

Designing a net to catch organized criminals

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For Law Times

With a parliamentary inquiry underway into the state of organized crime in Canada, Ontario's private and public forensic experts are being called on to paint a picture of the shadowy face of the underworld.

In the process, they're bringing to light the constraints that are hindering the identification of suspects and their sources of income while decrying the subordinate role policing often assigns to investigative and accounting professionals.

Ed Fast, MP for Abbotsford, B.C., is chairman of the House of Commons standing committee on justice and human rights that has taken on the mammoth task of studying the state of organized crime in Canada. The original motion for the inquiry set aside four committee meetings to deal with the issue, but it's now been going on for about a year and a half. "Once we opened the door, we saw that it would require much more than four meetings," Fast explains. "We have ended up travelling to Vancouver, Edmonton, Toronto, Montreal, and Halifax, and many witnesses have come to Ottawa or participated by teleconferencing. It is very comprehensive."

Fast has concluded that organized crime is a rapidly growing and insidious problem. "The biggest concern I have is that the face of organized crime is changing," he says. "It used to be the Mafia and the biker gangs but now it covers a much broader spectrum. There are still the higher levels but there are lower-level groups as well, which are

often very loosely structured gangs at the local level. There is also much more interaction between the two levels than in the past. There is vertical integration as the more organized groups use the less organized groups to do their dirty work."

Fast also notes street gangs are recruiting very young teenagers who aren't subject to the same penal terms as adults. "That makes them more attractive to the higher-up criminals who are insulating themselves from criminal liability to some extent."

In the meantime, technology has been playing a key role in the expansion. "There has been clear evidence from law enforcement agencies that they don't have the technological and legal resources to deal with the problem," Fast points out. "Organized crime is always at the cutting edge of technology and uses the newest media to communicate with. The police have struggled to keep up."

It's for this reason that law enforcement agencies seek the assistance of forensic professionals in trying to understand the information they're collecting. According to Ken Froese, senior managing director of Froese Forensic Partners Ltd. in Toronto, those professionals can contribute more than they currently do if they're involved in the process earlier on. He feels that by including investigative and forensic accounting professionals in strategy sessions at the start of an investigation, police could become more proactive in dealing with organized crime instead of having a "rear-view mirror" approach.

"The police traditionally hire someone at the end of the

line," Froese notes. "They have done their search warrants and now they want to know what's in it. They put out tenders for forensic accounting support for their investigation. They may be investigating a mortgage broker and need to understand how the funds work. They may be investigating the Hells Angels and need to know their legitimate sources of funds and any unaccounted-for income. In my experience, this is never the upfront strategic work. It is always task-oriented."

At the same time, Froese believes organized crime has expanded out of its standard areas of drug dealing and smuggling. "These days, there are a lot of mortgage frauds and other types of fraud that are left of standard involving organized crime," he says. "To address these types of crime, you may need a lot of brainstorming. You could use off-site task forces to strategize or even volunteer groups."

Froese also proposes greater use of interdisciplinary units with a focus on having strategic teams. In fact, he gave testimony to this effect before the committee on April 13 and assisted it with an overview of the ways forensic professionals attempt to catch criminals and some of the measures that could make life easier in that regard.

Suspicious cash transactions are high on Froese's list of red flags that identify criminals disposing of ill-gotten gains. "We need to figure out how to capture that information," he says. "FINTRAC [the Financial Transactions and Reports Analysis Centre of Canada] is the net the government uses to catch suspicious transactions.



By including private experts at the start of an investigation, police could become more proactive in stopping organized crime, says Ken Froese.

Every police force accesses that information, so reporting to FINTRAC is a way to get the information into the system."

Froese believes existing disclosure levels for cash transactions are reasonable in the areas already required to report. But he proposes adding other businesses through which criminals may try to launder their cash to the list. For motor and recreational vehicle dealers, for example, he suggests reporting cash transactions of \$10,000 or more. For companies operating white-label automated teller machines, some of which may be owned by organized crime, he recommends the same requirement. Froese also wishes to target construction and home renovation companies, horse racetracks, hotels (where a lower threshold of \$1,000 might be reasonable), and lawyers. Froese wishes lawyers were accountable in the same way that

professional accountants are.

But once wider reporting requirements are in place, there's still the problem of ensuring compliance. "Compliance is wishful thinking without enforcement procedures," Froese warns. "I think the police would say that they don't need more teeth in the legislation; they need more teeth in enforcement."

The other issue he brought to the committee's attention was the difficulty in identifying companies in which organized crime groups hold interest because of the limitations in reporting requirements. "Share-ownership information isn't captured anywhere," Froese says. "You have to report the address and names of officers and directors but not the owners."

Froese also addressed the use of nominees to hide the real owner's identity, a problem for which he proposed a one-year limit on how long people can take advantage of that option. "All sorts of people are hiding ownership," he says. "It would make searches easier if you could search by name and if ownership was reported."

In the meantime, Fast reports the committee has now completed the bulk of its work. He expects there may be a draft report for consideration in the spring. "I'm not suggesting the recommendations will be unanimous but I'm hoping there will be a significant amount of consensus," he says. "Everyone on the committee understands the seriousness of the problem. It is not just individuals, families, and victims who are affected. Communities and businesses also end up bearing the high cost of crime." **LT**