

# **An Independent Review of Money Laundering in B.C. Real Estate, Luxury Vehicle Sales & Horse Racing**

## **[Release of Chapter 6-4](#)**

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## CHAPTER 6-4

# CRIMINAL INVESTIGATION

### FINDINGS

There are no RCMP members within its federal business line in B.C. who are currently dedicated to criminal money laundering investigations.

The only dedicated money laundering resources in the RCMP within B.C. are provincial resources in the JIGIT, formed to deal with laundering in casinos.

The RCMP resources engaged on asset forfeiture work are focussed on referring cases out of the criminal justice system, to the Civil Forfeiture Office.

### LAW ENFORCEMENT IN BRITISH COLUMBIA

Policing in Canada mirrors its three levels of government. There are federal, provincial and municipal police departments.

The RCMP is Canada's principal federal police force, sometimes referred to as its national police force.

Each province may create a provincial police force, however only Ontario and Quebec have their own forces, as the remaining provinces contract with the RCMP. That has been the situation in B.C. since 1950, when the B.C. Provincial Police Force was disbanded.

In B.C., municipalities have the ability, with the consent of the province, to form their own police force or to contract with the RCMP. In the Lower Mainland, municipalities are roughly split in this respect, with several independent police departments and a number of contract RCMP detachments.

The Lower Mainland also contains integrated police units, the best known being CFSEU – BC and the Integrated Homicide Investigation Team (IHIT). The former is a provincial unit and the latter is an integrated provincial and municipal unit.

### THE RCMP

In the course of this Review, we learned that there are currently no federal (RCMP) resources in B.C. dedicated to criminal money laundering investigations. This is particularly alarming when one considers that the issue of money laundering has been front page news in B.C. for almost two years.

As Canada's national police force, the RCMP has a responsibility to enforce federal criminal law, such as the *Controlled Drugs and Substances Act* and the criminal provisions of other federal statutes. In B.C. however, as it is also both the provincial police force and a contract municipal police force, the RCMP's complement of over 6,000 police officers is engaged on a variety of duties. The Lower Mainland contains the greatest concentration of operational RCMP officers in the country, currently numbering more than 3,000. Most are engaged on contract duties. They function, for all intents and purposes, like municipal police officers. The largest RCMP detachments in the country are Surrey, Burnaby and Richmond.

The RCMP's federal enforcement resources were traditionally divided by commodity or enforcement specialty, including sections dedicated to Drug Enforcement, Commercial Crime, Customs and Excise, Proceeds of Crime, and General Enforcement. The Commercial Crime Sections, regarded as elite white-collar crime sections during the 1970s and 1980s, were further divided into units dedicated to securities, bankruptcy, counterfeit, taxation, enterprise crime (proceeds of crime), and more.

With passage of the proceeds of crime amendments to the *Criminal Code*, anti-drug profiteering units within the Drug Sections merged with the enterprise crime sections in Commercial Crime. These Sections later became integrated units, composed of police, federal prosecutors, forensic accountants, and asset management specialists. They were then referred to as Integrated Proceeds of Crime Sections (IPOC). The program was national in scope with large units in Montreal, Toronto, and Vancouver; and smaller units in other cities. The result was a cadre of enforcement experts at the federal level designed to deal with proceeds of crime and money laundering.

Post-2012, the RCMP realigned its priorities to deal with present and emerging threats, most notably terrorism. A re-engineering of its federal resources saw the pre-existing specialist units merged into integrated teams, under the umbrella of Federal and Serious Organized Crime (FSOC). Money laundering is one of the priority mandates for FSOC, however a complex threat-stream matrix determines what cases will be investigated. Factors include the ease to obtain evidence and the number of personnel required. A small Financial Integrity team, currently focussed on corruption cases, and the Integrated Market Enforcement Team (IMET) remained intact and separate from the task force structure. This task force approach to organized crime had previously been adopted in other countries, with varying degrees of success.

We asked the RCMP the following questions:<sup>1</sup>

1) "the number of positions within 1) "E" Division and 2) CFSEU that are dedicated to money laundering / proceeds of crime investigations in each of the provincial and federal business lines;"

(2) "of the foregoing positions, how many are currently staffed"

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<sup>1</sup> E-mail, Feb. 11, 2019.

