BSA-related data into plans for system modernization.

DOJ officials cited three primary reasons that they excluded data on the use of BSA reports from the Data Strategy. First, officials noted that restrictions on the disclosure of BSA reports, as we discussed earlier, make it difficult to capture specific uses of BSA reports. However, these restrictions apply only to individual reports and not to summary data on the use of those reports. Summary statistics on the use of BSA reports are performance metrics, and DOJ component agencies are required to provide performance metrics on cybersecurity, data systems modernization, and investment, among others. Furthermore, the Federal Data Strategy, of which DOJ's strategy is a part, has a goal of building capacity for data collection, which could address the challenges of capturing specific uses of BSA reports.

Second, DOJ officials noted that BSA data are not collected exclusively by DOJ. However, as DOJ's report notes, DOJ agencies are significant users of BSA reporting. Additional or enhanced data collection and reporting by these agencies would help enhance FinCEN feedback to financial institutions on the value of BSA reporting.

Finally, DOJ's officials noted that BSA reports have not been used for statistical purposes. However, NDAA requires DOJ to report statistics on the usefulness of BSA reporting for enhancing feedback and communications with financial institutions and other reporting entities. And the Foundations for Evidence-Based Policymaking Act of 2018 and related OMB guidance establish that agencies' assessments of their data and information infrastructure should inform decisions about where to focus limited available resources to build new evidence to fulfill identified needs.

A stated goal of DOJ's data strategy is to optimize the impact of information and related information technology investments in a manner that minimizes burden and disruption to DOJ component agencies. Incorporating BSA reporting into its Data Strategy would give DOJ an opportunity to examine how component agencies' data systems might

allow users of BSA reports to track their use.²⁹ This would help DOJ comply with the NDAA requirement to provide summary statistics on use of BSA reporting, which in turn would enhance FinCEN's ability to provide feedback to financial institutions on their reports' usefulness.

DOJ Report Did Not Include All Available Data or Involve DOJ Offices with Relevant Statistical Expertise

DOJ's section 6201 report did not include statistics from two agencies that collect some data on their use of BSA reports—IRSCI and the Secret Service. The DOJ report states that to meet the requirements of section 6201, MLARS requested information from and consulted with representatives from 18 agencies, including IRS-CI and the Secret Service. Officials from those two reporting agencies said they were not aware of any consultation with DOJ for the report. DOJ officials told us they requested information from both agencies by email, and neither responded to those requests. IRS-CI officials told us they did not respond because a liaison responsible for handling the request left the agency. Secret Service officials told us they were not aware of any request for information from DOJ for its report.

MLARS did not use a structured approach or methodology to develop the DOJ report, which was a factor in why it did not incorporate available data from IRS-CI and Secret Service. MLARS officials said they requested information from agencies they identified as users of BSA reports, and compiled the information those agencies provided. MLARS officials said they did not prepare evaluation design, planning, or methodological documents detailing an approach for report development, but relied on the language of the statute regarding the report's requirements. According to officials, MLARS did not plan for following up with agencies that did not respond to initial email requests. In addition, MLARS officials told us that they did not identify steps for getting additional information from those agencies in the future.

The lack of a methodology also contributed to incomplete analysis of the information presented in the report. The report does not include analysis of the qualitative information agencies provided to MLARS. For example, the report notes that agencies use SARs in different ways but does not catalog these uses or analyze their prevalence. By aggregating or categorizing the qualitative information, DOJ could have provided

²⁹See app. II for examples of leading federal practices for addressing gaps in evidence.

information that enhanced FinCEN feedback to financial institutions. MLARS officials also stated they did not request input from FinCEN on the format or overall contents of the report, which could have allowed them to include additional information that could enhance FinCEN feedback.

Officials said MLARS does not have the experience or resources needed to develop a reporting methodology that would help ensure the inclusion of critical information and the optimization of content for FinCEN feedback. As noted earlier, DOJ designated MLARS to prepare the NDAA section 6201 report because of its subject matter expertise. MLARS officials added that the office is a frequent user of BSA reports and involved in numerous other aspects of implementing NDAA, including the review of BSA amendment rulemaking. However, officials said that MLARS does not have experience producing statistical reports and had limited resources to dedicate to the preparation of the report.

