

# The Use of Financial Intelligence in the Fight Against Human Trafficking

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## Submission to the Standing Committee on Justice and Human Rights National Consultation on Human Trafficking in Canada

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### The Challenge of Convicting Traffickers

In Canada, there are two types of human trafficking. The first, international human trafficking involves taking victims across international borders regardless of their immigration status and whether or not the victims crossed those borders legally. The second type is domestic human trafficking. This occurs when all stages of the trafficking happen within the same country regardless of the legal status of the victims<sup>1</sup>:

*The distinction between international and domestic human trafficking is made by Canadian law enforcement primarily for the purpose of determining the application of the appropriate criminal charges.*

These distinctions are also important when looking at financial transactions of traffickers and victims which is discussed later in this brief.

Unlike other crimes where people are caught with the stolen merchandise in their garages or through forensic examination of a murder weapon, there is not always physical proof that human trafficking occurred. Instead, the trafficking of humans is based on an evolving relationship that most often looked very different to the victims at the onset.

In order for traffickers to establish their arrangement with victims, they begin by promising delivery of something that their victims desperately want or need<sup>2</sup>:

*Traffickers use various tactics to gain initial control over their victims. Most commonly, traffickers establish trust with their victims through false friendship and romance, use psychological control, or impose debts.*

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<sup>1</sup> *Human Trafficking in Canada*, Royal Canadian Mounted Police, March 2010.

<sup>2</sup> *Domestic Human Trafficking for Sexual Exploitation in Canada*, Royal Canadian Mounted Police, October 2013.

Once they have established an arrangement with their victims, traffickers can begin to manipulate the situation for their own gain<sup>3</sup>:

*It is important to distinguish that consent may initially be given; however, if the nature or conditions of the agreement or understanding change and the person becomes exploited or controlled, consent is no longer present.*

Under Canada's Criminal Code and the Immigration and Refugee Protection Act (IRPA), a victim's consent is not a determining factor of human trafficking<sup>4</sup>. As long as it can be proven that the victim was "controlled or exploited ... or was organized to come to Canada by means of deception, abduction, fraud, or use or threat of force or coercion" it is considered human trafficking.

The challenge of convicting traffickers remains. With gun smuggling and drug trafficking, criminals first have to buy the supply and then, to make money, they have to sell it. This buying-and-selling routine can be quite the hassle, especially for small-time players on the streets. Further, in North America, when law enforcement makes an arrest for gun- or drug-related offences, the evidence is confiscated and put safely in storage until it is needed again in court. Sometimes evidence sits in locker rooms for over a year.

In human trafficking cases, however, the evidence is the victim. These people cannot be safely stored in a locker for over a year. Victims of human trafficking require a lot of attention, resources and energy. If ongoing face-to-face time and emotional support cannot be provided to victims, they will likely not be effective witnesses. Without effective witnesses, human traffickers have a slim chance of being convicted.

To build a case then, it is up to investigators to seek out and establish trust relationships with victims. Investigators must build a rapport with victims and when the time is right, ask the victims for a statement. Building this rapport can take a long time, and once victims have given their statements, many months can elapse before their cases go to trial.

It is extremely difficult to keep victims safe and committed to their convictions during this lead-up time to trial. If victims are socially isolated, are not aware of social resources available to them or are preoccupied with finding places to work or live, they may not show up in court many months later. Without ongoing social support in the months following their statements, victims often disappear by the time their cases go to court at which point any charges against the traffickers are dismissed. As discussed in Tavia Grant's "Missing and Murdered: The Trafficked" *Globe and Mail* piece from 2016<sup>5</sup>,

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<sup>3</sup> *Human Trafficking in Canada*, Royal Canadian Mounted Police, March 2010.

<sup>4</sup> *Ibid.*

<sup>5</sup> "Missing and Murdered: The Trafficked", *The Globe and Mail*, Tavia Grant, February 10th 2016.