We deal with the provincial resources in the following section. The response in terms of federal resources was as follows:<sup>2</sup>

- 1) “The E Division FSOC Money Laundering Team within Financial Integrity consists of 25 Regular Member (RM) and 1 Civilian Member (CM) positions (total: 26 positions). All of these are federally-funded.”
- 2) “Of the 25 positions, 11 are staffed; the CM is also staffed.”

When we met with the RCMP and reviewed its response, the RCMP noted that only five of the 11 officers were currently working as investigators. The other six were absent from duty due to training and other reasons.

We then asked what the five police officers were currently investigating and were advised that they were responsible for referring files to the provincial civil forfeiture office. In other words, there are no RCMP members from its federal business line who are currently dedicated to criminal money laundering investigations. It was pointed out that the RCMP hoped to reassign one of its other FSOC teams to a money laundering file and that other federal resources may deal with money laundering in the course of their investigations.

The foregoing is symptomatic of a greater problem. The increased resources focussed on organized crime and terrorism after 2012 led to a dramatic decrease in commercial crime and proceeds of crime enforcement within B.C. Many financial crime specialists became generalists on the organized crime teams and many others retired or moved on to other roles within the RCMP.

Prior to being disbanded in 2013, IPOC was the logical first response unit for allegations of money laundering. A unit within IPOC, referred to as C-22, was tasked with reviewing copies of STRs from financial institutions and with enforcement that stemmed from violations of the *POCMLTFA*. After the federal restructure within the RCMP, the IPOC unit became a lonely place, populated by the officer in charge and two other persons, who were tasked with closing the unit and then moving over to the new FSOC.<sup>3</sup>

Other factors impacted the RCMP nationally and provincially during the past decade. For most of that time and certainly after federal austerity measures aimed at reducing the budget deficit, many positions in the RCMP’s A-base (permanent positions) went unfunded. Pay and benefit increases to employees were often funded from within existing budgets, further exacerbating the situation. The cost of investigations also increased while funding for operations did not. Other issues include attrition of members from the RCMP and the ability to train sufficient replacement officers.

In B.C., the large number of contract positions placed pressure on the Force to keep them staffed, often to the detriment of the federal business line. Temporary measures also impacted

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<sup>2</sup> Memo, Feb. 15, 2019.

<sup>3</sup> *Dirty Money* at p. 126.

the federal business line. Visits by foreign dignitaries, international summits, and even fighting forest fires, often resulted in federal resources being temporarily deployed to other duties.

Budget 2019 has offered some hope of additional funding for the RCMP. There is no indication how the new funding will be allocated, although federal Minister Bill Blair has provided B.C.'s Attorney General with assurances that funding will reach B.C.<sup>4</sup>

In terms of the loss of specialization, it can be said that what took only the stroke of a pen to abolish will take many years to redevelop. Some critics, including former members of the RCMP, simply do not feel that the Force's current structural and staffing model will allow for a revitalization of financial crime investigations.

As noted by Garry Clement, a former senior RCMP officer who headed the RCMP's Proceeds of Crime program and is a frequent expert witness at money laundering trials, "it comes down to a tremendous weakness in our investigative and prosecutorial forces... On paper, Canada has built a Rolls-Royce when it comes to fighting money laundering. But we forgot to put in the engine – an effective law enforcement [capacity] that can take on these complicated cases."<sup>5</sup>

For there to be greater success addressing money laundering in B.C., PPSC, BCPS and other stakeholders have expressed the belief that it is vital that the RCMP rebuild its expertise and capacity to conduct such investigations. Because of the complexity, the investigators need to be specialists. This would require a very significant commitment by the police community in B.C., particularly in the RCMP.

## PROVINCIAL MONEY LAUNDERING RESOURCES

The only dedicated money laundering resources in the RCMP within B.C. are found in the JIGIT, formed to deal with the widespread laundering that was occurring within B.C.'s legal and illegal casinos. JIGIT is funded by the province and is located within CFSEU-BC.

Since the 1970's, British Columbia has had a combined enforcement unit, composed of members of both the RCMP and municipal police forces. What began as the Combined Law Enforcement Unit evolved into the Organized Crime Agency of B.C. (OCA) and then into CFSEU-BC, an integrated enforcement model also employed elsewhere in Canada.

