

Questions for the Record from Senator Sheldon Whitehouse
U.S. Senate Caucus on International Narcotics Control
“The Federal Response to the Drug Overdose Epidemic”
Submitted on July 27, 2021

1. During the hearing, you stated that law enforcement officials are underutilizing their capabilities under the Bank Secrecy Act and the recently enacted Corporate Transparency Act.
 - What steps need to be taken to improve utilization of the reporting requirements under the Bank Secrecy Act and other anti-money laundering statutes?

Chairman Whitehouse, Ranking Member Grassley, and other distinguished members of the Senate Caucus on International Narcotics Control, first may I express that it was an honor to have appeared before the Caucus. In response to your question:

As I outlined in my original testimony the Washington Baltimore HIDTA allowed my initiative, the NVFI, maximum latitude and innovation in “testing the system” the BSA put in place. I am confident and comfortable that what I recommend is based on extensive experiences and consultation with both the public and private sectors of the BSA/AML efforts.

The most important step that needs to be taken in improving the utilization BSA is to change to, or adopt, a more “bottom-up” training approach applicable to more general investigation strategies. While there is a massive amount of financial intelligence and information available through the BSA/AML efforts, there is only a miniscule amount of law enforcement investigators trained or knowledgeable about its existence or its effective use. The prevailing AML training strategies have taken a very top-down approach which has resulted in the perception throughout general law enforcement that the financial aspects are only relevant to large scale money laundering investigations or for those already within financial investigative specialties. Knowledge of the virtues or application of this information as potential leads and evidence as part of an essential general investigation strategy is severely lacking.

Ranking Member Grassley commented earlier in the hearing that law enforcement always seems to “revert back” to existing investigative strategies despite repeatedly being asked to incorporate more financial focus to investigation strategies. Law enforcement does revert back to these existing investigation schemes having received little training in applying or incorporating this financial information within routine investigations. Misconceptions and misperceptions of undue complexities dominate the general investigation culture. While there are aspects of the BSA/AML efforts that require some specialized training, the greater aspects however provide information, leads, or potential evidence when properly incorporated into general investigative strategies. Promoting financial investigation literacy at this “micro” level will result in the “macro” utilization of these BSA/AML efforts.

It became clear in my experiences at the NVFI that investigators can easily be trained in this financial investigation literacy once they are made aware how this financial information can be applied in general investigation strategies. Without the fear of a commitment to larger scale analysis or complex accounting, investigators soon begin to realize there is a financial component in most of their investigations. The BSA/AML efforts regularly exposes the mistakes and activities that can become key leads or essential pieces of evidence when trained to be viewed and used as

such. Since nearly all crimes are about the money, it is essential that nearly all investigation strategies include that aspect. The BSA/AML efforts need to be trained as an essential tool in every investigator's toolbox and not reserved for only financial specialists. They need to be expanded out of the too small and too isolated sector of law enforcement they seem to have been relegated to.

While there will always be a need for higher level money laundering investigation specialists to combat transnational criminal organizations, cartels, corruption and kleptocracy, the vast majority of current BSA data, information and intelligence, primarily through SARs, is now supplying information about seemingly more minor and less clear activities that can be valuable in other investigative applications. Those can be addressed by HIDTA's, SAR Review Teams, and even local police investigators with the proper training.

With the realization that there are too few trainers having this more bottom-up training expertise to address this significant deficit in law enforcement training, I have been promoting and have proposed the creation of a series of training videos easily accessible to nearly all aspects or levels of law enforcement. The videos would be designed for an on-line and in an on-demand format and platform. They would be designed to offer a simplified step by step approach in applying "financial field tests" to nearly all investigations. Each video would be designed to be short in nature with referrals to other videos/resources as these financial field tests yield potential positive results. The training would not need to be law enforcement sensitive but create a simple field guide on how to "follow the money." Focusing on this micro investigation usage will produce maximum usage of BSA/AML efforts and a sharp increase in the successful macro cases that will result from it.

