

SARS:
THE MOST
IMPORTANT
RESOURCE
YOU'VE NEVER
HEARD OF

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DISCLAIMER

While I represent the San Mateo County District Attorney's Office, the opinions and information here do not constitute the legal interpretation, guidance or advice of the San Mateo County District Attorney's Office. Any opinions or views stated are my own.



WHAT IS A SAR?

- Bank Secrecy Act mandates that financial institutions (primarily banks, credit unions, money services businesses (MSBs), & broker/dealers) report certain categories of suspicious transactions that might indicate criminal activities to FinCEN.
- The reports are called Suspicious Activity Reports, and they may contain crucial information like account numbers and the names of other involved parties, as well as a description of the suspicious activity and the results of any investigation into the activity.
- FinCEN allows law enforcement agencies who are investigating a crime to request SARs related to their suspect, their suspect's associates, and their suspect's business(es).



WHY DO DEPOSITORY INSTITUTIONS AND OTHER FINANCIAL SERVICES COMPANIES FILE SARs?

Because they have to . . .

“A financial institution may be required to file a SAR if it knows, suspects, or has reason to suspect a transaction conducted or attempted by, at, or through the financial institution:

- Involves **funds derived from illegal activity** or attempts to **disguise funds derived from illegal activity**,
- Is designed to **evade regulations promulgated** under the Bank Secrecy Act (BSA),
- **Lacks a business or apparent lawful purpose**, or
- Involves the use of the financial institution to **facilitate criminal activity.**”



WHAT CAN SARS ADD TO YOUR CRIMINAL CASE?

- Confirm your suspect has engaged in shady financial activity in the past.
- Show a pattern of criminal behavior your prosecutor may be able to use against the suspect even if those actions aren't charged.
- Identify other potential victims of current or previous schemes.
- Pinpoint other businesses your suspect has been connected to.
- Locate potential co-conspirators.



WHAT DO SARs INCLUDE?

“On the SAR, filers include essential facts about the reported suspicious activity, including **dates, location, and transaction amounts**. Further, narratives within the SAR may **include account numbers and references to supporting documentation**, as well as **information about individuals suspected to be involved in the suspicious activity.**” – CFPB

- 08/30/2017 Memorandum on Financial Institution & Law Enforcement Efforts to Combat Elder Financial Exploitation between the Consumer Financial Protection Bureau, the United States Department of the Treasury, and the Financial Crimes Enforcement Network (FinCEN).



WHAT DO YOU DO ONCE YOU HAVE THE SARs?

- Each SAR has an accompanying case number and usually a contact person for the financial institution that filed the SAR.
- Request their entire file related to the SAR.
 - SAR files have to be kept for 5 years.
 - Financial institutions are **required** to give you the complete file, without a search warrant or other court order.
- Most are thrilled when you ask them for the files - they've been waiting for someone to pay attention!



WHAT NOT TO DO WITH SAR INFO

*“Access to SARs and their use is restricted under federal law. Knowledge concerning the existence of a SAR is strictly confidential and is generally limited to law enforcement and financial regulatory authorities.” **

- **DO NOT REFER TO SARS IN POLICE REPORTS OR SEARCH WARRANT AFFADIVITS.**
- Do not share SARs (or even the existence of it) with your non-sworn investigations partners.
- You can discuss SARs with your prosecutors, but not in any formal, discoverable way.
- Here’s what FinCEN tells you when they send you the SARs:



Use of Suspicious Activity Reports by Law Enforcement

The following provides guidance to law enforcement agencies about the manner in which Suspicious Activity Reports (SARs) filed by financial institutions may be used in the conduct of investigations, prosecutions, and related law enforcement activities. As a general rule, SARs should be treated and used in a manner similar to the utilization of confidential informant or source information. SARs should be used as lead information that, when further investigated, may produce evidence of criminal activity.

Law enforcement personnel may use the information reported on a SAR in connection with any official investigation or other law enforcement functions; however, there may be no disclosure of the fact that a SAR exists, or that a SAR has been filed, to any person outside of the law enforcement agency (except as noted below).



The prohibition regarding SAR disclosure does not preclude law enforcement personnel from discussing a SAR, or the contents of a SAR, with Federal bank supervisory personnel. The Federal bank supervisory agencies, along with FinCEN, promulgated the regulations that require financial institutions to report suspicious activity by filing SARs.

Therefore, the Federal bank supervisory agency personnel have access to SARs and have the authority to provide direction with regard to the handling and disclosure of SARs. Additionally, law enforcement personnel may, without prior authorization, disclose a SAR to other law enforcement personnel or prosecutors working on the same or related investigations, or who may be able to provide assistance in the matter under investigation, provided the disclosing agency document such disclosures in accordance with law.

– **SAR Disclaimer Letter, FinCEN**



SO HOW DO WE USE SARs?

- Best practice: Base any investigative actions on the facts from the SAR file you receive from the financial institution or filer.
- “On this date and time, I received information from Jane Smith at Bank of the Bank indicating that my suspect conducted <suspicious banking transaction> on <date> related to account number XYZ. Based on this information”
- Use the SAR as a pointer, as an investigative tool. **DO NOT USE THE SAR AS A SOURCE.**



HOW DO YOU GET SARS/BSA DATA?

Contact FinCEN:
frc@fincen.gov,
or the elder justice
coordinator in your
US Attorney's office.

OFFICIAL USE ONLY	
FINANCIAL CRIMES ENFORCEMENT NETWORK	
	
State FinCEN Coordinator California Department of Justice	
REQUEST FOR RESEARCH	
A. TYPE OF INVESTIGATION: (Check all that apply)	<input type="checkbox"/> Foreign <input type="checkbox"/> U.S. Federal <input type="checkbox"/> U.S. State/Local <input type="checkbox"/> Criminal <input type="checkbox"/> Civil <input type="checkbox"/> Regulatory
** If this Case Involves Subjects Previously Submitted, Please Include the Gateway Case Number: <input type="text" value="Gateway #:"/>	
B. REQUESTOR INFORMATION:	
Name: _____	Requesting Agency: _____ Date: _____
Signature (Required): _____	Unit Name: _____
Title: _____	Agency Case Number: _____
Telephone: _____ Fax: _____	Email: _____
Address: _____	City: _____ Zip: _____
STATE FINCEN COORDINATOR (For Official use Only)	
Name: _____	Title: _____
C. INVESTIGATIVE INFORMATION:	
1. Was any of the information on this request obtained from a Grand Jury?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Do you anticipate asset forfeiture in this case?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown at this time
3. Are other Agencies participating in this investigation? (If yes, please specify.) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Is this case an approved OCDEF case?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Please provide an overview of this investigation and principal violation(s) (Required):	_____

6. What type of information do you need?	<input type="checkbox"/> FinCEN (included Casinos CTRs/SARs, CA & NV) <input type="checkbox"/> Western Union (SW Border)
	<input type="checkbox"/> High Roller Other: _____
7. What databases do you currently have access to?	_____
(In order to eliminate duplicate searches, we prefer not to query the same databases you already have access to, unless it will add value to the analysis; e.g., new subjects found by FinCEN. This will speed up the time it takes to complete your request)	



THANK YOU

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To Care For
Those Who
once Cared
For Us Is one
of The Highest
Honors.

The Fresh Quotes