
Volume 6
Number 5 *Volume 6, No. 3, Fall 2013*
Supplement: Ninth Annual IAFIE
Conference: Expanding the Frontiers of
Intelligence Education

Article 36

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pp. 393-400

Recommended Citation

Walton, Anne. "Financial Intelligence: Uses and Teaching Methods(Innovative Approaches from Subject Matter Experts)." *Journal of Strategic Security* 6, no. 3 Suppl. (2013): 393-400.

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Financial Intelligence: Uses and Teaching Methods(Innovative Approaches from Subject Matter Experts)

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Anne Walton

Introduction

A hybrid form of criminality has emerged from the traditionally distinct forms of organized crime and terrorism to pose a new threat to law enforcement. Terrorist groups, once thought to use proceeds from crime only to fund attacks, subsist largely off of the proceeds of sustained narcotics business ventures, while criminal groups have mainstreamed the use of violent acts of terror to torment and threaten communities into submission. In a dangerous form of competitive adaption, crime and terror groups have embraced crossover style tactics and techniques that foster an entrepreneurial network apparently capable of withstanding current law enforcement attempts to weaken both groups financially. In places like Mexico, Central America, and Somalia it has become increasingly difficult to distinguish illicit revenue streams, facilitators and front companies that support terrorism from those that support crime. The financial convergence is so severe that efforts to delineate the two will stymie law enforcement efforts to disrupt, dismantle and eliminate crime and terror groups.

Rapid technological advances and the rise of entrepreneurialism have drastically changed the societal landscape in which these groups operate. Technology has flattened and connected parts of the world like never before, enabling the spirit of entrepreneurialism to stretch far into the criminal underworlds. Financial intelligence (FININT) is a valuable tool that law enforcement can use to keep pace with the continuously evolving adversary and disrupt efforts to fund illicit activity. Current initiatives to exploit this valuable source of intelligence can be enhanced at the state and local levels. This paper will highlight how FININT can be incorporated into analytic and investigative roles, provide an overview of historical and future uses of FININT and suggest innovative teaching strategies.

Financial Intelligence

Financial intelligence is financial information about individual and business transactions produced by financial institutions and reported to the Department of Treasury's Financial Crimes Enforcement Network (FinCEN).¹ More specifically, FININT is Currency Transaction Reports (CTRs), Cross Border Currency or Monetary Instrument Reports (CMIRs), a Report of Foreign Bank Account (FBAR), Suspicious Activity Reports (SARs) and Form 8300 (issued by FinCEN and the Internal Revenue Service). Each report carries its own requirements; should a transaction or incident meet a threshold or series of criteria, financial institutions and other regulated entities are required by law to report the activity or transactions to the government. For more information see Table 1 (FININT Report).²

¹ The list of financial institutions required to comply is available at:
http://fincen.gov/forms/bsa_forms/index.html#FinCENReports.

² United States Department of the Treasury. Financial Crimes Enforcement Network. *FinCENs Mandate from Congress: 31 U.S.C. 310* (Washington, D.C.: Government Printing Office, 2010), available at:
<http://www.gpo.gov/fdsys/pkg/USCODE-2010-title31/html/USCODE-2010-title31-subtitleI-chap3-subchapI->

FININT is produced by the private sector, required by law and heavily regulated through a series of anti-money laundering and counter terrorist financing measures. FININT, reported on the aforementioned forms, is ultimately a record of financial transaction or series of transactions that involved one or more financial institutions and was identified through surveillance, due diligence and/or investigative action by any one of the financial institutions. FININT, in its many forms may contain personal identifying information, account details, dates, times, dollar amounts, and transaction history.

SARs, by design, were invented to serve as the financial community’s confidential reporting method for law enforcement.³ Financial institutions are required to file them if financial transactions or subject activity meets certain specific thresholds or is otherwise determined “suspicious.” However, because of the demand placed upon financial institutions by the government, there is room for some discretion when it comes to filing SARs; in many cases financial institutions go above and beyond SAR guidance and produce reports for an extremely large range of activity.