Key Points:

- Promoting financial investigation literacy needs to take a more bottom-up training approach with an application designed for all law enforcement.
- Creating a video training series with this bottom-up approach is an effective way to address this severe deficiency in the lack of financial investigation literacy throughout law enforcement.
- The BSA is underutilized by law enforcement because its virtues are too little known to the vast majority of law enforcement it is currently providing intelligence, information, and other leads for.

I appreciate having the honor of presenting this testimony to the Caucus. I would be happy to answer any other questions or respond to further inquiries from its Members.

Question for the Record from Senator Charles E. Grassley
U.S. Senate Caucus on International Narcotics Control
“The Federal Response to the Drug Overdose Epidemic”
Submitted on July 27, 2021

1. What gaps in anti-money laundering policy do you believe need to be filled in order to more effectively investigate, prosecute, and deter bad actors – including drug trafficking organizations – from profiting from their corrupt and illegal actions?

Ranking Member Grassley, Chairman Whitehouse, and other distinguished members of the Senate Caucus on International Narcotics Control, it was an honor to have appeared before the Caucus. In response to your question:

I took note of your comments earlier during the hearing where you had lamented that despite repeated requests to include or add more financially focused investigative strategies, law enforcement always seems to “revert back” to existing methods. The biggest gap in anti-money laundering policy is that its training and implementation has primarily taken a “top down” approach with more of an abstract or conceptual focus. Investigators not specifically specialized in financial focused investigations are rarely instructed on any practical applications in routine investigative schemes. My experiences have clearly reflected more unfamiliarity than any resistance to its applications and use. Promoting financial investigation literacy at all levels of law enforcement as part of a comprehensive investigative strategy is the key to filling this gap.

The BSA/AML efforts may recognize that money is the reason or nexus behind most crime, however its use is too often interpreted as only being applicable in money laundering or financially focused investigations. Perception has far too often become the reality in general law enforcement investigation culture. Those BSA/AML efforts are continually providing substantial information, intelligence, evidence, and leads that are applicable in other non-financially focused investigations. Investigators in other specialties revert back to their existing investigative schemes viewing the BSA/AML efforts as a separate investigative specialty and not as the investigative tool it should be in any overall comprehensive investigative scheme or strategy. Specialized training on the application of BSA/AML data in otherwise non-financially focused investigations is a rarity when it should be commonplace by now.

As I have similarly addressed in my follow-up response to Chairman Whitehouse’s question, I have seen far more unfamiliarity on “how to” than any resistance or inabilities in applying a financial component as part of general investigation schemes or strategies. I would propose the creation and production of a series of training videos as the potentially most effective way to close this gap. Taking a simplified “bottom-up” training approach, with an on-line and on demand platform, which is easily accessible to all enforcement entities is essential. The videos would help promote financial investigation literacy throughout all BSA/AML efforts. Teaching simple applications to nearly all investigation strategies and schemes would be the priority. The videos would be designed to provide a series of simple “financial field tests” applicable to all comprehensive investigation strategies or schemes.

BSA/AML efforts were intended for use by all of law enforcement. Misconceptions and misperceptions have resulted in too much isolation into a too small specialized sector. Promoting financial investigation literacy throughout more of law enforcement is an essential goal in filling the gaps in the BSA/AML efforts.

Key Points

- A focus on a “top-down” versus a “bottom-up” training focus has resulted in an unintended gap in effective use of the BSA/AML efforts for more general investigative strategies.
- Promoting financial investigation literacy to more general law enforcement efforts is needed to close that gap.
- Creating a video training series of simple “financial field tests” applicable to nearly all investigation strategies or schemes may be the most efficient way to fill this gap in training.

I appreciate having the honor of presenting this testimony to the Caucus. I would be happy to answer any questions or respond to further inquiries from its Members.