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by

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In 1983, the Reagan Administration began focusing on stopping money launderers in hopes of crippling the $60-120 billion per year illegal drug industry (Gerth 12). Since then, the United States has led the international community to pressure nations with tight banking secrecy laws to loosen up, and has made it more difficult to launder cash inside the United States. New regulations and investigations have halted several major laundering operations. But since July, 1989, problems have developed with U.S. strategy, and success has slowed.

Although money laundering has become increasingly complex and the amount of cash earned through illegal activity has risen dramatically in the last decade, it is hardly a new problem. The Mafia had to launder money to explain the presence of bootlegging profits during prohibition. After prohibition, organized criminals continued to operate “front” businesses to support their ever-increasing scope of illegal activities, which included (and still include) gambling, prostitution, loan sharking, and illegal drug manufacturing and selling. Profits from these activities are funneled through legitimate businesses like pizza parlors, vending machines, bars, hotels, and liquor stores. Since the Mafia is well organized, prosecutors have had little success catching them in the act of money washing.

With increasing use of illegal drugs, new organized criminals who lack the experience, power, and structure of the Mafia have also cashed in on the drug trade. The business flourished as marijuana use became socially acceptable in the 1970’s. Although the Mafia is still quite involved in the marijuana trade, they were unable to meet the overwhelming demand for the drug and lost control of the market, leaving a place open for the independent drug lords who emerged.

If marijuana is “Columbian Gold,” cocaine has proven to be platinum. It is more marketable than heroin, which the Mafia has had a monopoly on for almost a century (Engardio et al., 48). Because it is more concentrated and addictive than marijuana, cocaine has also proven more profitable. This is made clear by the changes in the way these drugs are transported: 48% of all cocaine seized in 1986 was found on private planes, compared to only 5% of all marijuana seized (Gerth 12). Enterprising South Americans were able to keep the Mafia out of the business, and Panama, Mexico, Nicaragua, Columbia, Chile, and Costa Rica were quickly flooded with foreign currency (Bartlett et al., 52).

About one-fourth of the (approximately) $100 billion from illegal drug sales smuggled out of the United States last year was reinvested in subsequent shipments of drugs (52). Some of the money is used to pay employees, but most of the profits go to the drug lords. In larger operations and in many small operations, the smuggler hires a professional launderer to take care of the cash problem for him.

Launderers use many tactics to get clean money back to their bosses. The use of “front”
businesses continues, but is not as popular as before because it is expensive and time consuming. The new drug traffickers prefer systems that may be set up quickly, allowing for immediate reinvestment, and new banking technologies have made this possible. As one bank executive boasted to a committee of the Canadian Senate in 1985:

“I can hide money in the twinkling of an eye from all of the bloodhounds that could be put on the case, and I would be so far ahead of them that there would never be a hope of unraveling the trail. I am not kidding you. Technology today means that that sort of thing can be done through electronic means.” (Naylor 12)

J.D. Johnson, the Internal Revenue Service district director in Boston, explains that the availability of funds for immediate reinvestment is not the only reason smugglers demand instant liquidity:

“In a typical laundering transaction [the drug smuggler] isn’t worried about the Feds. He’s worried about getting ripped off or killed. People in this business just don’t live very long.” (Fisher 34)

The most dangerous way to get cash from street sales out of the United States is to ship it in packages to financial institutions abroad. Some use the mail, while others attempt to send or carry the money aboard boats and planes (Seper 113). Says Customs Service agent John Varrona:

“We seize about a million dollars a month from passengers on commercial airlines headed out of Kennedy. They put it in carry-on luggage, in bags they check through, and even tape it to their legs. A million dollars a month, every month.” (113)

Money may also be flown out of the United States on private planes, and sometimes planes drop off drugs and pick up cash.

The most widely used technique for money laundering is known as “smurfing” or “structuring,” and can earn launderers commissions of up to 10% (113). The launderer first hires couriers, or “smurfs,” to purchase money orders for $4,000-$9,999 each (Bartlett et al., 54). This is to avoid having the bank report the transactions to the government, as is required for transactions over $10,000 (under the Bank Secrecy Act of 1970). The money orders are deposited to a simple front company, which probably exists only on the ledgers of the bank.

Most of the money in the front company’s account is wire-transferred to a bank account in a nation with tight banking secrecy laws. From there, the money may be transferred back to the
front company’s account or to another front company “owned” by the street seller. These funds are at his discretion and are often the link to his detection, since he may become so flamboyant as to arouse suspicion.

The rest of the money from the sales (about 20%) is used to purchase the next shipment of drugs. This usually involves exchanging the currency into pesos, which are used in Mexico and Columbia.