CFSEU-BC is focussed on organized crime, which generally involves major drug investigations and violent gang activity. In its earlier iteration as OCA, created a small but highly specialized proceeds of crime unit. Unfortunately, that unit no longer exists.

During 2015, it became apparent to most observers that the absence of a police presence to deal with organized crime and money laundering at casinos, and the emergence of large illegal

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<sup>4</sup> Mike Hager, "Ottawa to crack down on money laundering", *The Globe and Mail*, Mar. 28, 2019 at p. A7.

<sup>5</sup> Julien Sher (May 1, 2018). "Money laundering going largely unpunished in Canada", *The Globe and Mail*, accessed at <https://www.theglobeandmail.com/news/politics/money-laundering-going-largely-unpunished-in-canada/article584747/>.

casinos was presenting public safety issues that required a law enforcement response. On April 11, 2016, the Minister of Finance, the Minister of PS&SG, and the Chief Officer of CFSEU publicly announced the formation of the Joint Illegal Gaming Investigation Team.

JIGIT has three key strategic objectives plus an education function for the public and other police. The key objectives are (1) “targeting and disruption of organized crime and gang involvement in illegal gaming”, (2) “criminal investigation of illegal gambling activities”, and (3) “prevention of criminal attempts to legalize the proceeds of crime through gaming facilities.”<sup>6</sup>

JIGIT consists of two operational teams, consisting of 16 RCMP officers, two CFSEU-BC (OCA) members, four Civilian RCMP members and five GPEB investigators.<sup>7</sup> There are currently three vacancies. One team was stood up in fiscal 2016/17 and the other in fiscal 2017/18. The GPEB investigators function as subject matter experts, utilizing their special constable status.

The first JIGIT team is a project team. It spearheaded the E-National file, widely reported in the media, supplemented by additional resources due to the size of that project. The second team is primarily focussed on illegal gaming and is complaint driven.

JIGIT was created for a five-year period, from April 1, 2016 to March 31, 2021. A review is to be conducted in year four to determine if the team should continue beyond five years. Governance is the responsibility of the existing CFSEU-BC Board of Governance. The Ministry of Public Safety is the lead Ministry and the RCMP is the lead agency responsible for JIGIT.

In March 2016, the Minister of Finance directed BCLC to pay 70% of the cost for JIGIT, with the balance to be paid by the federal government under the terms of the Provincial Policing Agreement. JIGIT’s budget is ring-fenced to avoid dispersion, with the provincial (BCLC) share capped at \$3 million per year.

JIGIT does have limitations. Although it is admirable that it is cutting its teeth on a major organized crime file, this inevitably means that JIGIT resources will be tied to that case for a substantial period. After charges, comes the need for copious disclosure and court appearances.

To date, JIGIT’s results in terms of charges are fairly dismal having laid only one illegal gaming charge, three in relation to a cheat at play investigation, and no proceeds of crime or laundering charges. There are currently files with Crown counsel for charge assessment, however.<sup>8</sup> That said, the E-National file is likely all-consuming for JIGIT and much rests on its outcome.

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<sup>6</sup> *Dirty Money* at pp. 130-1.

<sup>7</sup> Due to CFSEU-BC being a joint forces operation between the RCMP and municipal police, the RCMP component of JIGIT can include one or more municipal police officers.

<sup>8</sup> E-mail, Mar. 29, 2019.

## SUMMARY

In its 2016 evaluation of Canada's response to money laundering and counter-terrorist financing measures, the FATF provided a generally positive assessment, but a key finding was that "Law enforcement results are not commensurate with the [money laundering] risk and asset recovery is low."<sup>9</sup> Our interviews and research support this statement in the context of British Columbia.

The absence of dedicated federal resources undertaking criminal money laundering and proceeds of crime cases is of great concern, particularly since money laundering has been at the top of the news cycle in the province for almost two years. In fact, the only dedicated federal or provincial resources engaged in these investigations are within JIGIT, which is fully deployed on gaming related issues.

The resources at the federal, provincial, and municipal level which are dedicated to asset forfeiture are focussed on referring cases out of the criminal justice system and to the civil courts.

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<sup>9</sup> FATF, *Canada Mutual Evaluation Report*, Sept. 2016, accessed at <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Canada-2016.pdf>.