



PART 3

DIRTY MONEY

The link between money laundering
and contraband tobacco as the source
of funding for organized crime.

Gary Grant

National Spokesperson, National Coalition Against Contraband Tobacco
Deputy Chief of Police (retired), Toronto Police Service
Founder, Toronto Crime Stoppers

Introduction

Money laundering continues to be a serious and growing problem in Canada. As per the 2017 United States International Narcotics Control Strategy Report, Canada was one of a few groups of “major money laundering countries” in the preceding year.¹ Money laundering in Canada, however, is simply a downstream impact of organized crime. Domestic and transnational organized crime groups pose not only a criminal threat but may also be a destabilizing force in the countries where they transact business; undermining the integrity of financial systems, breeding corruption and weakening adherence to the Rule of Law. Additionally, the threat increases exponentially if the organized crime groups are linked to terrorist groups.²

Canada, as per its close proximity to the United States border and the Pacific Ocean, is an ideal location for organized crime, money laundering and international illicit trade. Canada is particularly an ideal location for activities by organized crime groups because of our strong belief in rehabilitation and parole for those convicted of crimes, including serious offences.³ The federal, provincial governments and the Canadian police tasks forces have a strong understanding of how money laundering, illicit trade and organized crime have detrimental affects on our communities, economy and national safety and security and it is time decision makers take legislative action such as those taken in Quebec in 2009.

Contraband tobacco is one of the largest cash cows of organized crime in Canada, especially Ontario, and in order to tackle the contraband problem, thereby mitigating money laundering, all governments, especially Ontario, should fulfil their community commitments and develop new initiatives. The provincial government in their Fall Economic Statement last year listed several actions they would take to contribute to the elimination of contraband tobacco, and we hope to see both the federal and provincial governments follow through with those actions this time round.

Not only should the federal and provincial governments tackle organized crime and contraband tobacco for the sake of Canadians, but Canada signed onto the United Nations’ 2030 Agenda for Sustainable Development where their 16th goal – to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels – committed to significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime.

Illicit trade such as that stemming from contraband tobacco is compromising the attainment of the Sustainable Development Goals in significant ways, crowding out legitimate economic activity, depriving governments of revenues for investment in vital public services, dislocating millions of legitimate jobs and causing irreversible damage to human lives. The Federal government has stated that they are committed to working with other stakeholders to develop a national strategy to implement the Sustainable Development Goals.⁴

Canada clearly has several reasons to commit to their promises to tackle organized crime, especially stemming from contraband tobacco for the sake of our country and the transnational agreement that we’ve committed to.

¹ Peter German. “Dirty Money – Part 2”. *Peter German & Associates Inc*, 31 March 2019, https://www.citynews1130.com/wp-content/blogs.dir/sites/9/2019/05/09/Dirty_Money_Report_Part_2.pdf. p.37.

² *Ibid*, p.39.

³ *Ibid*.

⁴ “The United Nations’ Sustainable Development Goals”, *Office of the Auditor General of Canada*. http://www.oag-bvg.gc.ca/internet/English/sds_fs_e_43127.html

Money Laundering

On March 31, 2019, Peter German published a report called *Dirty Money – Part 2*, which delivered findings on money laundering in B.C. real estate, luxury vehicles, horse racing and various other lucrative industries. They found that gang members and nominees (or ‘straw buyers’) place their money in these industries, launder and legitimize their cash into the mainstream financial system. In real estate dirty money can easily be hidden through numerous devices including property registration, management companies, mortgages, double and triple layers of ownership, and beneficial ownership.⁵ Concealment of beneficial ownership has been described by some experts as “the most important single factor facilitating money laundering in real estate” because companies, partnerships, and trusts can purchase property and secure financing without disclosing the identity of the owners while using opaque funds.⁶ This inability to identify investors makes it especially difficult to determine the origins of funds. The figures now in common parlance are of \$1 billion or more per year of dirty money being put into B.C. real estate alone.⁷

Similar money laundering strategies were identified in the luxury vehicle industry. These include repeat cash deposits at unsuspecting dealers where there is no real intention to purchase a car; creating a hidden bank account with a complicit dealer by making cash deposits on lease vehicles that can be refunded by cheque; fraudulent selling or gifting of luxury cars between gang members and the use of nominees.⁸ Additionally, there is no ability to determine the source of income of luxury vehicle purchasers when foreign credit and other payment systems are used.⁹ A common issue across several sectors is that there is a lack of mandatory reporting to the Financial Transactions and Reports Analysis Centre of Canada (FinTRAC), the watchdog tasked with detecting and preventing money laundering and terrorist financing. This leaves an enormous gap for money laundering.



