



Attacking Drug Cartels Through Undercover Money Laundering Operations

By Robert Mazur

Federal undercover money laundering operations are a vital tool in law enforcement's efforts to build legal cases against the hierarchy of drug cartels and associated criminal networks. In the last few months, however, critics have suggested that federal undercover money laundering operations blur the line between effective law enforcement and "facilitating crime," ignore the sovereignty of other governments, and have not produced results that impact cartel leadership. Detractors of this tool argue for more stringent congressional review of these operations, with suggestions that they are counterproductive.

This article, however, argues that undercover money laundering operations are one of the most effective and critical weapons to identify and prosecute those involved in the command and control of global narco-terrorist organizations. Much of the analysis in this article is based on the author's 27-year career as a federal agent, including five years of long-term undercover work operating as a money launderer for drug cartels.

The Threat from Drug Cartels to the United States

Drug cartels threaten U.S. national security. They move hundreds of tons of illegal drugs into American communities, resulting in increased domestic crime as well as thousands of drug-related murders. Drug money corrupts law enforcement, as well as military, political, judicial, legislative and even media personnel in various countries. It provides funding for terrorist organizations such as Hizb Allah, the Taliban, and the Revolutionary Armed Forces of Colombia (FARC) that prioritize the murder of Americans. Several prosecutions brought during the past few years as a result of the dedicated work performed by the DEA's Special Operations Division, including the November 2011 indictment of Ayman Joumaa and members of his Colombian/Lebanese drug money laundering operation, substantiate this fact.¹ Likewise, the prosecutions of Khan Mohammed², Haji Juma Khan³, and many others confirm the strong narco-terrorist connection.⁴

While U.S. resources have been concentrated on waging wars in the Middle East and South Asia, the danger from drug cartel activity in Latin America has only gained momentum. These organizations are operated by sophisticated individuals. They hide behind surrogates or front

¹ *U.S.A. v. Ayman Joumaa*, Eastern District of Virginia, 2011.

² "Kahn Mohammed," press release, U.S. Department of Justice, December 22, 2008.

³ "Haji Juma Khan," news release, U.S. Drug Enforcement Administration, October 14, 2008.

⁴ *U.S.A. v. Lebanese Canadian Bank*, Southern District of New York, 2011.

men while they attempt to corrupt the infrastructure of the countries from which they operate. Some of the world's most sophisticated international bankers and businessmen cater to them and make tens of billions of dollars guarding their fortunes.

The illegal drug trade globally generates more than \$400 billion per year.⁵ Reports estimate that in North America cocaine sales alone generate roughly \$35 billion. Factor in other drugs, and at least \$65 billion is being made from the sale of illegal drugs in the United States each year. At the same time, less than \$1 billion in drug proceeds are seized in the United States per year.⁶ Law enforcement never even sees 99% of cartels' annual revenue. No matter where in the world big drug deals take place, most often they involve U.S. dollars. Therefore, as was the case with European drug proceeds traced through the money laundering organization of Lebanese-based Ayman Joumaa,⁷ the trail of the greatest portion of illicit drug sales around the globe runs through the U.S. banking system.

The Importance of Undercover Money Laundering Operations

One of the few law enforcement tools that genuinely worries cartel leaders is undercover money laundering operations. Cartel leadership recognizes that targeting their money supply is one of the only ways that law enforcement can build solid proof of their role in command and control, and that this technique could potentially undermine their entire organization. Yet they have no choice but to expose themselves to this risk because unlaundered "dirty" money provides them with far less power and security than tainted funds that appear legitimate.

The reality is that a segment of the international banking and business community solicits business relationships with people who possess "flight capital," which constitutes money-seeking-secrecy from governments. This author learned this fact first hand during months of debriefings of convicted international bankers.⁸ This money-seeking-secrecy comes in different forms. Beyond drug proceeds, at a minimum it includes funds from: illegal arms dealing; the unlawful movement of funds to sanctioned nations; tax evasion; the evasion of customs duties; white collar crime; and the pilfering of national assets by individuals with political influence. Law enforcement benefits greatly from having an undercover methodology to access the corrupt segment of the international banking and business community involved in laundering funds for those in control of "flight capital" because sophisticated launderers serve a large number of criminal organizations. Prosecuting these individuals has value because they can identify those involved in the command and control of large scale drug trafficking and other illegal enterprises, they have key records, and they can identify the current location of massive illegal fortunes.

