

# Virginia State Crime Commission

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## Illegal Cigarette Trafficking Update

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2015

# Illegal Cigarette Trafficking Update

## Executive Summary

During the 2012 Regular Session of the Virginia General Assembly, Senate Joint Resolution 21 was enacted, which directed the Crime Commission to study and report on a number of topics involving the subject of illegal cigarette trafficking. At the conclusion of the study, the Commission recommended a number of statutory changes, including increasing the penalties for cigarette trafficking. These recommendations were enacted during the 2013 Regular Session of the Virginia General Assembly. Concurrently, the Commission unanimously agreed to continue the study, both to monitor the ongoing trafficking situation in Virginia, and to assess the impact of the proposed statutory changes.

During both 2013 and 2014, staff met formally and informally with state and federal prosecutors and law enforcement. Briefings on certain ongoing criminal investigations were received, available data was collected, and staff participated in a number of trainings and conferences on the topic. At the end of each year, based upon what had been learned and the general discussions with law enforcement and prosecutors, the Crime Commission recommended additional legislation to deal with what was revealed to be a continuing, and growing, problem in Virginia. All of the Crime Commission's recommendations for increased penalties for cigarette trafficking, eliminating the ability of a convicted trafficker to purchase cigarettes under the guise of being a "legitimate" wholesaler or retailer, creating a new crime of using a false business to purchase cigarettes, and amending existing statutes to clarify evidentiary issues which prosecutors had faced during cases, were enacted into law. At the end of 2014, as in the previous two years, the Crime Commission directed staff to continue actively monitoring the cigarette trafficking situation in Virginia.

In 2015, staff continued their activities in regard to this study. Meetings were held with law enforcement and prosecutors, and data on numbers of charges and convictions was received from the Virginia Criminal Sentencing Commission. Staff continued to be involved with trainings provided to law enforcement and prosecutors. Lastly, specific ongoing criminal cases were followed. As in the past, the Crime Commission did not publically report on any ongoing criminal investigations, in order not to interfere with the work of law enforcement, but did reference cases that had already been reported by the press.

At the December 2015 meeting of the Crime Commission, staff reported on the general trends for cigarette trafficking that had been observed. Cigarette trafficking was still wide-spread in Virginia, with organized gangs realizing large profits from purchasing cigarettes cheaply in Virginia, and then selling them illegally up north. Virginia's statutes were being used to combat cigarette trafficking, but the sentences given by courts were low, especially when compared with the amounts of money generated by this crime. To some extent, this is offset by convictions in other states and in federal court. For this reason, multi-state and federal coordination between law enforcement agencies continues to be essential to combat trafficking rings effectively. No recommendations for any additional legislation were made.

## Court Data

Staff requested updated data from the Virginia Criminal Sentencing Commission as to the number of charges and convictions related to illegal cigarette trafficking.

The data shows that fewer cigarette trafficking charges were brought in general district courts in FY15, compared with FY14, as seen in Table 1. As would be expected, there were also fewer misdemeanor convictions in FY15, as seen in Table 2. In circuit courts, however, there were more charges for certain offenses in FY15 than in FY14; for example, second or subsequent offenses for the distribution of tax paid cigarettes in violation of Va. Code § 58.1-1017.1, as seen in Table 3. Interestingly, there were more convictions in FY15 for distribution of tax paid cigarettes, first offense, in violation of Va. Code § 58.1-1017.1, than there were in FY14, as seen in Table 4.

**Table 1: General District Court Charges for Common Cigarette-Related Offenses, FY13-FY15\***

Va. Code Section	Description	FY13	FY14	FY15
§ 58.1-1017(B)	Cigarettes without stamp, sale, purchase, possess, < 3000 pks (FY13); <500 pks (FY14 onward)	8	3	1
§ 58.1-1017(B)	Cigarettes without stamp, sale, purchase, possess, <500 pks, subseq.	-	0	0
§ 58.1-1017(C)	Cigarettes without stamp, sale, purchase, possess, > 3000 pks (FY13); >= 500 pks (FY14 onward)	12	14	4
§ 58.1-1017(C)	Cigarettes without stamp, sale, purchase, possess, >= 500 pks, subseq.	-	0	1
§ 58.1-1017.1	Possession with intent to distribute tax-paid, contraband cig.	102	109	45
§ 58.1-1017.1	Possession with intent to distribute tax-paid, contraband cig., subseq.	2	8	4
§ 58.1-1017.1	Intent/distribute >=100,000 tax-paid cigarettes	-	14	5
§ 58.1-1017.1	Intent/distribute >=100,000 tax-paid cigarettes, subseq.	-	0	0
Local Cigarette Tax Ordinance	Local Cigarette Tax Ordinance Violation	7	14	1