In contrast, DOJ's Chief Information Officer and its Bureau of Justice Statistics have experience preparing statistical reports and working with qualitative data. DOJ's Office of the Chief Information Officer produces statistical reports and reports that aggregate data from different component agencies in DOJ. The office also has analyzed qualitative data, but its official duties do not include analyzing qualitative data as related to BSA, according to the Chief Information Officer. Similarly, the Bureau of Justice Statistics has experience aggregating data from DOJ component agencies to produce statistical products, although an official told us it had limited experience analyzing qualitative data.

In 2019, we identified leading practices for collaboration in building new evidence, including that all relevant participants—such as statistical and evaluation officers—are identified and involved.³⁰ Effectively coordinated evidence-building processes can help agencies ensure they are comprehensively and systematically leveraging their existing evidence and efficiently using limited resources for building new evidence.³¹

MLARS officials told us they did not coordinate with DOJ's data offices in preparing the section 6201 report because the scope of the report is

³⁰GAO, *Evidence-Based Policymaking: Selected Agencies Coordinate Activities, but Could Enhance Collaboration*, [GAO-20-119](#) (Washington, D.C.: Dec. 4, 2019).

³¹See app. II for examples of leading federal practices for addressing fragmentation in agencies' evidence-building activities.

limited to the analysis of BSA data. MLARS therefore coordinated with DOJ component agencies and offices that use BSA data, such as those with access to the FinCEN database containing BSA reporting. MLARS also consulted with and analyzed information provided by experts in DOJ component agencies, including the Criminal Division, Executive Office for U.S. Attorneys, Justice Management Division, and National Security Division. The officials said that in their view, other DOJ stakeholders, including the Chief Information Officer, did not appear relevant at the time because BSA reports are not DOJ data. However, section 6201 directs the Attorney General to report on agencies' use of BSA reports, statistics which would come from DOJ component agencies' own case-tracking data.

By involving the expertise of DOJ's data offices in the development of future section 6201 reports, MLARS could better ensure a rigorous methodology for collecting and presenting the report's required statistics, which in turn would help FinCEN provide better feedback to financial institutions on the impact of BSA reports.

Selected Countries Use Different Practices to Collect Feedback, but Their Comparability to the United States May Be Limited

FinCEN and the foreign FIUs we reviewed have some feedback practices in common, but differences include the extent of online engagement and publishing efforts. We reviewed the practices of the United Kingdom FIU (UKFIU), Australia (Australian Transaction Reports and Analysis Centre, or AUSTRAC), and Canada (Financial Transactions and Reports Analysis Centre of Canada, or FINTRAC).

FinCEN and these three FIUs all issue guidance on suspicious activity filings, publish materials on illicit finance, and are involved in public-private partnerships. In addition, FinCEN and these FIUs are similar in that they do not provide comprehensive statistics on the relationship between suspicious activity filings and legal outcomes (such as the number of filings used in cases that resulted an indictment). For instance, we did not identify comprehensive statistics in AUSTRAC documents that

we reviewed, although UKFIU reports limited data on the value of legal interventions arising from a certain type of report.³²

Other similarities and differences in the feedback practices of the foreign FIUs we reviewed included the following:

- **Online engagement.** UKFIU expanded its online feedback and engagement during the COVID-19 pandemic, which enabled it to respond more quickly to issues faced by financial institutions, according to UKFIU officials. UKFIU produces videos, podcasts, and other media, and it offers webinars on topics relevant to the United Kingdom's AML regulatory regime. Officials stated that their online engagement efforts improved communication with institutions, and that institutions reported that they found the engagement valuable.³³ UKFIU has identified further investment in social media and podcasts as a next step to enhance guidance and feedback to regulated sectors. AUSTRAC has occasionally published online videos on AML-related topics, such as how reports are used to help disrupt criminal activity. Additionally, FINTRAC provided presentations at 65 virtual events in 2020–2021, which focused on new regulatory amendments coming into effect.

FinCEN has hosted virtual events, such as virtual FinCEN Exchange meetings, and has occasionally used videos in direct outreach efforts with financial institutions, but officials did not identify other media (such as podcasts) as a component of FinCEN's feedback to regulated entities.