Until 1983, money launderers were able to work with impunity as long as they kept their operations separate from sales activities. Apparently, they did not take President Reagan’s declaration of a “war on drugs” seriously. That year, Eduardo Prada was convicted as a co-conspirator who was “aiding and abetting” drug traffickers. Assistant United States Attorney Michael Feldberg traced a deposit in Prada’s ledger and discovered that a deposit was transferred to an Alabama shipyard six days later. With this deposit, Prada purchased a shrimp trawler that was later stopped in Columbian waters, carrying 14,000 pounds of marijuana (55).

This case, the first where prosecutors succeeded in finding a launderer guilty of a drug conviction, set a precedent that gave the Drug Enforcement Administration hopes of making a dent in the industry by tracing funds. It was the first major success of Operation Greenback, which sought to harm the drug trade by targeting institutions that aided launderers. Until the DEA began to try launderers on drug charges, their only hope of stopping them was to convict them of violations of the Bank Secrecy Act of 1970.

The most important aspect of this Act is the $10,000-and-over reporting law. It requires that banks, savings and loans, brokerage houses, currency exchanges, car dealers, and casinos (added to this list in May, 1985) report all transactions involving more than $10,000 cash, to the Internal Revenue Service. The reporting form includes questions about the customer’s occupation and requires his taxpayer identification number (Snitzer 88).

This Act did little to stop illegal transactions. Until it was amended in 1987, it made no provisions for suspicious cash transactions, such as several consecutive deposits just under the reporting limit. The major problem with this legislation, however, was that until Operation Greenback began in 1980, it was simply not enforced.

Banks complained that the reporting law only added to the impossible load of paperwork forced upon them by the government. “Operations failure” was the defense of many of the banks that were investigated under Operation Greenback. Judge Irving R. Kaufman, chairman of the President’s Commission on Organized Crime, sympathized with the bankers, claiming that they were “unaware of their obligation under the law to report cash transactions. Or they just don’t know what’s going on in their organizations” (Fisher 34).

Another explanation for the banks’ failure to report large cash transactions was offered by Patrick Walsh, of the New England Organized Crime Strike Force: “Part of it has to do with not

Enforced or unenforced, the Bank Secrecy Act was full of loopholes, maximized by banking privacy laws passed during the Carter Administration. Under the Right to Financial Privacy Act of 1978 (which tied together many state laws), banks could not turn over information regarding suspicious transactions unless it involved more than $10,000 cash, or the investigating agency had a warrant. Banks did not report suspicious transactions because of the paperwork involved and because they were frequently liable for civil damages if the investigated transactions turned out not to be legal (Bartlett et al., 5).

Launderers may bypass the Bank Secrecy Act by bribing tellers, which probably proves to be more efficient than using smurfs. In 1985, the Bank of New England was charged with failing to file withdrawals totaling $817,200 made by James McDonough, a convicted loan shark. In the investigation, it was discovered that he bribed the head teller with $400. At Christmas he brought so many bottles of wine to the bank that the gifts had to be distributed on a cart (“My, What a Friendly...,” *Time*, Oct. 1985, 79).

During the Reagan Administration assault on launderers, the penalties for failing to report transactions were stiffened. Under 1987 modifications to the Bank Secrecy Act, banks may be fined up to $500,000. Officers may be sentenced to up to twenty years in prison. These modifications also made smurfing a felony and required banks to report all suspicious transactions, regardless of the amount of cash involved (Bartlett et al., 55).

The year before, more anti-laundering legislation, recommended by Attorney General Edwin Meese, had been passed. These laws permitted government seizure of accounts and property purchased with drug money, which otherwise would have remained in the possession of the offender. The amount of property seized since the passage of the law has paid for the necessary investigations.

Operation Greenback, which began in Florida in 1980, netted $38.5 million in dirty money seized, and $117 million in bank fines in that state alone (55). Investigators targeted Florida because 60%, or $6 billion, of the U.S. Federal Reserve’s excess cash wound up in the Atlanta Federal Reserve’s Miami branch, which indicated that the banks were receiving more in cash deposits than was necessary to conduct routine business (Seper 113).

Beno Ghitis may be thanked for $240 million of the $6 billion imbalance. He washed an average of $1.5 million each business day for eight months. To make these deposits, he employed thirty to forty smurfs and paid Miami’s Capital Bank $300,000 per month to receive his deposits. He worked out of an office above the bank (Bartlett et al., 53). *Business Week* reported in 1985:

“Miami became ‘the Wall Street of the drug trade.’ Until a few years ago, it was common to see couriers standing in bank lines with duffle bags, suitcases, cardboard boxes, and shopping bags crammed with cash. ‘We didn’t think anything of it,’ admits a Miami banker.” (53)
After three years of Operation Greenback, Florida's banks began complying. As a consequence, dirty cash shifted northwest, as shown in changes in regional Federal Reserve surpluses. From 1985-1988, the Miami Federal Reserve's cash surplus decreased from $6 billion to $4.8 billion, but the surplus in Los Angeles grew from $165 million to $3.8 billion (Seper 113).