Source: Supreme Court of Virginia- General District Court Case Management System (CMS) data provided by the Virginia Criminal Sentencing Commission.\* Fiscal year in which charge was filed.

**Table 2: General District Court Convictions for Common Cigarette-Related Offenses, FY13-FY15\***

<b>Va. Code Section</b>	<b>Description</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>
§ 58.1-1017(B)	Cigarettes without stamp, sale, purchase, possess, < 3000 pks (FY13); <500 pks (FY14 onward)	7	6	2
§ 58.1-1017(B)	Cigarettes without stamp, sale, purchase, possess, <500 pks, subseq.	-	0	0
§ 58.1-1017(C)	Cigarettes without stamp, sale, purchase, possess, > 3000 pks (FY13); >= 500 pks (FY14 onward)	0	0	0
§ 58.1-1017(C)	Cigarettes without stamp, sale, purchase, possess, >= 500 pks, subseq.	-	0	0
§ 58.1-1017.1	Possession with intent to distribute tax-paid, contraband cig.	68	82	46
§ 58.1-1017.1	Possession with intent to distribute tax-paid, contraband cig., subseq.	2	0	0
§ 58.1-1017.1	Intent/distribute >=100,000 tax-paid cigarettes	-	0	0
§ 58.1-1017.1	Intent/distribute >=100,000 tax-paid cigarettes, subseq.	-	0	0
Local Cigarette Tax Ordinance	Local Cigarette Tax Ordinance Violation	3	4	2

Source: Supreme Court of Virginia- General District Court Case Management System (CMS) data provided by the Virginia Criminal Sentencing Commission. \* Fiscal year in which charge was concluded.

**Table 3: Circuit Court Charges for Common Cigarette-Related Offenses, FY13-FY15\***

<b>Va. Code Section</b>	<b>Description</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>
§ 58.1-1017(B)	Cigarettes without stamp, sale, purchase, possess, < 3000 pks (FY13); <500 pks (FY14 onward)	0	0	0
§ 58.1-1017(B)	Cigarettes without stamp, sale, purchase, possess, <500 pks, subseq.	-	0	0
§ 58.1-1017(C)	Cigarettes without stamp, sale, purchase, possess, > 3000 pks (FY13); >= 500 pks (FY14 onward)	9	0	1
§ 58.1-1017(C)	Cigarettes without stamp, sale, purchase, possess, >= 500 pks, subseq.	-	5	0
§ 58.1-1017.1	Possession with intent to distribute tax-paid, contraband cig.	4†	7†	4†
§ 58.1-1017.1	Possession with intent to distribute tax-paid, contraband cig., subseq.	0	3	6
§ 58.1-1017.1	Intent/distribute >=100,000 tax-paid cigarettes	-	4	0
§ 58.1-1017.1	Intent/distribute >=100,000 tax-paid cigarettes, subseq.	-	0	4
Local Cigarette Tax Ordinance	Local Cigarette Tax Ordinance Violation	0	0	1

Source: Supreme Court of Virginia- Circuit Court Case Management System (CMS) data provided by the Virginia Criminal Sentencing Commission.\* Fiscal year in which charge was filed. † These charges were the result of appeals from General District Court. Note: The CMS does not include cases from Alexandria or Fairfax. Virginia Beach rejoined the system in October 2014 after leaving the system in FY09.