SARs are typically several pages in length; the first several pages contain boxes for personal identifying information, account details, dates and dollar amounts. The last page of the SAR is for the narrative; a critical part of the report. SAR narratives require a good deal of analytic prowess to produce and often serve as a lead into suspected criminal activity. Good SARs reflect an accurate reporting of financial transactions and suspicious activity, any details that are necessary to support the filing, analytical capability to triangulate sources, and research and investigative prowess to identify, pursue and exhaust leads. Some SARs are filed for the “potential” of yet to be realized investigative value, while others may end up forming the foundation of major investigations. Others still may just be a blip or notation.⁴

Table 1: FININT Report.

| | |
|------|---|
| CTR | Report of a cash transaction over \$10,000. Financial institutions are required by law to complete the CTR form, properly identify persons conducting transactions and submit the form to the FinCEN and maintain appropriate records of financial transactions. ⁵ |
| CMIR | <ul style="list-style-type: none"> • Required when a person physically transports, mails, or ships, or causes to be physically transported, mailed, or shipped currency or other monetary instruments in an aggregate amount exceeding \$10,000 at one time from the United States to any place outside the United States or into the United States from any place outside⁶. • Or when a person is the recipient of other monetary instruments in an |

sec310.htm.; United States Department of the Treasury. Financial Crimes Enforcement Network. *US PATRIOT Act* (Washington, D.C.: Government Printing Office, 2001), available at: http://www.fincen.gov/statutes_regs/patriot/.

³ Steve Gurdak, “The Trouble with SARs,” *ACAMS Today* (March – May 2010): 23, available at: http://files.acams.org/ACAMS_Today/Mar10-May10/trouble_w_sars.pdf.

⁴ Steve Gurdak, “No Bad SARs,” *ACAMS Today* 11:3 (June – August 2012): 33-34, available at: http://acamstoday.org/wordpress/wp-content/themes/widezine/assets/AT_PDFs/AT_v11_n3.pdf.

⁵ Required by the Currency and Foreign Transactions Reporting Act (now referred to as the Bank Secrecy Act).

⁶ The original amount required for a CMIR was \$5,000. It was increased to \$10,000 in the Currency and Foreign Transactions Reporting Act Amendments contained in the Comprehensive Crime Control Act of 1984.

| | |
|------|--|
| | aggregate amount exceeding \$10,000 that had been transported, mailed, or shipped to the person from outside the United States. |
| FBAR | If a U.S. person has a financial interest in or signature authority over at least one financial account located outside of the United States; and the aggregate value of all foreign financial accounts exceeded \$10,000 at any time during the calendar year to be reported. ⁷ |
| SAR | <ul style="list-style-type: none"> • Required if insider abuse of any amount is suspected. • Violations aggregating \$5,000 or more where a suspect can be identified. • Violations aggregating \$25,000 or more regardless of a potential suspect • Transactions aggregating \$5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act. • Computer intrusion has occurred. |
| 8300 | Must be filed if a person engaged in a trade or business receives cash in excess of \$10,000, in any 12 month period, in a single transaction or in two or more related transactions with the IRS within 15 days of the transaction. ⁸ |

Keeper of FININT

FinCEN, established in 1990, was created to serve as the national repository for FININT and was tasked with collection, analysis and dissemination of actionable intelligence for proactive investigation. Essentially every type of FININT that is completed by a financial institution is submitted to FinCEN, stored on servers and accessible to law enforcement and authorized personnel through direct access to a database or through a remote access “Gateway.” Beyond serving as a data repository, FinCEN is tasked with providing tactical and strategic assistance to local, state and federal law enforcement in regard to financial crimes. FinCEN also serves as the Financial Intelligence Unit (FIU) for the United States and its mission has expanded to include safeguarding the financial system from illicit use and combat money laundering and promotion of national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.⁹

Value to Law Enforcement

FININT is valuable because it provides insight into the income, expenses, assets, business activities, social and business networks, associates, travel and other activities of individuals and businesses. The existence of a SAR on an individual or business is not always overtly indicative of criminal activity and in some instances it has been produced by a financial institution for

⁷ United States Department of the Treasury. Internal Revenue Service. *Report of Foreign Bank and Financial Accounts (FBAR)* (Washington, D.C.: Government Printing Office, 2011), available at: [http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Report-of-Foreign-Bank-and-Financial-Accounts-\(FBAR\)](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Report-of-Foreign-Bank-and-Financial-Accounts-(FBAR)).

