

OPINION

J D'Eathe
Sept 2022

Money Laundering. Shrug?

The Cullen Commission has its flaws, political motivation and its obsession with the criminal elements of gambling but it provides an overall focus on money crime we must take very seriously.

Some confusion lies around the general use of the term 'money laundering.' So, a definition. Section 462 of the Criminal Code; deep breath...

“Everyone commits an offence who uses, transfers the possession of, sends or delivers, to any person or place, transports, transmits, alters, disposes of or otherwise deals with, in any manner or any means, any property or any proceeds of any property with intent to conceal or convert that property or those proceeds knowing or believing that, or being reckless as to whether, all or a part of that property or of those proceeds was obtained or derived directly or indirectly as a result of (a) the commission in Canada of a designated offence; or (b) an act or commission anywhere that, if it had occurred in Canada would have constituted a designated offence.” It is specifically extended to tax evasion.

The key take-away? There must be a prior designated crime.

Why am I concerned? As a blasé youngster, I worked a decade overseas enduring the corrupt ways many other cultures use to get things done. I was pleased to leave and here in Canada I have encountered very

few bad hats. But lax attitudes are creeping in, as indicated by our national indifference to money crime.

In Asia pre-Covid, my wife and I chatted with an establishment business friend who casually mentioned the regular payoffs and corrupt business he still conducted on that side of the Pacific. She joked it must be millions and he laughed that it was hundreds of millions. Just as in my day but way bigger figures.

Later in London, we dined with an international banker whose bank had recently been publicly dinged well over a billion by the American government for serious drug related money laundering; (but significantly not charged). He laughed that no banker would ever discuss the subject. Then the Deutsche Bank and others were exposed laundering billions from Russia. Oops!

The BC Cullen Inquiry brought the subject of money laundering home in 2020. There were suggestions laundered money was influencing housing prices and grounded by Covid, I decided to write a revealing paper. Just try some serious research to see what an impossible task that is.

A CSIS fellow evaded the subject with, “We are only tangentially involved when certain terrorist groups or states launder money to finance activities. The RCMP investigates it at a crime level.” Local cops offer support but generally have no serious anti-money crime mandate. Fintrac ineffectually amasses information and reports. That leaves any real action to the Mounties who claim to be impossibly under budgeted and demoralized!

A few minor criminals are charged but with a low conviction rate. Is an establishment person or company in Canada ever charged with money laundering?

Laundering depends upon three main criminal areas: domestic and foreign designated money crime and tax evasion.

The domestic designated crime could be detectable with government determination. CRA claims that a surprising proportion of small business knowingly deals in dirty money. Condos and financing offer endless ways to manipulate the system. Dubious car deals, jewelry

scams, and gambling infractions abound. And so on. The really big money crime is lost in the mists of establishment protected obscurity.

Crime initiated overseas is almost impossible to prove, especially in uncooperative countries which are the source of much of the suspected tainted money. No one seems to have a clue as to foreign tax or regulation evasion. Just ask the frustrated Mounties. A senior officer texted recently, “ML is really kinda irrelevant.”

Regarding taxation, we all often condone simple, but cumulative, evasion by local service providers, and we know many tax maneuvers go on around us. Contractors arrange ‘off the record’ side deals, passing payment tax free to subs, and on to their daily workers. Expensive lifestyles and residences are maintained in unexplained ways. How often are uncheckable overseas assets or earnings declared?

Of course, money laundering can also be beneficial to the CRA bringing hidden funds into the taxable arena!

A bewildering array of foreign currency is exchanged around the world, moved through offshore accounts, and deposited freely into obscure Canadian ownership. An MI5 professional in London told me, “We only catch the stupid ones. Money is transferred anywhere through dozens of accounts in seconds. The crooks have enormously better budgets and way outperform us technically. And now cryptocurrency!”

My attempt to understand money laundering was going nowhere and I never determined its volume. But who does know? Cullen opens with, “While it is not possible to put a precise figure on the volume of illicit funds laundered through the BC economy each year, the available evidence shows that the figure is very large.” He is at least pretty confident there is a big problem!

At least I knew that money crime, political payoffs and bribery are commonplace in many, probably a majority, of other countries. The proceeds must be hidden from their autocratic, deadly rulers and where better than in trusting, compliant Canada?

Of course, when laundering-type activity is suspected, the pattern may indeed indicate prior designated crime. Fintrac gives lectures on what to look for. The rare big ‘paper’ money deal is obvious. Cullen lightheartedly warns, “...some real estate professionals have outdated

attitudes and myths,” with “images of hockey bags full of cash being emptied onto the desks of realtors.” But requiring business professionals, even hockey enthusiast realtors, to identify the origin of a client’s normally banked money is rather ridiculous. “You must ask your clients how they made it!” That’s just silly.

Throw a judge 20 million bucks and asked for a ‘money laundering’ inquiry with recommendations, and that is just what you get! But what is the point when the originating dirty money criminals cannot be identified nor convicted by our inept, under-funded authorities in the first place?

We all know and choose our associates in accordance with our own character and business background. But can we detect in their past, the primarily designated offences; drug trafficking, fraud and tax evasion? And many others; bribery, forgery, counterfeit money dealing, stock manipulation, smuggling, for example. Especially if those crimes may have been in a foreign country.

Fintrac gets half a million ‘cover your ass’ Suspicious Money Laundering reports annually which can only increase if Cullen is implemented. And a staggering ten million reported Large Cash Transactions. Nevertheless, they only produce compelling evidence for a couple of thousand actionable cases annually, upon which conviction rates have been abysmal.

Cullen lamely observes, “The federal government plays a key role in addressing money laundering, given that criminal law is primarily a federal matter.” But later adds the bland heading, “The federal anti-money laundering regime is not effective.” Really?

Admittedly, enacting Cullen’s expensive proposals available under Provincial powers, would create an added deterrent to criminals operating in this province and bring needed local attention to underlying money crime.

The Federal money crime responsibilities he reports upon were previously widely publicized. In fact, the Feds immediately issued the defensive Statement, “The government is already taking action to address many of the issues identified by the Commission.” Tucked away in their paper is their constitutional bogey, “...while balancing privacy rights”!

It has long been known that the money services business needed regulating; that obviously deeply involved banks, accountants and lawyers must reveal more and not hide behind convenient legal protection; that luxury goods cash sales are criminally out of control; that the controversial civil forfeiture might be more widely used; and that unexplained wealth could be questioned.

Mind you, BC is to be commended for raising the issue and Cullen for laying out a plan of action. But there is no point in implementing many of Cullen's proposals until the Federal Government itself has been induced to take determined and fully budgeted action against persistent money crime in Canada.

And while we continue to shrug, our national business ethics crumble.

John D'Eathe, LLB, RI FRICS Rtd.

He started in the United Kingdom winning the national Institution Prize of the Chartered Surveyors and completed his law degree in Canada. He served as Chair of Bentall Kennedy and receiving the BC Real Estate Institute's Award of Excellence, followed by the British Columbia Community Achievement Award in 2014, and the prestigious, Sovereign's Medal for Volunteers in 2017,

He recently authored "Laundering the Dragon" on Amazon Kindle, putting unchallenged money crime and laundering into a historical, if cynical and lighthearted, novel perspective.