**Table 4: Circuit Court Convictions for Common Cigarette-Related Offenses, FY13-FY15\***

Va. Code Section	Description	FY13	FY14	FY15
§ 58.1-1017(B)	Cigarettes without stamp, sale, purchase, possess, < 3000 pks (FY13); <500 pks (FY14 onward)	5	3	0
§ 58.1-1017(B)	Cigarettes without stamp, sale, purchase, possess, <500 pks, subseq.	-	0	0
§ 58.1-1017(C)	Cigarettes without stamp, sale, purchase, possess, > 3000 pks (FY13); >= 500 pks (FY14 onward)	4	2	1
§ 58.1-1017(C)	Cigarettes without stamp, sale, purchase, possess, >= 500 pks, subseq.	-	0	0
§ 58.1-1017.1	Possession with intent to distribute tax-paid, contraband cig.	2†	5†	10†
§ 58.1-1017.1	Possession with intent to distribute tax-paid, contraband cig., subseq.	0	2	0
§ 58.1-1017.1	Intent/distribute >=100,000 tax-paid cigarettes	-	1	4
§ 58.1-1017.1	Intent/distribute >=100,000 tax-paid cigarettes, subseq.	-	0	1
Local Cigarette Tax Ordinance	Local Cigarette Tax Ordinance Violation	0	0	0

Source: Supreme Court of Virginia- Circuit Court Case Management System (CMS) data provided by the Virginia Criminal Sentencing Commission. \* Fiscal year in which charge was concluded. † At least one of the convictions was the result of an appeal from General District Court. Note: The CMS does not include cases from Alexandria or Fairfax. Virginia Beach rejoined the system in October 2014 after leaving the system in FY09.

In sum, the total number of charges and convictions, overall and in all courts, is noticeably low. This may be a reflection of the time and effort it takes to thoroughly investigate a complicated cigarette trafficking operation. Alternatively, it may indicate that, with certain exceptions, local law enforcement agencies are devoting more resources to other types of criminal investigations, rather than cigarette trafficking. A third possibility is that Virginia prosecutors and law enforcement are willing, or prefer, to have these cases prosecuted in federal court or in other states, rather than in Virginia courts.

## Recent Cases

Informal reports from law enforcement indicate that organized crime is continuing to come to Virginia as a main source state for obtaining cigarettes, which they can then traffic up north for enormous profits. Law enforcement has noted that ethnic gangs with direct ties to foreign countries continue to engage in cigarette trafficking, frequently with links to drug and weapons trafficking. Arrests of both low-level traffickers and large organized criminal gangs continue to occur. Notably in the past year, a number of ongoing criminal investigations led to arrests and criminal charges, which were reported in the news. A number of these were the end result of lengthy cases of which staff had been aware, but had not publically reported on in earlier years, so

as not to impede the work of law enforcement. A review of these major arrests and convictions reported in the press in 2015 was provided at the December 2015 Crime Commission meeting.

On February 23, 2015, Min Jie Zhu, Yau Mau Chu, and Rafel Dominquez pled guilty in Chesterfield Circuit Court to various charges related to their trafficking scheme that involved shipping untaxed cigarettes in “Chinatown” commercial buses from Virginia to New York.<sup>1</sup> Over a 9 month period, they purchased and shipped between 57,000 and 114,000 cartons, with a value in New York of between \$9 and \$12 million. Zhu had acquired a business license, so he would purchase his cigarettes in Virginia without paying any tax. A Richmond-area Special Multi-jurisdictional Operational Group had placed Zhu under surveillance in early 2014. Zhu received a 5 year sentence, with all but 6 months suspended; the other defendants received 6 month suspended sentences, with no active time.

On April 2, 2015, Mohamed Seid Ahmed Mohamed was sentenced in federal district court in Richmond, Virginia, to 3 years and 5 months in prison and was ordered to pay \$1 million in restitution to the Virginia Department of Taxation.<sup>2</sup> He had pled guilty in September of 2014 to conspiring to commit wire fraud and to trafficking in contraband cigarettes. From June 2011 to January 2014, using a cigarette store he owned in Richmond as a cover, he purchased more than 440,000 cartons of cigarettes and sold most of them to traffickers.

On July 6, 2015, Brooklyn limo driver Hazim Abuhakmeh pled guilty in Hanover Circuit Court to a charge of conspiring to transport untaxed cigarettes out of Virginia, and received a 3 year suspended sentence.<sup>3</sup> He had purchased \$55,000 worth of cigarettes from a wholesaler in Virginia. He had a previous misdemeanor conviction in Maryland for trafficking cigarettes. As a result of his Virginia felony conviction, Abuhakmeh faces possible deportation to Jordan.