⁸ United States Department of the Treasury. Internal Revenue Service. *Bank Secrecy Act* (Washington, D.C.: Government Printing Office, 2012), available at: http://www.irs.gov/irm/part4/irm_04-026-010.html.

⁹ United States Department of the Treasury. Financial Crimes Enforcement Network. *FinCENs What We Do* (Washington, D.C.: Government Printing Office, 2012), available at: http://www.fincen.gov/about_fincen/wwd/.

defensive reasons or with no apparent purpose.¹⁰ When synchronized with other forms of intelligence, however, the FININT may provide law enforcement with sufficient evidence to proactively launch or continue investigations into an array of criminal activities that include organized crime, gangs, drug trafficking, terrorism, trafficking in stolen or counterfeit goods, piracy, copyright infringement, child pornography, human trafficking, alien smuggling and bulk cash smuggling.

Every law enforcement investigation and analysis should contain a financial component. Whether transactions are detailed in FININT or identified on a rental car receipt, specific financial information should be documented by investigators and analysts and captured in intelligence reports for future use. Additionally, investigators should always question suspects about the nature of their financial activities; in some instances the suspects may be more willing to talk about money than about the alleged criminal activity.

Intelligence analysts should also include FININT and financial information as one of the many sources of intelligence. FININT can be useful in identifying hidden or offshore accounts and assets, travel patterns, additional property, sources of income, associates, habits and expenses. If an intelligence analyst collates data on a target's income and cross references it against known expenses they may find discrepancies that are indicative of additional criminal activity such as money laundering, tax evasion or mortgage fraud.

How is it Used?

FININT, also commonly referred to within the industry as BSA data, is of tremendous value to law enforcement for investigation. FinCEN has over 180 million records of financial transactions and other reports in its possession that can be used proactively, retroactively or reactively and strategically.¹¹ FININT has retroactively aided law enforcement in identifying motives, associations, and links to people, places and underlying criminal activity. Traditional proactive uses of FININT include data queries to identify anomalies, suspect patterns and trends that can be used to prevent criminal activity.¹² FININT can also be used strategically to identify larger patterns on a wider scale.

The El Dorado Task Force (EDTF) and the New York and New Jersey High Intensity Financial Crimes Area (NY/NJ HIFCA), are two examples of how FININT is analyzed and used for proactive and reactive investigation and strategic purposes.

Formed in 1992 by the U.S. Customs Service and the President's Office of National Drug Control Policy, the EDTF is tasked with aggressively targeting financial crimes in a designated geographic area. The EDTF, made up of members of local, State and Federal law enforcement agencies in the New York and New Jersey area, uses FININT to investigate financial crime at all

¹⁰ Many financial institutions will produce "defensive" suspicious activity reports in an effort to avoid regulatory scrutiny at a later date.

¹¹ Calvery, Jennifer Shasky. "Remarks of Jennifer Shasky Calvery." National Cyber-Forensics Training Alliance Cyfin 2013 Conference . Financial Crimes Enforcement Network. Pennsylvania, Pittsburgh. 16 Apr 2013. available at: http://www.fincen.gov/news_room/speech/html/20130416.html.

¹² Cassara, John and Avi Jorisch, *On the Trail of Terror Finance: What Law Enforcement and Intelligence Officers Need to Know* (Arlington, VA: Red Cell Intelligence Group, 2010).

levels using an approach dubbed, “Cornerstone”. Through Cornerstone, agents assigned to the task force work with the financial sector to identify and eliminate vulnerabilities, as well as to develop and share typologies and criminal methodologies.¹³ The coordination enables EDTF to better incorporate the use of FININT into a proactive investigation strategy.