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Although the scope of the German report was limited to B.C., it is a microcosm of money laundering across Canada and this issue must be addressed nationally. Expert panels have estimated that \$46.7 billion is laundered in Canada annually, while others estimate it may be as high at \$130 billion.¹⁰ Transparency International Canada found that Toronto’s market faces massive floods of opaque cash, with \$28.4 billion invested in Greater Toronto Area housing since 2008, through

⁵ *Ibid*, p.53.

⁶ *Ibid*, p.73.

⁷ *Ibid*, p.32.

⁸ *Ibid*, p.208.

⁹ *Ibid*, p.183.

¹⁰ Kevin Comeau. “Why Canada’s money-laundering problem is far bigger than we think”. *Financial Post*, Postmedia Network Inc., May 28, 2019. <https://business.financialpost.com/opinion/why-canadas-money-laundering-problem-is-far-bigger-than-we-think>. Accessed 17 June 2019.

corporations whose owners are anonymous.¹¹ The “Walker Gravity Model”, a tool used to attempt to quantify money laundering suggests that B.C. is the fourth highest region in Canada, behind Alberta, Ontario and the Prairies for money laundering activity.

Contraband Tobacco as a Cash Cow of Organized Crime

Although money laundering is clearly a major issue in Canada, the root of the problem stems from the funding sources for organized crime and contraband tobacco is a significant funding source, which further funds drugs, guns and other illicit trade. Money laundering is simply a mirror of its problem with organized crime which earn them billions of dollars annually. Without these funding streams, money laundering would undoubtedly diminish.

The contraband tobacco market is thriving within incredibly well organized, lucrative operations. The Canadian Taxpayers Federation estimates that Ontario loses up to \$1.1 billion a year in lost federal and provincial tax revenues from contraband tobacco sales, with \$750 million of that being lost to the provincial government.¹² In Southern Ontario, statistics show that at least one in three tobacco products are contraband, while in Northern Ontario over 60% of tobacco products are contraband.¹³ These statistics have been fluctuating over the past three decades as Health Canada hopes by raising tobacco tax that those who smoke will quit, while in reality, smokers are incentivized to purchase tobacco from the black market.¹⁴ This is especially true in Ontario, where contraband tobacco is seamlessly accessible. According to the RCMP, there are approximately 175 criminal gangs involved in the contraband tobacco network, which creates a gateway to other illegal activities including weapon and drug distribution and human trafficking which are all significant threats to Canadian communities.¹⁵

Five primary sources of contraband tobacco that sustain the black market have been identified in recent years. The two most important sources are, 1) Tobacco products designated for sale on Native reserves (and thus exempt from federal and provincial excise taxes) that are diverted to the black market; 2) Cigarettes unlawfully manufactured on Indigenous territories in the U.S. and Canada.¹⁶

The significant barrier to enforcing tobacco regulations is the tension between Canadian law enforcement with Indigenous authorities. Canadian law enforcement is effectively powerless to enforce tax obligations on First Nations territory because of Indigenous territorial autonomy and charter rights.¹⁷ Indigenous authorities contend that the production and sale of cigarettes does not contravene any laws because the commerce takes place on reserve territory and is, therefore, outside the jurisdiction of Revenue Canada and any other Canadian tax authority.¹⁸ The issue is not that First Nation communities

¹¹ Sam Cooper. “Toronto’s real-estate market risky for money laundering, with \$28B in opaque investments: report”. *Global News*, Corus Entertainment Inc., 21 March 2019, <https://globalnews.ca/news/5080238/toronto-real-estate-money-laundering-opaque-investment/>. Accessed 17 June 2019.

¹² Victor Fideli. “Plan for the People – Ontario Economic Outlook and Fiscal Review”. *Ontario Government*, 2018, <https://www.fin.gov.on.ca/fallstatement/2018/fes2018-en.pdf>. p.81.

¹³ “National Coalition Against Contraband Tobacco 2018 Pre-Budget Recommendations”, *National Coalition Against Contraband Tobacco*, 2018, <https://www.ourcommons.ca/Content/Committee/421/FINA/Brief/BR9073392/br-external/NationalCoalitionAgainstContrabandTobacco-e.pdf>. p.5

¹⁴ Nachum Gabler, and Katz, Diane. “Contraband Tobacco in Canada – Tax Policies and Black Market Incentives”. *Fraser Institute*, July 2010, <https://www.fraserinstitute.org/sites/default/files/contraband-tobacco-in-canada.pdf>. p.1

¹⁵ *Supra note 13*, p.2.