- **Regular publications.** UKFIU produces regular publications that inform law enforcement, regulators, and industry about current issues in illicit finance; highlight UKFIU activities; and provide examples and summaries of recent SARs that contributed to legal outcomes. SARs in Action (an online magazine) focuses on topics in financial crime, recent news related to AML issues, and UKFIU operations, and

³²The United Kingdom allows for reporting institutions to submit a Defense Against Money Laundering request to the National Crime Agency when they suspect that property with which they intend to deal is in some way criminal and the institution risks committing a money-laundering offense. If approved by the National Crime Agency, the reporting institution is provided a defense against those offenses.

³³UKFIU's reporting entity survey indicates that 4 percent of all respondents interacted with UKFIU via social media in the 6 months prior to the survey, but 91 percent of those found social media posts useful and respondents wanted to see more frequent social media engagement. UKFIU did not report specific details on the usefulness of its video content, but UKFIU reported podcasts were one of the most useful forms of engagement.

occasionally contains general information on the use of SARs by law enforcement agencies. The first issue was published in March 2019, and 14 issues had been published as of February 2022. UKFIU also produces SARs Reporter Booklets, which focus on case studies of law enforcement's use of SARs.³⁴

FinCEN formerly produced SAR Activity Reviews, which covered similar topics as UKFIU's SARs in Action. For our 2019 report, FinCEN officials told us that this publication was replaced by FinCEN advisories, which each focus on single topics in financial crime.³⁵

- **Reporting entity surveys.** To help set strategic priorities for its engagement office and receive feedback on engagement activities, UKFIU surveyed reporting entities and published the results in February 2022. On average, 95 percent of respondents said the various forms of UKFIU's engagement were somewhat useful, useful, or very useful.

FinCEN surveys users of BSA reports, but does not survey reporting entities about its engagement efforts.³⁶

- **Training workshops.** AUSTRAC created a workshop for new businesses registering with AUSTRAC on the fundamentals of regulation, risk management, and quality transaction reporting. AUSTRAC delivered 12 of the workshops in 2021 to 154 reporting entities, and 91 percent of surveyed entities indicated they had a clearer understanding of AML requirements as a result.

FinCEN has hosted workshops through its Innovation Hours Program. While not a training program, the workshops allows financial institutions and other firms to discuss innovative solutions to enhance AML efforts with FinCEN, regulators, and law enforcement.

Finally, UKFIU also established an office dedicated to working with and providing feedback to reporting entities, law enforcement, and other government departments, similar to FinCEN's planned domestic liaison office. UKFIU officials told us that to process high SAR volumes they had

³⁴In UKFIU's reporter survey, 30 percent of respondents had read a recent UKFIU publication, and 77 percent of those respondents found them useful or very useful.

³⁵[GAO-19-582](#).

³⁶FinCEN previously surveyed readers of some FinCEN publications and published the results in its 2012 SAR Activity Review (a now discontinued publication).

diverted staff from outreach to reporting entities but found this reduced the quality of SAR filings. FATF, the inter-governmental body that sets standards relating to combatting global money laundering and terrorist financing, produced a 2018 evaluation of the United Kingdom that also noted that the lack of UKFIU feedback to reporting entities appeared to have a severe adverse impact on SAR relevance and value.³⁷

Public-Private Partnerships Vary in Structure and Output

Public-private partnerships in which FinCEN and the other FIUs have engaged vary in their membership and meeting format, types of activity, and information they publish (see table 1).³⁸ For instance, AML regimes in Australia, Canada, and the United Kingdom use these partnerships to jointly create (co-develop) intelligence products with financial institutions, while FinCEN does not.

Table 1: Anti-Money Laundering Public-Private Partnerships

Country	Partnership name	Membership	Meeting format	Support law enforcement investigations	Publish co-developed products
United States	FinCEN Exchange	Not permanent	Irregularly convened meetings	Yes	No
Australia	Fintel Alliance	Permanent	Public and private analyst co-location	Yes	Yes
Canada	“Project” partnerships ^a	Permanent ^a	Irregularly convened meetings ^b	No	Yes
United Kingdom	Joint Money Laundering Intelligence Task Force	Permanent	Regularly convened meetings	Yes	Yes

Sources: U.S., Australian, Canadian, and United Kingdom financial intelligence units; National Crime Agency; Future of Financial Intelligence Sharing; and Financial Action Task Force. | GAO 22-105242

³⁷Financial Action Task Force, *Anti-money laundering and counter-terrorist financing measures—United Kingdom: Mutual Evaluation Report* (Paris, France: December 2018). FATF produces peer evaluations of countries’ AML frameworks to assess the level of implementation of FATF recommendations.