The NY/NJ HIFCA is a significant component of the EDTF and is responsible for analyzing FININT, financial data and other types of records in support of proactive investigative efforts.¹⁴ The HIFCA, a Congressional designation, concentrates law enforcement efforts at the federal, state, and local levels on high intensity money laundering zones.¹⁵ The NY/NJ HIFCA’s mission is to conduct strategic analysis of FININT, provide case support for criminal investigations with a money laundering nexus, interact with the private sector through outreach efforts, and participate in monthly SAR review meetings.¹⁶

Recommended Enhancements

- Increase financial resources for law enforcement. Investigations into money laundering, terrorist financing and other types of financial crimes are intense and require a substantial time and resource commitment on the part of the investigating agency. Money laundering schemes are complex and demand extensive analysis of FININT and financial information; many agencies are unable to devote analysts and investigators to such a lengthy pursuit. Additionally, many investigators and analysts may lack specific skill sets required to deconstruct detailed financial transactions, identify facilitation tools, trade-based money laundering, unlicensed money remitters or shell companies.¹⁷ Simply put, agencies need more money and more resources to pursue financial crimes investigations.
- Increased training for state and local law enforcement. Training such as the FEMA Terrorism Prevention Exercise Program’s Advanced Analytic Techniques Workshop and the State and Local Anti-Terrorism Training Program (SLATT), both of which focused on terrorist financing investigations, should be funded and made available to law enforcement agencies.

Going Forward

- **FinCEN must make better use of its data.** The agency’s repository of BSA data contains critical FININT that can be used to better understand, map and track the financial structures of drug trafficking organizations, illicit networks and transnational criminal organizations. Strategic level analysis if FININT synchronized with SIGINT and HUMINT can lead to increased knowledge about how organizations, indigenous financial

¹³ “Conerstone.” Immigration and Customs Enforcement, 2013, available at: <http://www.ice.gov/cornerstone/>.

¹⁴ “The Road to Eldorado.” Immigration and Customs Enforcement, 2013, available at: <http://www.ice.gov/cornerstone/eldorado.htm>.

¹⁵ These identified zones are available at: http://www.fincen.gov/law_enforcement/hifca/index.html#map_hifca.

¹⁶ Wager, Daniel, "Convergence of Financial Crimes: Fraud, Terrorism Financing and Money Laundering." SAS. Department of Homeland Security: New York HIFCA. New York City, New York. 2009. Lecture, available at: <http://www.sas.com/events/cm/647913/DanWagerPanel1Speaker4.pdf>.

¹⁷ These have all been identified as vulnerabilities and loopholes in the financial system that are currently exploited by crime and terror groups. For more information see the Senate Drug Caucus report, *The Buck Stops Here* (April 2013), available at: <http://www.drugcaucus.senate.gov/reports.html>.

techniques and social networks change, evolve and adapt over time and in response to law enforcement. FinCEN must take all the necessary steps to push out relevant analysis to state and local law enforcement agencies.

- **HIFCAs should use FININT to increase knowledge about specific financial crime trends at a local, state and regional level.** Better understood and well defined financial crime hotspots can assist local, state and federal law enforcement with investigative efforts and crime control. Analysts can be tasked to geo map activity and marry it with other crime data to identify patterns, trends and actors and present their findings to the area task forces. This level of tactical analysis can increase the understanding of a criminal organization's decision-making hierarchy and vulnerable sources of revenue and expenditure. For example, analysts, using FININT and their in-depth knowledge of a local community, behaviors, social networks and finances, may be able assist with the identification of an illegal money remitter operating as a hawala.¹⁸
- **FinCEN should designate HIFCAs as the primary point of contact for tactical analysis of SARs.** This should help streamline analysis of FININT and help minimize redundancy.

Increased cross-HIFCA coordination. HIFCA Directors and members should establish a method of communication amongst themselves. Communication between HIFCAs will provide analysts a forum where information sharing can occur and promote pattern and linkage identification across geographic areas and a strategic level understanding of FININT in order to better understand FININT at a strategic level.

- **Law enforcement and analysts should include a financial component to every investigation and analysis.** This can occur through increased collection of data during, interviews, inquiries and research. The information and details collected can be incorporated into the case file and made available to other investigators or law enforcement agencies upon request.

Teaching Strategies

Continued education and training opportunities are one of the most important ways that law enforcement can stay relevant as criminals and terrorists continue to exploit technological advances and pursue entrepreneurialism. A number of researchers have shown that criminals and terrorists have converged and now share many of the same tactics, techniques and procedures.¹⁹ Educating law enforcement on the role of FININT in the criminal financing process is critical to their success in disrupting and dismantling these illegal enterprises.