¹⁶ *Supra note 14*, p.5

¹⁷ *Ibid*, p.36.

¹⁸ *Ibid*, p.37.

are producing tobacco, as this is their historical right, but that their charter rights do not extend to the illegal manufacturing and distribution of tobacco, which is currently happening on First Nation reserves. Millions of cigarettes are handed over to criminal organizations for national distribution and recent statistics have identified at least 50 illegal factories on Canadian First Nations land.¹⁹ These factories act with near impunity and operate with no federal tobacco license, churning out millions of cigarettes a day.

Other enforcement issues stem from the fact that the Contraband Tobacco Enforcement Team – a specialized task force within the Ontario Provincial Police – currently has 12 members who work on enforcement, while Quebec's enforcement team has over 54 members and an alternative provincially funded program that funds ongoing contraband investigations. Although Ontario has worked hard to combat organized crime involved in contraband tobacco, their team is still too small to deal with the mass amount of contraband tobacco coming in and out of Ontario and the teams are not dedicated to solely investigating contraband tobacco. All police officers in Ontario could enforce tobacco crimes if the province chose to utilize sections of the Criminal Code of Canada, but currently, the tobacco excise laws restrict enforcement to RCMP, the Ministry of Finance, and the OPP.

The silver lining, however, is that there is an excellent solution which was implemented in Quebec and should be considered the gold standard for tackling contraband tobacco. In 2009, the Quebec government passed Bill 59 which led to three key changes, first of which was the development of the Contraband Tobacco Enforcement Team which enabled officers to coordinate across the province.²⁰ This 54-member team is dedicated and authorized to tackle contraband tobacco investigations. Second, Quebec amended its laws to allow all police services to conduct full contraband tobacco investigations, whereas in Ontario this can only be done by RCMP officers or Ministry of Finance officials.²¹ Third, Quebec created a program called *Accès Tabac*, which funds ongoing contraband investigations.²² The changes were incredibly successful, with a return of over \$200 million back into the province, and a reduction in overall contraband tobacco by approximately 50%. Their latest budget showed that for every one dollar spent on enforcement, the government made back almost 11 dollars in increased tax revenue.²³

¹⁹ Gary Grant. "Ontario is finally ready to bust contraband tobacco. Here's how Quebec did it". *Financial Post*, Postmedia Network Inc., 13 February 2019, <https://business.financialpost.com/opinion/ontario-is-finally-ready-to-bust-contraband-tobacco-heres-how-quebec-did-it>. Accessed 17 June 2019.

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.*

²³ Gouvernement du Québec. *Budget 2019-2020 Additional Information*. Bibliothèque et Archives Nationales du Québec, 21 March 2019, http://www.budget.finances.gouv.qc.ca/budget/2019-2020/en/documents/AdditionalInfo_1920.pdf.

Gangsters in Canada

Gangsters in Canada are quite unlike territorial street gangs in other cities around the world. In other countries, people join gangs out of economic necessity or oppression, while gangsters in Canada are motivated by the ability to make money quickly and enjoy a luxurious lifestyle. For example, over 50 percent of kids who enter gangs in B.C. come from middle- or upper-class homes who want more money, more quickly.²⁴ Whether the cash cow of organized crime stems from contraband tobacco, guns, or other sources, they all have a cumulative and powerful effect on our communities, economy, and safety. For example, Justice Canada's report on the *Costs of Crime in Canada*, estimated the annual social and economic costs of illicit drugs in Canada to be \$8.6 billion in 2008.²⁵ There is no doubt that the Canadian gangster culture is correlated to the proliferation of organized crime in Canada and until the government targets efforts to eliminate the major cash cows of organized crime, particularly that of contraband tobacco, we cannot expect to see any notable reduction of money laundering in our country.



July 2019, York Regional Police seized a stunning amount of goods worth \$35 million, including 23 high-end cars (including five Ferraris, one worth \$880,000), 27 allegedly mafia-owned houses, and \$1 million in cash.
(<https://www.yorkregion.com/news-story/9507340-figliomeni-crime-family-busted-through-laundering-gambling-crimes-police/>)

Conclusion

Money laundering is a major issue across Canada and the root of the problem stems from the cash cows of organized crime, primarily contraband tobacco. Canada want to eradicate money laundering so they must crack down on the illegal activities of organized crime groups in connection with contraband tobacco.