This shift was due to several factors, including successful interdiction efforts off the south Florida coast and the increasing market share held by Los Angeles' drug dealing street gangs, but Operation Greenback played no small part in the shift. It was successful in Florida because it pressured bankers as well as smugglers, and charged defendants with drug charges instead of minor infractions of the Bank Secrecy Act. It is unfortunate, however, that simultaneous investigations did not occur in other U.S. banking centers to effect the expatriation, instead of the migration, of dirty money. But this hindsight should not stop us from recognizing the revolution in banking practices in southern Florida that occurred as a result of the changes in the Bank Secrecy Act, and a new commitment to enforcing them.

In February, 1985, Operation Greenback moved in on Boston. Bank of Boston Corporation was charged with failing to report international cash transactions of $1.22 billion. $1.16 billion of this amount involved transactions with Swiss banks, which are notoriously secretive. From 1981-1985, the bank received $529 million in small bills from Swiss banks, and shipped $690 million in bricks of $100 bills back by flying bags of money out of Logan airport on commercial flights. The bank was scandalized further when it was revealed that the Angiulos, a Boston family linked to the Mafia, purchased $1.3 million in cashier's checks from Bank of Boston in 1982. $250,000 of the payment for the checks was in cash. This case gained a great deal of publicity because of the $500,000 fine charged to the bank, the maximum penalty at the time. Bank of Boston managed to stay afloat, despite losing millions in City Council accounts (Moskowitz et al., 30; Fromson 39).

Prosecutors rounded out their roster of the three largest banks in Boston by fining the Bank of New England and Shawmut Bank later in the year.

In June of 1985, four large New York banks were fined a total of $1.2 million for failing to report transactions, and in September, Crocker National Bank in San Francisco was fined a record $2.25 million for "extensive noncompliance" with the Bank Secrecy Act. The bank failed to report 7,877 cash transactions, most of which were transfers to and from Hong Kong banks. John Walker, the Treasury enforcement chief at that time, speculated that the deposits "could well have originated with illegal drug transactions" (Koepp 56).

This case led the United States government to put pressure on the Hong Kong (British) government to force their banks to cut back on secrecy. In Hong Kong, business and government are dominated by the Hong Kong & Shanghai Bank, which was unwilling to limit secrecy until the U.S.DEA publicized the issue (Naylor 207). Cooperation between Hong Kong customs and police and the U.S., along with international drug enforcement agencies (in conjunction with the United Nations), led to several arrests. Hong Kong has since drafted laws much like the amendments
made to the Bank Secrecy Act in 1987, that provide for the tracing and confiscation of the proceeds of drug trafficking (Naylor 207). This, combined with concern about the political climate due to the Beijing massacre and the imminent return to Chinese rule, has pushed many launderers out of Hong Kong.

Unfortunately, this only means that they migrate elsewhere. The rapid shift of contaminated cash from Miami to Los Angeles shows how flexible launderers can be. Traditionally, dirty cash has shifted from one country to another because of changes in the stability of governments, but while the U.S. led an international push to curb laundering, money shifted because of the changing secrecy laws as well.

The U.S. DEA has a long list of nations whose banking laws protect depositors, and worked with the United Nations and the Council of Europe to force these countries to comply with our standards. The most prominent money laundering nations are discussed here.

In 1983, foreign banks with branches in the U.S. first became vulnerable after a judge threatened to fine a Cayman Islands bank with a Florida branch $1.8 million for refusing to release information. Since 1986, banks in the Caymans and the Bahamas have released bank records on demand to the U.S. government (Naylor 207).

Although the Council of Europe pressured Switzerland for several years to cooperate with other nations to decrease tax evasion and capital flight, Switzerland agreed first to meet with the U.S. in 1985 for talks on the subject (Naylor 118). Since then, Swiss banks have turned over account information for the prosecution of inside traders, and in 1987 reluctantly released information pertaining to drug trafficking (Burns 1). But since 1988, Switzerland has not loosened its secrecy laws.

Swiss banks are not secretive only because they seek business. Claims R.T. Naylor:

"Swiss banks are famed for their stability and their conservativism. Their stability is attested to by the highest bank-failure rate per capita of any country in the industrialized world; and their conservatism is well demonstrated by their record of fleeced clients. Swiss law protects the banks not only against curious or angry foreign governments but also against their customers. Swiss bank secrecy is often a trap for depositors. As they often have something to hide, their lips are effectively sealed, no matter if they are robbed by the very institution to which they have entrusted their money."