³⁸According to the World Bank, there is no internationally accepted definition of a public-private partnership, but the World Bank states the term describes agreements between public- and private-sector entities in which the government procures and implements services using private-sector resources and expertise. For more information (on 20 national and three international public-private partnerships focused on money laundering and terrorist financing), see Nick J. Maxwell, *Five years of growth in public-private financial information-sharing partnerships to tackle crime* (Future of Financial Intelligence Sharing: Aug. 18, 2020). The Future of Financial Intelligence Sharing is a research partnership between the Royal United Services Institute Centre for Financial Crime and Security Studies and NJM Advisory.

^aCanada has five partnerships with different membership across each partnership.

^bAccording to a Canadian financial intelligence unit official, meetings are more frequent in the early stages of the partnership (for instance, annually or semi-annually), but are generally conducted ad hoc.

FinCEN Exchange. The FinCEN Exchange is an invitation-only public-private partnership that meets irregularly and allows for sharing of sensitive financial intelligence to support law enforcement investigations. Although FinCEN officials told us that FinCEN will use information gathered from interactions with private-sector partners to inform its own product development, FinCEN has not published co-developed financial intelligence products. According to a report by Future of Financial Intelligence Sharing, one other partnership (of 23 examined among FIUs worldwide) uses a model similar to FinCEN's for convening meetings, while the majority regularly convened meetings, and four had co-located analysts.³⁹

Fintel Alliance. Australia's Fintel Alliance, a public-private partnership to support investigations and increase financial sector resilience, co-locates public and private analysts from the alliance's 29 partners, who work together to prevent money laundering and develop shared intelligence. The partnership has expanded membership to academic institutions and foreign government agencies. The Fintel Alliance has produced 243 intelligence products for law enforcement and intelligence partners, and released three public reports targeted at specific illicit finance activity. The Alliance leverages real-time exchange of information and analysis among partners to combat illicit finance, seeks to develop new technologies to augment the partnership's mission, and has conducted several targeted AML projects. For example, the Fintel Alliance reported that a project on child exploitation it started in 2017 significantly increased suspicious activity reporting on the topic and directly led to the arrest of individuals and rescue of children from harm. Fintel's 2019–2020 performance report attributes this to several key factors, including (1) bringing together crime experts and representatives of financial institutions to identify opportunities for financial intelligence to influence investigations; (2) developing guidance and indicators to enhance suspicious behavior reporting; and (3) establishing relationships with partners in other countries to collaborate on shared goals.

³⁹According to Future of Financial Intelligence Sharing, co-locating analysts involves them sitting side-by-side (typically in dedicated office space) and working collaboratively and in real-time to support partnership objectives.

“Project” partnerships. Canada’s FINTRAC participates in five separate “Project” public-private partnerships that focus on raising awareness on specific topics in financial crime. Membership may vary across these partnerships, but according to FINTRAC officials the Royal Canadian Mounted Police and Canada’s five largest banks generally are involved in all the projects. According to officials, meetings are more frequent in the early stages of the partnership (for instance, annually or semi-annually), but are generally conducted ad hoc. These partnerships assist FINTRAC in developing reports, indicators, and other material on specific types of crime, but the partnerships do not exchange sensitive information about law enforcement investigations due to legal limitations, according to FINTRAC officials. For instance, Project Protect, the first of Canada’s AML public-private partnerships, targets money laundering associated with human trafficking. Through this partnership, FINTRAC worked with Canada’s financial institutions to develop a publication to increase awareness and understanding of the subject and provide indicators of suspicious financial transactions. Other partnerships target romance fraud, online child sexual exploitation, and fentanyl trafficking. Project Athena, led by the Royal Canadian Mounted Police, targets money laundering more broadly.