To justify this type of approach to undercover money laundering operations, one need only look at the list of international banks that have admitted criminal guilt in connection with their servicing of "flight capital" during the past five years. They include: Bank Atlantic (2006) – fined \$20 million;⁹ American Express Bank International (2007) – forfeited \$55 million;¹⁰ Union

⁵ "Estimated Illicit Financial Flows Resulting From Trafficking & Other Transnational Organized Crimes," United Nations Office of Drugs and Crime, October 2011.

⁶ This information is available on the U.S. Department of Justice's Asset Forfeiture Fund website.

⁷ "Ayman Joumaa," press release, U.S. Department of Justice, December 13, 2011.

⁸ Robert Mazur, "Institutional Will – The Organized Crime Remedy," *Journal of Money Laundering* 15:2 (2012).

⁹ "BankAtlantic," press release, U.S. Department of Justice, April 26, 2006.

¹⁰ *U.S.A. v. American Express Bank International*, Southern District of Florida, 2007.

Bank of California (2007) – fined \$21.6 million;¹¹ Wachovia Bank (2010) - fined \$160 million;¹² Lloyds (2009) - fined \$350 million;¹³ UBS (2009) - fined \$780 million;¹⁴ Deutsche Bank (2010) - fined \$553 million;¹⁵ Credit Suisse (2009) - fined \$536 million;¹⁶ ABN Amro Holding NV (2010) - fined \$500 million;¹⁷ and Barclays Bank (2010) - fined \$298 million.¹⁸

This author acted as the primary undercover agent in several long-term undercover money laundering operations during the late 1980s and the early 1990s. During one, two-year undercover operation, this author and his team laundered \$34 million. This amounted to 1/100th of one percent of the \$800 billion in drug proceeds generated during those two years and proves that successful undercover money laundering operations do not require the laundering of significant amounts of the cartel's fortunes.

Yet through this \$34 million, this undercover money laundering operation recorded more than 1,000 conversations with cartel leaders and launderers, which would not have been possible if the network had not been infiltrated through an undercover money laundering operation. As a result of the operation, the U.S. Department of Justice:

- prosecuted more than 100 drug traffickers and money launderers, including people who reported directly to Pablo Escobar;
- seized about 3,200 pounds of cocaine;
- seized more than \$100 million in cash and assets;
- collected over \$500 million in fines;
- forced the world's 7th largest privately held bank then, the Bank of Credit and Commerce International, to plead guilty and forfeit their licenses to operate in 72 countries (essentially dismantling the bank);
- convicted and imprisoned many senior bank executives involved in laundering hundreds of millions in drug proceeds;
- executed search warrants around the world that resulted in the seizure of truckloads of records documenting hundreds of millions in laundered drug proceeds, including the records that proved Panamanian General Manuel Noriega had, as drug dealers claimed, taken more than \$50 million in cash payments in return for the free passage of untold amounts of drugs and money.¹⁹

Without the tool of an undercover money laundering operation, these successes would not have been possible. Unlike other traditional law enforcement efforts that often rely on the testimony of paid informants, surveillance or wiretaps, undercover money laundering operations readily enable law enforcement to collect certain types of highly reliable evidence, including the documents that provide the money trail that leads to those involved in command and control of criminal organizations. In addition, they routinely involve recorded conversations made by a

¹¹ *U.S.A. v. Union Bank of California*, Southern District of California, 2007.

¹² *U.S.A. v. Wachovia Bank*, Southern District of Florida, 2010.

¹³ *U.S.A. v. Lloyds TSB Bank PLC*, District of Columbia, 2009.

¹⁴ *U.S.A. v. UBS AG*, Southern District of Florida, 2009.

¹⁵ "Deutsche Bank AG," press release, U.S. Department of Justice, December 21, 2010.

¹⁶ *U.S.A. v. Credit Suisse AG*, District of Columbia, 2009.

¹⁷ *U.S.A. v. ABN Amro Bank N.A.*, District of Columbia, 2010.

¹⁸ *U.S.A. v. Barclays Bank PLC*, District of Columbia, 2010.