¹⁸ Hawala's have been identified as a facilitation tool for terrorist financiers and money launders. To operate legally within the U.S. the money service business must be registered with FinCEN. For more information see the 2007 U.S. Money Laundering Strategy and the 2005 U.S. Money Laundering Threat Assessment.

¹⁹ Tamara Makarenko, "The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism," *Global Crime* 6:1 (2004): 129-145; John T. Picarelli, "Osama bin Corleone? Vito the Jackal? Framing Threat Convergence Through an Examination of Transnational Organized Crime and International Terrorism," *Terrorism and Political Violence* 24:2 (2012): 180-198.

Educators should therefore offer courses that involve the use of scenarios, table top and red team exercises that focus on investigative strategy as well as what crime committed in the future will look like. Training and workshops should also involve a “lessons learned” component during which time law enforcement and instructors can review case studies and discuss investigative techniques, i.e. what works, what hasn’t worked and what might work. A few good exercises include:

- **Situational Exercises.** FININT training that involves situational exercises where law enforcement and analysts work through fictional “scenarios” enables educators to reinforce learning points by allowing the participants to work through problem sets. In these instances, law enforcement and analysts should work in small groups and be encouraged to work creatively and collaboratively with one another. Ideally, each group should have an equal number of analysts and law enforcement that will work together on one long term scenario that incorporates both investigative and analytic techniques. Shorter scenarios that don’t involve group work and are completed by the entire class at once can be used but are not as likely to foster the kind of interagency, group participation that may occur during a longer exercise. Scenarios can be based upon prior events or can be completely fictional.
- **Table Top Exercises (TTXs)** also involve a case or scenario; however in a TTX participants are each assigned a role, “play” at the same time and focus on procedures and methodology instead of solving a case. TTX’s are frequently used to test internal protocol, interagency coordination and operational security, and can be applied to an investigative scenario involving the use of FININT in much the same way. For example, investigators and analysts could work through a case (the table top exercise) with a stated goal of reviewing each investigative step, analytic approach, case management and reporting technique. Participants would discuss their methodology and decision-making instead of case facts. The TTX would help law enforcement and analysts identify assumptions and biases, understand investigative strategies, refine techniques, and improve working relationships.
- **Red Teaming** is the practice of viewing a problem from an adversarial or contrarian point of view.²⁰ In a learning exercise, a red team should play or model the attacker, the opponent, or simply a devil’s advocate, while a blue team should play law enforcement. A red team, for example, might test the security of a system, or, in the case of FININT, a red team could work to create an illegal enterprise and launder money. The point of the exercise is to challenge assumptions and identify the situations in which mindsets are fixed; this is an opportunity to go places beyond the wildest of imaginations. Tactics and techniques used by adversaries are not limited by borders, institutional biases and structural impediments. Red teaming can help free law enforcement and analysts from their own well-developed mental model—their own sense of rationality, cultural norms, and personal values.²¹

²⁰ Mark Mateski, “Red Teaming: A Balance View,” *Red Team Journal* (February 14, 2013), available at: <http://redteamjournal.com/2013/02/red-teaming-a-balanced-view/>.

²¹ Heuer, R. J., and R. H. Pherson. *Structured Analytic Techniques for Intelligence Analysis* (Washington D.C.: CQ Press, 2012).

Conclusion

Globalization and communications technology have provided crime and terror networks with the capacity to expand their operations and connections far beyond the boundaries of their given conflict zones.²² In response to law enforcement efforts, transnational criminal organizations have begun to embrace a hybrid form of entrepreneurialism in order to expand operations. A renewed appreciation for and analysis of FININT could provide law enforcement an opportunity to better understand how the illicit networks operate, make decisions, compartmentalize activities and sustain themselves over time. Increased resources and training in addition to incorporation of innovative teaching strategies such as red teaming would allow state and local law enforcement an opportunity to contribute to disruption and dismantling of hybrid criminal groups and other forms of illicit networks.

²² Peters, Grechen. "The Intersection of Crime and Conflict." Trans. Array *The "New" Face of Transnational Crime Organizations (TCOs): A Geopolitical Perspective and Implications to U.S. National Security* (Washington, D.C.: Kiernan Group Holdings, 2013): 81-85, available at: <https://www.hsdl.org/?view&did=733208>.