*[t]he 2014 national task force recommends changing the Criminal Code so that the offence rests more on what a perpetrator has actually done than on a victim's ability to perform on the witness stand.*

In those rare instances where victims do make it to court to face their oppressors, very little physical evidence remains. Further, defence lawyers often use effective cross-examination techniques to turn the testimony of victims into he-said-she-said cases.

### **Following the Money**

In investigations pertaining to money laundering, terrorist financing and resourcing, drug trafficking, or gun smuggling, following the money will lead to the perpetrators. The same holds true for human trafficking: The money originates with the victim but ends up with the trafficker.

Since so much can be understood about human trafficking arrangements by following the money, the most powerful weapon law enforcement can use against traffickers is financial records. However, the reality is<sup>6</sup>:

*Most criminal investigators with expertise in [trafficking of human beings (THB)] do not have training in financial investigations and most financial investigators do not have training in THB investigations. This lack of cross-topic training creates difficulty in fully integrating financial investigations into THB cases and realizing their full potential to disrupt and dismantle THB networks by targeting THB proceeds.*

*Many criminal investigations for THB do not include financial investigations. This not only reduces the effectiveness of specific THB investigations, but also limits the ability of LEAs and the anti-THB community to properly assess the scale of THB proceeds and the degree to which they are laundered and integrated into the legitimate and criminal economies.*

*[...]*

*When financial investigations do take place in THB cases, they are usually limited in scope and focus on specific offences that already took place, on the final exploiters and on confiscating funds related to the current case, rather than on the larger THB business and all of its stakeholders. As a result, many financial investigations have a limited disruptive effect on the operations of criminal organizations engaging in THB.*

Low rates of human trafficking convictions are, in part, the result of lack of coordination and the inability to prove that traffickers have exploited victims<sup>7</sup>:

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<sup>6</sup> *Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings*, Organization for Security and Co-operation in Europe, 2014.

<sup>7</sup> *Human Trafficking in Canada*, Royal Canadian Mounted Police, March 2010.

*A proactive investigation could gather independent evidence which could increase the success of sustaining a human trafficking charge in court. Like other criminal activities where evidence may not be as apparent or tangible, human trafficking allegations require extensive investigation to corroborate.*

Ensuring that relevant parties become interconnected in investigations becomes essential. Since the profits made from the trafficking of human beings find their way into the global economy through money laundering, it means that financial institutions have a role to play in the fight against it.

Assisting law enforcement agencies by implementing tools to conduct financial investigations will go a tremendous distance in fighting human trafficking and protecting financial institutions from crimes like money laundering.

Simply stated: If someone obtains anything through the undertaking of a criminal offence, then that is a proceed of a crime. Further, if they try to convert, transfer or deposit that proceed, then they are committing the offence of laundering.

Moving from the victim-centered approach and re-examining the crime from a money laundering perspective will prove to be a powerful tool in the fight against trafficking in human beings.

At the stage where human traffickers attempt to place the financial proceeds obtained from their victims into the financial system they are engaging in money laundering. In the Canadian Criminal Code, money laundering is defined as<sup>8</sup>:

*Laundering proceeds of crime*

*462.31 (1) Every one 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 and by 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 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 omission anywhere that, if it had occurred in Canada, would have constituted a designated offence.*

Any transactions that come close to resembling any parts of this definition are grounds for a financial analyst to submit a suspicious transaction report (STR) to their organisation's financial intelligence unit (FIU) and ultimately to Canada's Financial Transactions and Reports Analysis Centre (FINTRAC).

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<sup>8</sup> <http://laws-lois.justice.gc.ca/eng/acts/C-46/page-95.html#h-135>

## Information Sharing

When law enforcement is investigating human trafficking cases the investigation can be aided, to a great extent, by information sharing from other agencies. The 2016 UN Security Council workshop on “Fighting Human Trafficking in Conflict” resulted in recommendations that the UN Security Council leverage its influence by<sup>9</sup>

*encouraging [UN member] states to consider and adopt legal, regulatory, technological and institutional arrangements to facilitate the sharing of information by law enforcement and regulatory actors with banks and other financial intermediaries, and amongst banks and other financial intermediaries, to help identify suspicious financial activity related to human trafficking in conflict[.]*

The UN Security Council workshop focused specifically on regions experiencing conflict, however all regions would benefit from adopting these recommendations. The importance of sharing information in a timely manner and among law enforcement, regulators, banks and other financial intermediaries is crucial.