Joint Money Laundering Intelligence Taskforce. The United Kingdom’s Joint Money Laundering Intelligence Taskforce is a partnership of law enforcement and the country’s financial sector, and FATF describes it as an example of a best practice.⁴⁰ The task force has over 40 selected financial institution partners that cover a large proportion of United Kingdom financial activity. As of FATF’s 2018 report on the United Kingdom, the task force is organized into an Operations Group and Experts Groups. The Operations Group facilitates weekly meetings between members and supports live requests for investigations, while the Experts Groups identify emerging risks and co-develop intelligence products. As of FATF’s 2018 report, the task force had co-developed 33 alerts for the financial sector based on identified threats and priorities, which resulted in SARs being filed by institutions outside the partnership based on the information in the alerts.

⁴⁰Financial Action Task Force, *Anti-money laundering and counter-terrorist financing measures—United Kingdom*.

Differences in External Environment and Structure May Limit Comparability

The four FIUs we reviewed differ in terms of the size of their regulated industries, their countries' legal framework, and their resources and responsibilities, all of which can affect their feedback practices and may limit comparability.

Size. Australia, Canada, and the United Kingdom have financial sectors smaller than that of the United States, so FIUs in those countries can cover a large portion of their financial sectors by interacting with a smaller number of entities. For example, Canada's Office of the Superintendent of Financial Institutions lists 82 federally regulated banks, while the Federal Deposit Insurance Corporation, one of several U.S. bank regulators, supervised 3,122 institutions at the end of 2021.

Legal framework. Each country's legal framework affects the ability of FIUs to share information. For example, according to FINTRAC officials, strong privacy protections in Canadian laws prevent substantial public-private and private-to-private data sharing about potential illicit finance in Canada. According to a representative of Future of Financial Intelligence Sharing, Australia's model of co-locating analysts in the Fintel Alliance stemmed from legal restrictions that prevented the adoption of a public-private partnership model similar to the United Kingdom's. In the United States, USA PATRIOT Act Section 314(b) allows financial institutions to voluntarily share information with each other under a safe harbor from liability to better identify and report activities that may involve money laundering or terrorist financing.⁴¹ But? according to U.S. law enforcement officials, there are limitations on the ability to provide feedback on SARs related to law enforcement investigations.

Resources and organization. FIU resources and organizational structures also affect FIU feedback practices. In fiscal year 2020, FinCEN received over 2.4 million SARs, had a budget of \$126 million, and operated with 272 staff. The number of SAR filings in the United States was almost double that of SAR-equivalent filings in Australia, Canada, and the United Kingdom combined for their 2019–2020 reporting periods (see table 2). In contrast, AUSTRAC and FINTRAC processed fewer

⁴¹Pub. L. No. 107-56, § 314(b), 115 Stat. 272, 308 (2001), implemented by 31 C.F.R. § 1010.540.

SAR-equivalents, but operated with more staff than FinCEN in their respective 2019–2020 reporting periods.⁴²

Table 2: Financial Intelligence Unit (FIU) Resources and Reports Received, 2019–2020 Reporting Periods^a

Country	FIU name	FIU suspicious activity reports (or equivalent) received	FIU total budget (in millions, 2020 dollars) ^b	FIU total staff ^c	Conduct compliance examinations
United States	Financial Crimes Enforcement Network (FinCEN)	2,400,215	\$126	272	Limited ^d
Australia	Australian Transaction Reports and Analysis Centre	265,000	\$82 ^e	405	Yes
Canada	Financial Transactions and Reports Analysis Centre of Canada	386,102	\$44.9 ^f	355	Yes
United Kingdom	UK Financial Intelligence Unit	573,085	N/A ^g	N/A ^g	No

Sources: U.S., Australian, Canadian, and United Kingdom FIUs, and Internal Revenue Service. | GAO 22-105242

^aFIUs in Australia, Canada, and the United Kingdom have different reporting periods. We reviewed annual reports that covered 2019 and 2020, the most recent available at the time of our review. We compared information from these FIUs to fiscal year 2020 information from FinCEN’s 2019–2020 reports received.

^bBased on Internal Revenue Service yearly average exchange rates for 2020.

^cIncludes all employees as reported by the FIU and does not distinguish between full-time and part-time staff.