On July 8-9, 2015, twenty defendants were arrested on indictments issued by New York for cigarette trafficking. Among them were eight Richmond area residents.<sup>4</sup> The defendants were part of an organized gang that arranged for trafficked cigarettes to be sold in the Bronx. The Henrico County Commonwealth’s Attorney’s Office and Henrico Police played a crucial role in the investigation. One of the Richmond area defendants, Mickel Marzouk, pled guilty in federal court in Richmond to firearms charges related to armed robberies of cigarette distributors. In January 2016 he was sentenced to 32 years in prison and was ordered to pay \$150,685 in restitution.<sup>5</sup>

On September 15, 2015, Yinhau “Steven” Chen, a Fredericksburg businessman, pled guilty in federal court in Richmond to conspiracy to launder \$12.2 million derived from illegal cigarette trafficking.<sup>6</sup> Between March 2014 to June of 2015, Chen purchased at least \$13.8 million worth of cigarettes from wholesalers in Virginia, and then sold them to cigarette traffickers from out-of-state. It was alleged that of his various businesses, two of them, Infinity Strategic Services and Family Computers, had no purpose other than to serve as funnel accounts for his cigarette purchases and sales.

On September 17, 2015, Kathy Crabtree Farley, the former president of Cherokee Tobacco and Firebird Manufacturing, pled guilty in federal court in Danville, Virginia, to four counts stemming from a 47 count indictment for tax evasion, wire fraud, and violations of the Contraband Cigarette Trafficking Act.<sup>7</sup> Between November 2011 and August 31, 2013, Farley failed to pay \$13 million in federal taxes. In January 2016, Farley was sentenced to 60 months in prison and was ordered to pay over \$4 million in restitution.<sup>8</sup>

On October 28, 2015, in New York state court, Basel Ramadan was sentenced to 4 to 12 years in prison, and ordered to forfeit \$1.2 million.<sup>9</sup> He had been found guilty on 198 counts of enterprise corruption, money laundering, and evading \$5.3 million in taxes. Ramadan was the head of a 16 member criminal enterprise that purchased cigarettes in Virginia, transported and stored them in Delaware, and then sold them in New York.

On August 17, 2015, there was an attempted robbery in the parking lot of the Sam's Club at the White Oak Village shopping center in Richmond, Virginia. Multiple shots were fired; the suspects "left in a vehicle with an undisclosed amount of cash."<sup>10</sup>

## Conclusion

Virginia's statutes are being used to combat cigarette trafficking, although in general the number of charges and convictions for FY15 was the same as, or slightly lower, than the previous two years. Multi-state and federal coordination between law enforcement agencies is essential to combat trafficking rings<sup>11</sup>, and it is good to note that cases involving trafficking are being brought in other state courts and federal court, as well as Virginia. Cigarette trafficking cases are time and resource intensive<sup>12</sup>, and the sentences given by courts in Virginia are low, especially compared with the amounts of money generated by the trafficking rings. However, it appears that Virginia currently has adequate criminal statutes to prosecute cigarette traffickers; informal conversations with law enforcement and prosecutors did not reveal any omissions or weaknesses that mandated legislative change for the 2016 General Assembly. In conclusion, law enforcement and prosecutors must remain vigilant on this issue, as cigarette trafficking will continue to be an ongoing criminal problem in Virginia for the foreseeable future.

<sup>1</sup> Bowes, M. (2015, February 23). Trio pleads guilty to trafficking Va. cigarettes to NY on "Chinatown" buses. *Richmond Times-Dispatch*. Retrieved from [http://www.richmond.com/news/local/central-virginia/article\\_7c57020a-87a6-525d-bd4d-e8996519e95b.html](http://www.richmond.com/news/local/central-virginia/article_7c57020a-87a6-525d-bd4d-e8996519e95b.html); See also, 3 people sentenced in Virginia cigarette trafficking case. (2015, February 24). *Newsplex* online. Retrieved from <http://www.newsplex.com/home/headlines/3-People-Sentenced-in-Virginia-Cigarette-Trafficking-Case-293862521.html>.