When presented with enough detailed information, FIUs can uncover patterns of financial crime that would not otherwise be evident to individual entities or their staff members. It is the compilation of different data from a wide pool of reporting bodies that empowers an FIU – and by extension, law enforcement – to take action and prevent money laundering activity related to human trafficking. Financial institutions that fail to disclose suspicions through STRs can sever key evidentiary links and undermine the entire intelligence-gathering operation.

## Reporting Suspicious

Under ideal circumstances the intelligence collected at financial institutions makes its way to FINTRAC through the submission of STRs.

By recognising suspicious or illogical transactions and alerting FINTRAC to them in a timely and coherent fashion, financial investigators can contribute to the eradication of human trafficking. With these reports in hand, FINTRAC is capable of following and deciphering financial activity by calling on additional information from the government and other sources with respect to those transactions. From there, the information is typically passed on to various law enforcement agencies to potentially aid in the rescue of victims and the conviction of traffickers.

The disclosure provides a system and method for analysing, recording, reviewing and managing potentially suspicious financial transactions. Under the broad category of money laundering, patterns can be detected to indicate human trafficking behaviour<sup>10</sup>:

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<sup>9</sup> [http://collections.unu.edu/eserv/UNU:5780/UNURreport\\_Pages.pdf](http://collections.unu.edu/eserv/UNU:5780/UNURreport_Pages.pdf)

<sup>10</sup> *Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings*, Organization for

[Financial investigators] *should increase their efforts to identify suspicious activity related to THB by applying CDD measures, scrutinizing customers and transactions according to risk profiles and learning about high-risk industries, typologies and countries of origin, transit and destination for THB. [Financial investigators] should also follow FIU and [law enforcement agency (LEA)] guidance on identifying red flags and risk indicators, researching publicly-available data related to THB, such as court documents, newspaper articles and advertisements, and analysing all available information to produce actionable STRs.*

The complexion of human trafficking is very similar in Canada and the US as are the investigative methods and limitations. In the US, the domestic financial intelligence unit is the Financial Crimes Enforcement Network (FinCEN). Similar to operations in Canada where STRs are submitted to FINTRAC, in the US, suspicious activity reports (SARs) are submitted to FinCEN. American financial crimes investigator, Joanne Alicea, has recommended that if human smuggling or human trafficking is suspected and an SAR is being drafted for submission to FinCEN, it would be helpful to law enforcement to include these specific key terms in the narrative section of the SAR<sup>11</sup>:

*“ADVISORY HUMAN SMUGGLING” and/ or “ADVISORY HUMAN TRAFFICKING”  
Financial institutions should include one or both terms to the extent that financial institutions are able to distinguish between human smuggling and human trafficking.*

Alicea further goes on to recommend the inclusion of<sup>12</sup>

*a SAR checkbox to be added for the money trail reporting of the horrific crime of human trafficking.*

[...]

*SARs can and should be used to report transactions that may be being [sic] used for suspected human trafficking whether it be slave labor or sex trafficking. Unfortunately, the current SAR form lists fraud, money laundering, terrorist activity, but does not contain a separate check box for human trafficking.*

*It is time that the SAR form is updated to include human trafficking that can be advertised through Internet Web sites being paid for through our financial systems.*

[...]

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Security and Co-operation in Europe, 2014.