¹⁹ Robert Mazur, *The Infiltrator* (New York: Little, Brown & Company, 2009).

sworn law enforcement officer, rather than highly paid informants, acting in an undercover capacity. Those recordings offer airtight evidence against professional money launderers who are otherwise painted by defense counsel to juries as victims of untrustworthy informants and an overreaching government prosecution unjustly accusing “pillars of the community.” The prosecution and imprisonment of professional money launderers leads to their cooperation, their testimony relative to the owners of the money they laundered, and access to additional unknown records that will support otherwise unachievable prosecutions of the highest level members of criminal organizations, as well as the seizure of their organization’s fortunes—thus dismantling their whole enterprise. The 1,000 consensual recordings made by undercover agents with money launderers, traffickers and bank officers in the operation that targeted the Bank of Credit and Commerce International enabled the prosecutors to convict every defendant that went to trial, which led to their cooperation and the dismantling of the bank.

With the help of a half dozen informants and concerned citizens, it took nearly two years to establish a sophisticated front as a corrupt businessman involved in verifiably operating businesses, including an investment company, mortgage brokerage business, air charter service, jewelry chain, and stock brokerage firm with a seat on the NY Stock Exchange. Once established, this author used his undercover identity to build relationships with suspected corrupt businessmen and bankers around the world. Without that detailed planning, the operation would have never succeeded. In today’s era of databases and high-tech background capabilities, this type of undercover front complexity is a minimum requirement to realistically gain access to those truly in control of the underworld’s financial maze.

How to Improve Undercover Money Laundering Operations

To identify and seize the 99% of drug proceeds that currently evades law enforcement, the sophistication of law enforcement’s undercover money laundering operations should be improved. Most often, law enforcement puts an undercover money laundering operation together in reaction to a set of case specific facts gathered by informants or other sources. Because undercover identities and business fronts are rarely created in advance of their need, authorities tend to use informants to fill significant roles in undercover money laundering operations, which later makes it necessary to have informants carry a heavy burden testifying about critical facts. That flaw offers an appetizing scenario in the perspective of a defense attorney. The jury is typically reminded repeatedly that the entire credibility of the government’s case lies on the shoulders of a deal the government made with a “snitch.”

The undercover companies and businesses routinely used in undercover operations are generally thrown together in an effort to catch up to a case specific opportunity and most often deal with a single drug organization or corrupt institution, rather than slowly building a sound front that can be used to attack several criminal organizations simultaneously. Establishing an effective undercover money laundering operation is no different than devoting resources to develop any other type of weapon used in the defense of the country; it should and could easily be used in more than one battle.

In almost every case, U.S. authorities rely on “cooperative financial institutions” to establish undercover accounts, a fact that looms as a detriment to the security of the operation for several reasons beyond the potential inadvertent leak. It is naïve to think that senior management in an

international bank will not be made aware of the opening of undercover accounts.²⁰ If an undercover operation is soundly established, provided that the sovereignty of other countries is respected, it is far more secure to open accounts covertly, rather than with the knowledge and involvement of bank personnel at any institution.

In general, long-term undercover operations, especially those involving money laundering operations, should be used sparingly. Undercover agents selected for these assignments should be vetted through an undercover school process that involves experienced trainers and psychological testing/monitoring. These operations should be monitored and managed to ensure that they truly infiltrate cartel leadership and their money laundering partners in the international bank and business community. What matters most is that, on a continuing basis, each operation continues to identify new violators and evidence of new crimes. The old standard of justifying these operations by seizing funds equal to the amount laundered is archaic and ill advised. Each operation should strive to launder the least amount of money to get the maximum evidence, but seizures during the undercover operation should only be done when a certainty exists that doing so will not cast doubt about the credibility of the undercover agent.

The DEA should lead a multiagency initiative to selectively launch one highly efficient and well planned money laundering undercover operation every year so that an ongoing resource of highly skilled undercover operatives infiltrate the hierarchy of the underworld on a global basis. To be effective, multinational resources through ally partnerships need to support these operations, and each operation should run for an average of two to three years. Operational care should be taken to ensure that litigation brought as a result of one such operation does not legally necessitate the exposure of any other undercover money laundering operation. In 10 years, cartel leadership and others who possess underground fortunes would suffer a lethal blow and the international banking community would finally learn that the stench of tainted funds carries too great a risk for business.

By enhancing the sophistication of undercover money laundering operations, the authorities who take on the cartels and their money managers will be afforded a much clearer aim at the Achilles' heel of the underworld.

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²⁰ All of BCCI's convicted senior management were previously employed by many other international banks and maintained a close relationship with their colleagues in other institutions. If the other accounts used in the operation had been opened with the knowledge of the account initiators that the accounts were undercover accounts, the security of the undercover operation would have been needlessly jeopardized.