^dSupervisory authorities conducted the vast majority of compliance examinations, but FinCEN conducted a few of its own examinations, including five examinations with the Internal Revenue Service in fiscal years 2017 and 2018 according to FinCEN officials.

^eThe Australian FIU had a 2019–2020 budget of \$119.1 million Australian dollars.

^fThe Canadian FIU had a 2019–2020 budget of \$60.2 million Canadian dollars.

^gThe United Kingdom FIU does not publish its budget or staff in its annual report and this information also is not contained in the National Crime Agency’s annual report, of which the FIU is a part.

Responsibilities. The Australian and Canadian FIUs are responsible for providing AML compliance feedback to regulated entities. According to the annual reports for these FIUs, they conduct examinations of reporting entities to ensure compliance with AML-related obligations. Additionally,

⁴²Australia, Canada, and the United Kingdom FIUs have different reporting periods and their annual reports provide information over those respective periods. We compared information from those reporting periods to 2020 fiscal year information from FinCEN.

in Australia, reporting entities must submit compliance reports each year to AUSTRAC, while Canada's FINTRAC allows for reporting entities to voluntarily disclose compliance issues. In the United States, independent supervisory agencies (such as the Federal Deposit Insurance Corporation) generally provide this type of feedback at the federal level. We previously reported that FinCEN conducted a limited number of its own examinations and that supervisory agencies conducted the vast majority of BSA compliance examinations.⁴³

Conclusions

FinCEN has made some progress in providing more feedback to institutions that file BSA reports, and its planned domestic liaison office is a step in improving feedback further. But FinCEN's ability to provide feedback on the impact of BSA reports is limited because it depends on other agencies tracking their use of BSA reports, which is limited. In addition, the data on the use of those reports they provide FinCEN are not comprehensive, and agencies face difficulties linking BSA reports to outcomes.

Thus, facilitating data collection on the use of BSA reports is a necessary first step to providing comprehensive feedback on the value of BSA reporting. By including data on the use of BSA reports in its Data Strategy (a goal of which is building capacity for data collection), DOJ may identify data system improvements and new ways for its component agencies that use BSA reports to track their use. While DOJ component agencies are not the only users of BSA data, they represent a substantial portion of such users and could demonstrate ways to effectively track the use of BSA reports to other agencies.

Data collection is also central to the annual summary statistics reports DOJ must produce under NDAA, which are intended to provide FinCEN with additional information on how BSA reporting is put to use. But the value of DOJ's first annual report was limited because it lacked key data and reflected some methodological weaknesses. By leveraging the expertise of DOJ data offices in the development of future summary reports, the agency could help ensure a rigorous methodology is used for collecting and presenting the report's required statistics and also improve the quality of the information it provides to FinCEN. By taking both these

⁴³[GAO-19-582](#).

steps, DOJ ultimately could improve the feedback FinCEN gives to filing institutions on the use and usefulness of their BSA reporting.

Recommendations for Executive Action

We are making the following two recommendations to DOJ:

DOJ's Chief Information Officer should incorporate BSA reporting into its Data Strategy and ongoing assessment of DOJ's capacity for statistics, research, evaluation, and analysis to determine if there are ways DOJ component agencies that use BSA reports could more consistently collect data described in NDAA section 6201. (Recommendation 1)

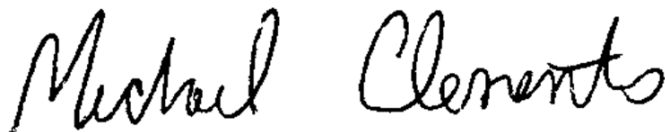
The Chief of MLARS should collaborate with DOJ's Chief Information Officer and Bureau of Justice Statistics in producing future section 6201 reports, and use their expertise to help ensure a rigorous methodology for report design and analyses. (Recommendation 2)

Agency Comments

We provided a draft of this report to DOJ, FINCEN, the Department of Homeland Security, and IRS-CI for review and comment.

We are sending copies of this report to the appropriate congressional committees, Attorney General, Director of the Financial Crimes Enforcement Network, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at 202-512-8678 or clementsm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.