<sup>11</sup> <https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2014-a008>

<sup>12</sup> [https://www.fincen.gov/sites/default/files/sar\\_report/sar\\_tti\\_23.pdf](https://www.fincen.gov/sites/default/files/sar_report/sar_tti_23.pdf)

*Another recommendation is that FinCEN issue an alert with suggested “Narrative text” language to use in filing a SAR that can be tracked by SAR review teams. Our current inability to call out Internet human trafficking specifically as the suspected predicate offense does its victims a great disservice.*

With more formalised reporting structures established for financial investigators who detect suspicious transactions or activity, the disclosure to FIUs and the intelligence shared with law enforcement will ultimately be more effective.

### **Suspicious Indicators**

While many money laundering schemes involve incredible sums of money, the financial activity associated with the average human trafficking network will likely operate under the radar. Many criminals are aware that financial institutions must report large cash transactions when it receives \$10,000 or more in cash in the course of a single transaction, or when it receives two or more cash amounts totalling at least \$10,000 within 24 consecutive hours by, or on behalf of, the same individual or entity. Further, the profits amassed in human trafficking cases build over time and for that reason, the traffickers are often able to avoid immediate detection.

Although traffickers are the only ones who profit from their crime, they are not the only ones who hold bank accounts or credit cards. Traffickers may encourage their victims early on to open bank accounts giving the victim a false sense of financial autonomy. Enabling these vulnerable people to have and maintain bank accounts can provide traffickers another channel to exploit their victims. They typically accompany victims during the account-opening process, usually posing as a translator or guardian.

Under such circumstances, bank accounts are maintained by victims who technically hold the signing authority. However, since the primary motivation of traffickers is to exploit people for their own profits, any account activity is ultimately monitored and controlled by the traffickers. These accounts are used almost exclusively to transfer any money victims make to their traffickers.

Although the composition of a trafficker’s account and a victim’s account can look similar at first glance, there are some basic differences: traffickers accounts may show money frequently received in cash or transferred into their accounts in rounded amounts (eg, to the nearest \$10 or \$100). Victims accounts may show rounded amounts frequently transferred out of their accounts into another person’s account.

Despite the level of surveillance and control traffickers exercise over their victims, financial institutions can play an important role in detection. Since standard know your customer (KYC) practices reveal a person’s age, marital status, place of residence and investment goals, impressions of a person’s lifestyle, routines and destinations can start to form. Transaction records can provide invaluable insights into the lifestyles of traffickers and victims, and in some cases are able to create linkages between the various parties involved.

### International Trafficking Accounts

It is important for financial investigators to look at the big picture and understand where the money is coming from and where the money is going to, especially in cases involving international trafficking. People who start a new job in a new country will have specific living expenses. In order to live, they will need to use grocery stores, department stores and clothing stores. They will likely have telephone expenses for calling their families back home. They will need to get around and likely have a public transit pass.

If account holders new to the country do not have evidence of these types of transactions on their accounts, it could be an indicator that they are being trafficked.

### Domestic Trafficking

Potential transactional indicators associated with domestic trafficking may involve frequent payment activity to hotels, money services businesses, rental car agencies, small incoming third-party wires and online adult sites for escort services ads.

Differences between the accounts of traffickers and victims emerge when looking at how much is spent by the account holder and what that money is spent on. One of the main differences between the accounts of traffickers and the accounts of victims is that only traffickers accounts show monetary growth.

For example, the financial transactions of a female victim of human trafficking can reveal her lifestyle (she is living out of a hotel and she is buying ads on adult websites) and where she has been working. Indications of food purchases are rare. Since bank deposits and transfers happen at all hours of the day and night, she is likely working very long hours. Except for hotel and advertising expenses, all of her money is transferred to another recipient.

A standard STR requests that reports include the time a transaction occurs, amount of money in the transaction and a list of the parties involved in the transaction. Providing these basic details can offer a lot of insight into a human trafficking network. A thorough study of accounts may even provide a map of a human trafficker's entire operation.

When account transactions can show payments for hotel rooms, debit machine deposits during the early morning hours and PayPal payment to the escort page of an online classifieds site, a stark picture emerges of someone involved in the sex trafficking industry.