<sup>2</sup> Chesterfield man sentenced in cigarette trafficking case. (2015, April 2). *The Washington Times*. Retrieved from <http://www.washingtontimes.com/news/2015/apr/2/chesterfield-man-sentenced-in-cigarette-traffickin/>.

<sup>3</sup> McKelway, B. (2015, July 6). Brooklyn limo driver escapes prison time in Hanover, but more problems ahead in cigarette scheme. *Richmond Times-Dispatch*. Retrieved from [http://www.richmond.com/news/local/crime/article\\_578ebe6f-6b82-54fc-9509-f6328db2fec7.html](http://www.richmond.com/news/local/crime/article_578ebe6f-6b82-54fc-9509-f6328db2fec7.html).

<sup>4</sup> Green, F. (2015, July 13). Eight Richmond-area residents charged in New York City cigarette trafficking case. *Richmond Times-Dispatch*. Retrieved from [http://www.richmond.com/news/local/crime/article\\_d79534b5-9d5c-549a-972b-3771f119b0b7.html](http://www.richmond.com/news/local/crime/article_d79534b5-9d5c-549a-972b-3771f119b0b7.html).

<sup>5</sup> Green, F. (2016, January 27). 4 men sentenced in cigarette robberies. *Richmond Times-Dispatch*. Retrieved from [http://www.richmond.com/news/local/crime/article\\_b6922f81-7067-5afc-9457-68009fa40da7.html](http://www.richmond.com/news/local/crime/article_b6922f81-7067-5afc-9457-68009fa40da7.html).

<sup>6</sup> Green, F. (2015, September 10). Fredericksburg man charged with money laundering in cigarette smuggling case. *Richmond Times-Dispatch*. Retrieved from [http://www.richmond.com/news/article\\_e9fddbfb-da65-5f8f-80fc-6eb83c57f121.html](http://www.richmond.com/news/article_e9fddbfb-da65-5f8f-80fc-6eb83c57f121.html).

<sup>7</sup> Hodge, A. (2015, September 17). Farley pleads guilty to four counts; faces 38 years in prison, \$1 million fine. *The Gazette-Virginian*. Retrieved from [http://www.yourgv.com/news/breaking/article\\_9573141e-5d53-11e5-add4-8b519488b4e2.html](http://www.yourgv.com/news/breaking/article_9573141e-5d53-11e5-add4-8b519488b4e2.html).



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<sup>8</sup> Bragg, V. (2016, January 7). Update: Former tobacco president sentenced in Danville. *WSET* online. Retrieved from <http://wset.com/news/local/tobacco-company-asks-judge-for-max-punishment-for-former-president>.

<sup>9</sup> Carrega-Woodby, C. (2015, October 28). Ringleader of cigarette smuggling ring sentenced to up to 12 years in prison, forced to forfeit \$1.2M. *New York Daily News*. Retrieved from <http://www.nydailynews.com/new-york/nyc-crime/ringleader-cig-smuggling-ring-12-years-prison-article-1.2415157>.

<sup>10</sup> Citizen fires gun at men attempting robbery at White Oak Village. (2015, August 18). *WTVR* online. Retrieved from <http://wtvr.com/2015/08/18/citizen-fires-gun-at-men-attempting-robbery-at-white-oak-village/>.

<sup>11</sup> *E.g.*, “Police busted a multi-million dollar cigarette trafficking ring that was operating out of Henrico County....Henrico Police weren’t alone in busting the operation. Richmond Police, the Hanover County Sheriff’s Office, and New York City Sheriff’s Office and even Homeland Security were a part of the investigation.” Smith, K. (2016, May 4). Henrico Co. cigarette bust: More than \$10 million funneled into smuggling operation. *WRIC* online. Retrieved from <http://wric.com/2016/05/04/henrico-co-cigarette-bust-more-than-10-million-funneled-into-smuggling-operation/>.

<sup>12</sup> “Details of the nearly two-year [sic] investigation involve confidential informants, GPS tracking devices and lots [of] undercover surveillance.” *Id.*