Michael E. Clements
Director, Financial Markets and Community Investment

Appendix I: Objectives, Scope, and Methodology

This report (1) examines Financial Crimes Enforcement Network (FinCEN) efforts to expand feedback to regulated entities, (2) assesses Department of Justice (DOJ) efforts to provide information on the usefulness of Bank Secrecy Act (BSA) reports to support FinCEN's feedback efforts, and (3) describes the feedback practices of international financial intelligence units (FIU).

To examine FinCEN's efforts to expand feedback to regulated entities, we reviewed the National Defense Authorization Act for Fiscal Year 2021 (NDAA) and critical FinCEN documents. More specifically, we reviewed NDAA sections 6201 and 6203, which address requirements for FinCEN to provide feedback on the usefulness of BSA reports. We reviewed FinCEN alerts, advisories, notices, bulletins, speeches; its Law Enforcement Awards program; and other publicly available information on FinCEN's feedback practices. We also reviewed FinCEN's BSA value study materials, including its methodology, data sources, and analysis, and supporting documentation prepared by a contractor responsible for conducting the study. We also interviewed FinCEN officials to identify agency practices for providing feedback to the private sector, current and planned strategies for addressing NDAA requirements, and to collect additional information on the value study and government use of BSA data.

To assess DOJ efforts to provide information on the usefulness of BSA reports to support FinCEN's feedback efforts, we reviewed federal laws and related guidance. We reviewed NDAA's Section 6201 requirements for DOJ to provide summary statistics on agencies' use of BSA reports and determined the data federal agencies would need to collect for DOJ to calculate those statistics. We reviewed requirements in the Foundations for Evidence-Based Policymaking Act of 2018 for agencies to address identified gaps in evidence, and related Office of Management and Budget (OMB) guidance establishing the Federal Data Strategy and the steps agencies should take to implement it. We reviewed DOJ's initial report in response to NDAA requirements to compare the statistics and analysis included in the report against NDAA requirements, and to identify which federal agencies provided DOJ with information used in the report. We reviewed GAO reports on implementing the Federal Data Strategy,

evidence-based policy making, agency collaboration, and the use of performance information.¹ Similarly, we reviewed OMB documents to identify practices for improving data collection, collaboration, and communication in federal agencies, as well as OMB progress reports on the implementation of the Federal Data Strategy 2020 Action Plan and agency milestone data.²

We conducted interviews with several agencies and two key industry associations. We interviewed officials from DOJ about the methodology they used to produce the report. We also interviewed officials from selected law enforcement agencies regarding information they provided DOJ for the report. We also judgmentally selected law enforcement agencies to interview to identify the data they collected on their use of BSA reports and the challenges they faced in collecting the data. We selected them because of their focus on financial crimes, their involvement in BSA criminal cases and because FinCEN identified them as key users of BSA data. These agencies included the Federal Bureau of Investigation, DOJ Criminal Division, Executive Office for United States Attorneys, U.S. Secret Service, Drug Enforcement Administration, Immigration and Customs Enforcement, and Internal Revenue Service-Criminal Investigation. Excluding DOJ's Criminal Division, these agencies accounted for 57 percent of searches of FinCEN's BSA database in 2018. We also received written responses to questions from DOJ's Chief Information Officer and Chief Data Officer, and conducted interviews with representatives of two financial industry associations—the American Bankers Association and Independent Community Bankers of America. The findings from these interviews are not generalizable.

To describe the feedback practices of foreign FIUs, we reviewed documentation from the Financial Action Task Force, an intergovernmental body that set standards for combatting global money laundering and terrorist financing; Egmont Group, an informal group of 166 FIUs whose goal is to provide a forum for FIUs to improve

¹See GAO, *Evidence-Based Policymaking: Survey Results Suggest Increased Use of Performance Information across the Federal Government*, [GAO-22-103910](#) (Washington, D.C.: Nov. 3, 2021); and *Evidence-Based Policymaking: Selected Agencies Coordinate Activities, but Could Enhance Collaboration*, [GAO-20-119](#) (Washington, D.C.: Dec. 4, 2019).