Our recommendations are as follows:

To the Federal Government

The Federal Government should create a national inquiry into the underground economy, including contraband tobacco, cannabis, drugs, guns and human trafficking, to understand the scope of the issue within Canada and actions that can help to alleviate the issue.

To the Provincial Governments

Ontario

The Ontario Government should follow through with the actions which were listed in its 2018 Fall Economic Statement. Those actions included:

²⁴ *Supra note 1*, p.177.

²⁵ "Evaluation of the National Anti-Drug Strategy". *Department of Justice, Government of Canada*, last modified 27 April 2018, <https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/2018/nads-sna/p4.html>.

- The Ministry of Finance to launch a public awareness campaign that informs the public about how to identify illegal tobacco, and the consequences and risks of participating in the illegal market.
- Ministry of Finance to undertake a comprehensive review of tobacco tax regulation and enforcement with a view of reducing the size of the illegal tobacco market through new partnerships with law enforcement and First Nations.
- Ministry of Finance to launch a tobacco enforcement grants program to create incentives for local and regional police to take on more investigations into illegal tobacco.
- Leave the Provincial Tobacco Tax at its current levels, since increasing the tax simply exacerbates the illegal tobacco market.

New Brunswick

The New Brunswick Government should reverse course and re-invest in its Contraband Tobacco Enforcement Team which prevented millions of dollars from being lost to the illicit trade.

Manitoba

Manitoba and other provinces should continue to invest in contraband tobacco enforcement as a way to address organized crime and raise revenues through excise taxes.

Sources

Comeau, Kevin. "Why Canada's money-laundering problem is far bigger than we think". *Financial Post*, Postmedia Network Inc., May 28, 2019. <https://business.financialpost.com/opinion/why-canadas-money-laundering-problem-is-far-bigger-than-we-think>. Accessed 17 June 2019.

Cooper, Sam. "Toronto's real-estate market risky for money laundering, with \$28B in opaque investments: report". *Global News*, Corus Entertainment Inc., 21 March 2019, <https://globalnews.ca/news/5080238/toronto-real-estate-money-laundering-opaque-investment/>. Accessed 17 June 2019.

"Evaluation of the National Anti-Drug Strategy". *Department of Justice, Government of Canada*, last modified 27 April 2018, <https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/2018/nads-sna/p4.html>.

Fideli, Victor. "Plan for the People – Ontario Economic Outlook and Fiscal Review". *Ontario Government*, 2018, <https://www.fin.gov.on.ca/fallstatement/2018/fes2018-en.pdf>. p.81.

Gabler, Nachum., and Katz, Diane. "Contraband Tobacco in Canada – Tax Policies and Black Market Incentives". *Fraser Institute*, July 2010, <https://www.fraserinstitute.org/sites/default/files/contraband-tobacco-in-canada.pdf>. p.1

German, Peter. "Dirty Money – Part 2". *Peter German & Associates Inc*, 31 March 2019, https://www.citynews1130.com/wp-content/blogs.dir/sites/9/2019/05/09/Dirty_Money_Report_Part_2.pdf. p.37.

Gouvernement du Québec. *Budget 2019-2020 Additional Information*. Bibliothèque et Archives Nationales du Québec, 21 March 2019, http://www.budget.finances.gouv.qc.ca/budget/2019-2020/en/documents/AdditionalInfo_1920.pdf.

Grant, Gary. "Ontario is finally ready to bust contraband tobacco. Here's how Quebec did it". *Financial Post*, Postmedia Network Inc., 13 February 2019, <https://business.financialpost.com/opinion/ontario-is-finally-ready-to-bust-contraband-tobacco-heres-how-quebec-did-it>. Accessed 17 June 2019.

"National Coalition Against Contraband Tobacco 2018 Pre-Budget Recommendations", *National Coalition Against Contraband Tobacco*, 2018, <https://www.ourcommons.ca/Content/Committee/421/FINA/Brief/BR9073392/br-external/NationalCoalitionAgainstContrabandTobacco-e.pdf>. p.5

"The United Nations' Sustainable Development Goals", *Office of the Auditor General of Canada*. http://www.oag-bvg.gc.ca/internet/English/sds_fs_e_43127.html