(118)

Money from Hong Kong, the Caymans, the Bahamas, and Switzerland often wound up in Panama, which had 119 branches of foreign banks and financial companies in early 1988. In 1985, the Federal Reserve’s Miami branch had deposits of $1.3 million cleared through Panama
Drug dealers were attracted to Panama by its secrecy laws, as well as its Spanish speaking bankers, its proximity to Latin America, and its official currency, the American dollar. In 1987, Forbes reported:

"Collectively, commercial banks in Panama today hold more than $50 billion on their books in U.S. dollar-denominated deposits. That's more than ten times the gross national product of a country...doing only about $2.8 billion in business annually." (8)

The Panamanian banking industry folded because of a steady capital flight since 1983 due to the instability of the government, a revolt by Panamanian bankers against Noriega that began in June 1987 (Glenn 18), and the completion by the U.S. of what Meese hailed as "the largest and most successful undercover operation in federal drug law enforcement history" (Conway 8).

This investigation, Operation Pisces, produced 387 arrests and the seizure of $50 million. As a result of Operation Cashweb/Expressway, which also occurred from 1984-1987 in Panama, $10 million was seized. The two operations also netted 28,000 pounds of cocaine. In these investigations, federal investigators posed as money launderers who moved $116 million through about 35 banks for their Columbian customers (Conway 8). Agents worked with Noriega's police to seize accounts, and some believe Noriega's cooperation was motivated by concern that the U.S. would expose his own laundering activities if he was not helpful (Glenn 19). Whatever the case, Panama's banking industry has not recovered.

Charles Morley, an investigator who has worked on Senate probes involving bank secrecy, warns:

"I think what happens to Panama [s banking industry] is going to be real instructive to a lot of other offshore centers that are just doing window dressing on cooperating with U.S. authorities. Real instructive." (Glenn 19)

Before leaving office, Reagan again stressed the importance of the international cooperation which is necessary to stop highly mobile launderers. His focus on it at the summer, 1988 summit with leaders of Britain, Canada, France, West Germany, Italy, and Japan was clear in their joint statement:

"The complexity of the problem requires additional international cooperation, in particular to trace, freeze, and confiscate the proceeds of drug traffickers and to curb money laundering." (19)

They formed a special international task force on drugs that first convened in the U.S. Without Reagan's leadership in the fight against money launderers, however, the task force has
not addressed the issue of money laundering, because President Bush has all but abandoned it, although as vice-president he oversaw the South Florida Drug Task Force (Seper 115). This is particularly deplorable since every major money laundering “sting” has paid for itself. Since the completion this summer of Operation Polar Cap, a two-year investigation that used the same tactics as Operation Greenback to snare South American money launderers, the Bank Secrecy Act has reverted to ineffectiveness (Seper 110). This is a result of the enforcement of the reporting requirement, which has resulted in a backlog of reports at the IRS. Now it is they, not banking executives, who are complaining about paperwork. Said a senate investigator,

“The government has allowed itself to be swamped by not hiring the people it needs to do audits. We have been told by insiders that the IRS has assigned 50 percent of its auditors to reviewing currency transaction reports.” (Sheppard 15)

These problems largely arose because this year the IRS abandoned the Reagan-endorsed plan to hire 2,500 new auditors before 1991 to review currency transaction reports (Gerth 12). This has led to the return of dirty money to U.S. banks, and experts expect this trend to continue. Ironically, U.S. pressure on other nations is precisely what has brought launderers back. Without rigorous reporting of transactions, the U.S. is open to launderers because of the decreased supply of other nations willing to accept funds earned illegally. Adds Stanley Twardy, U.S. attorney for Connecticut,

“Traffickers prefer the stability of the U.S. and the safety of our banks. They know authorities are inundated by the reports so they have become bolder.” (Sheppard 15)

Two months ago, Attorney General Dick Thornburgh spoke to the American Bankers Association and implored:

“In this country, under drug siege, we have the strongest motivation for sacrificing a certain measure of bank privacy...to bring international money launderers to justice. Ripping out these illegal financial webs, pulling apart the money laundering networks—this is the most effective way to bring down the drug cartels.” (Sheppard 15)

Perhaps this speech will herald a new attitude about money laundering from the Bush Administration, but unfortunately, more than bankers’ support is necessary. President Bush must make a strong statement against domestic and international launderers, and back it up with action. Great strides have been made since 1982, but because of increasingly efficient banking
technology and complacency on the part of President Bush, our nation may quickly revert to being the inactive, “innocent” bystander, as we allow billions in drug money to be laundered in American banks.

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