²For example, see Office of Management and Budget, *Phase 1 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018*, M-19-23 (Washington, D.C.: July 10, 2019). Also see “Federal Data Strategy: Leveraging Data as a Strategic Asset,” accessed at <https://strategy.data.gov/2020/progress/>.

cooperation; and the Future of Financial Intelligence Sharing, a partnership between the Royal United Services Institute, a defense and security institute, and NJM Advisory, with a mission to lead independent research into the role of public-private financial information-sharing to detect, prevent, and disrupt crime. We also judgmentally selected foreign FIUs to review. Foreign FIUs we sampled provided English-language documentation and were in countries whose legal systems are similar in some respects to the U.S. legal system. Consequently, the foreign FIUs in our sample were those of Australia, Canada, and the United Kingdom. We reviewed country-specific documentation from these FIUs.

To compare resources used by these FIUs, we used information related to suspicious activity filings, staff, and budgets from the annual reports of the Australian Transaction Reports and Analysis Centre, Financial Transactions and Reports Analysis Centre of Canada, and United Kingdom Financial Intelligence Unit that covered 2019 and 2020, which were the most recent available at the time of our review. For financial information on FinCEN, we reviewed FinCEN's Suspicious Activity Report Statistics for information on suspicious activity filings and the Financial Services and General Government Appropriations Act of 2020 for FinCEN's 2020 budget, and obtained information on total staff from agency officials. To compare the budgets of foreign FIUs and FinCEN, we used 2020 average exchange rates from the Internal Revenue Service.

We conducted interviews with representatives of the FIUs of Canada and the United Kingdom to identify feedback practices and constraints in those countries. Officials from Australia's foreign intelligence unit were not available for interview. Additionally, we conducted an interview with a representative of the Future of Financial Intelligence Sharing to identify different international feedback and information-sharing practices in public-private partnerships related to combatting money laundering.

We conducted this performance audit from May 2021 to August 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Leading Federal Practices for Addressing Gaps in Evidence

Section 6503 of the National Defense Authorization Act for Fiscal Year 2021 (NDAA) includes a provision for us to review practices and standards in the federal government for creating feedback loops between regulated entities and federal agencies when sensitive information is provided.¹ In response to these requirements, and because data on the use of Bank Secrecy Act reports are limited, we identified leading federal practices for addressing gaps in evidence. These practices include (1) identifying a leadership model, (2) involving relevant participants, (3) defining roles and responsibilities, and (4) developing written guidance and agreements for evidence prioritization.² For the practice of identifying relevant internal and external participants and including them in the agency's evidence-building activities, we identified a wide range of relevant participants to involve.³

We also identified instances in which agency officials used these practices to more effectively focus limited resources to build new evidence through coordination across their agencies. For example, the Department of Education's Evidence Leadership Group identifies a range of internal and external stakeholders to involve in its work, which includes setting evidence priorities. Similarly, the U.S. Agency for International Development engaged a range of internal and external stakeholders during the development of its agency-wide learning agenda, which was published in May 2019. Agency operating units and missions provided

¹William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, § 6503, 134 Stat. 3388, 4628–4629 (2021).

²GAO, *Evidence-Based Policymaking: Selected Agencies Coordinate Activities, but Could Enhance Collaboration*, [GAO-20-119](#) (Washington, D.C.: Dec. 4, 2019).

³For example, see GAO, *Managing for Results: Practices for Effective Agency Strategic Reviews*, [GAO-15-602](#) (Washington, D.C.: July 29, 2015); *Managing for Results: Data-Driven Performance Reviews Show Promise But Agencies Should Explore How to Involve Other Relevant Agencies*, [GAO-13-228](#) (Washington, D.C.: Feb. 27, 2013); *Managing for Results: A Guide for Using the GPRA Modernization Act to Help Inform Congressional Decision Making*, [GAO-12-621SP](#) (Washington, D.C.: June 25, 2012); and *Executive Guide: Effectively Implementing the Government Performance and Results Act*, [GAO/GGD-96-118](#) (Washington, D.C.: June 1, 1996).

**Appendix II: Leading Federal Practices for
Addressing Gaps in Evidence**

feedback on which questions to include in the document. In another case, Americorps officials used the agency's budget formulation process to prioritize evidence-building activities to address knowledge gaps about the AmeriCorps National Civilian Community Corps program.

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, John Forrester (Assistant Director), Jeremy Anthony (Analyst in Charge), Andrew J. Stephens, Barbara Roesmann, Dustin Milne, Marc Molino, and William Chatlos made key contributions to this report.

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