As account transactions provide more and more evidence of involvement in human trafficking, it is important for financial investigators to have a sense of the lifestyles that victims and traffickers are leading. In most scenarios, victims of human trafficking must meet a minimum daily quota. Victims are rarely permitted time off, so they are working seven days a week.



What distinguishes a victim's account from an independent sex worker's account is that the independent sex worker will show account growth or there will be evidence that she is at least spending money on herself. A victim will likely only ever have enough in her account to pay for her online ads or hotel room. While a victim of sex trafficking would have money in her account to pay for these things, the glaring omission of any of the following transactions should indicate that she is likely being exploited:

- entertainment/movies/restaurant/concert/dance lessons, etc;
- hobby-related purchases;
- student loans;
- mortgage payments;
- rent payment;
- consistent Visa/Master card payments;
- child support;
- dentist;
- car payments;
- home décor stores;
- furniture purchases;
- house ware;
- consistent hair appointments;
- consistent nail appointments;
- local shopping/regular stores.

A critical part of the analyst's task is to assess not only the transactions that occur in the account, but those that are missing. Using analytical modelling, intelligence agencies compile information from disparate sources to develop an integrated view. With finite resources, decision makers must determine which cases pose the greatest risk and deserve further investigation. Therefore, the quality, the comprehensiveness, and the veracity of the information that is received and then analysed is critical to our nation's ability to curtail the practice of human trafficking. In order for analysts and investigators at financial institutions to understand the anomalies around transactions that may be related to human trafficking, they require the appropriate training.

### **Recommendations**

**Coordination between entities:** Ensuring that relevant parties are involved in investigations into human trafficking is essential. Developing formal channels for information to be shared in a timely manner among law enforcement, regulators, banks and other financial intermediaries is crucial.

**Training for employees at law enforcement agencies:** Specialists within law enforcement agencies across the country should be appointed. These individuals should be provided with financial crime training so that gaps of knowledge do not continue to contribute to the low conviction rate of traffickers.

**Training for employees at financial institutions:** As indicated throughout this brief, financial intelligence investigators must be trained on what markers to look for, to collate scraps of data from a variety of sources and assess the information thoroughly for possible signs of money laundering. Beyond mandatory anti-money laundering training, all employees of financial institutions should be trained on the indicators of human trafficking. Financial investigators should be given advanced training.

**Reporting suspicions:** Employees of financial institutions have a legal obligation to report any transactions they deem suspicious. Regardless of the predicate offence, reports submitted to FINTRAC can mean the difference between life and death for some victims. Financial institutions that do not enforce reporting obligations should be penalised with fines by FINTRAC.

**Filling out reports:** Filling out STRs and providing critical details like the time at which transactions occur, the type of transaction and the parties to the transactions can make the difference in human trafficking convictions. As the American financial crimes investigator, Joanne Alicea, has recommended, report templates should include specific fields where human trafficking can be indicated if suspected. Financial investigators are not expected to identify all possible instances of human trafficking. Rather, they are expected to detect suspicious indicators and understand how the financial transactions, and attendant information they see, relate to the wider context of human trafficking. As discussed throughout this brief, there is no one specific indicator of trafficking. However, by looking at a variety of factors and following the money, there is a chance that a human trafficker can be identified and ultimately stopped.

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## **ManchesterCF**

ManchesterCF provides online financial crime training programs to financial institutions, public-sector agencies and multinational corporations. We research money laundering typologies for government policy-makers, brief industry professionals on the latest trends in financial crime and assist international banks during times of regulatory pressure.

Our expertise is derived from solid experience in international banking, financial intelligence and compliance. Our online training programs address complacency, confusion and knowledge gaps in the financial intelligence community and can be tailored to each organisation's needs.

Training programs from ManchesterCF help organisation's build risk and compliance defences so that they do not become unintentionally involved in a money laundering or terrorist financing incident.

The financial crime risk training from ManchesterCF is thorough and wide-reaching and available in multiple languages. Course material reflects regulations and legislation from a number of jurisdictions to provide a truly global training solution.

