

FEDERAL/PROVINCIAL/TERRITORIAL (FPT) MEETING MINISTERS RESPONSIBLE FOR JUSTICE AND PUBLIC SAFETY

**St. John's, NL
November 14 – 16, 2018**

AGENDA TOPIC: Commercial Crime/Money Laundering

ISSUE: Federal RCMP Resource Allocation for the Investigation and Enforcement of Money Laundering

MINISTRY'S SUGGESTED RESPONSE:

- BC acknowledges the challenges involved in balancing complimentary and competing priorities for enforcement, as money laundering (Proceeds of Crime) itself is linked to serious criminal offences such as drug trafficking, corruption, fraud, and smuggling. However, due to its pervasive impact in BC and across Canada, BC has continued to request federal assistance to identify and address money laundering as a priority issue in BC.
- Priorities advanced by the federal RCMP and the Minister of Public Safety Canada include working with partners to strengthen the anti-money laundering regime to preserve Canada's economic integrity. BC supports the federal priority and would further support legislative and regulatory changes that provide police with additional powers to assist in proceeds of crime investigations. Money laundering is a choke-point for organized crime; strong legislative and regulatory authorities will provide an enforcement opportunity where current gaps exist.
- While all levels of policing in Canada have concurrent jurisdiction to address money laundering under the *Criminal Code*, due to the transitory nature of both the offenders and the offence, only the federal RCMP currently have the resources and expertise to address this matter. BC would welcome new federal policing investments to restore the RCMP's federal capacity to investigate money laundering.

BACKGROUND:

- In January 2013, all federal RCMP resources in BC, including all members of "E Division, Commercial Crime Section" were amalgamated into "E Division, Federal Serious and Organized Crime".
- Following that, the federal mandate was restricted to a federal purpose of investigating serious and organized crime, including complex matters such as

international money laundering, and crimes which affected Canada's economic integrity.

- At the time of its dissolution, "E Division Commercial Crime" had nearly 100 members and support staff in BC who were investigating fraud and money laundering at the time of the amalgamation. Following the amalgamation, all federally funded positions were directed toward federally mandated cases. In some instances, this shift did not align with provincial priority issues, including money laundering.
- This resulted in a significant gap, whereby no provincial police resources were tasked with the investigation of large frauds and money laundering that fell outside of identified federal priorities, such as national security and terrorism.
- Currently, municipal and provincial detachments do not have the capacity to investigate inter-detachment, interprovincial, or international fraud, despite the fact that municipal and provincial police forces have concurrent jurisdiction to enforce *Criminal Code* prohibitions, including section 462.31 'Laundering the Proceeds of Crime'.
- Annually, Canada's Minister of Public Safety and Emergency Preparedness presents the RCMP's Departmental Plan to Parliament. For 2018-2019, these service priorities include:
 - Continue to detect, prevent, deny, and respond to threats to the safety and security of the people of Canada and Canadian interests including providing frontline policing, dismantling criminal networks, and identifying and disrupting criminal activities;
 - Support national security anti-terrorism legislation that strengthens accountability while balancing collective security with rights and freedoms;
 - Work with Government of Canada partners to strengthen the anti-money laundering regime to preserve Canada's economic integrity; and,
 - Protect Canadians and critical infrastructure from cyber threats through the identification, disruption, investigation, and apprehension of criminal threats.
- These priorities are not ranked in order, but are serviced subject to intelligence assessment, triage, and capacity. Risk-based methodology is applied in the assessment of the priorities and the deployment of resources.
- The essence of BC's long-standing concern is that over the last decade, and in light of serious national security threats that have materialized domestically, federal RCMP priorities have shifted away from organized crime and money laundering, and weighted resources and enforcement priorities towards identifying, managing, and responding to real or perceived threats against national security in Canada.

Proceeds of Crime investigations rarely progress to the charge phase. While reasons vary, the fact that current legislation requires a conviction of the substantive offence such as drug trafficking or fraud is most problematic. Most of the substantive investigations are complex and take years to progress through the investigation and prosecution stages. Often the substantive charge may be changed in a plea agreement or as part of the plea agreement no proceeds of crime prosecutions will be undertaken for the substantive offence. Amendments to the legislative and regulatory structures such as a reverse onus upon conviction of the substantive offence would provide an enforcement opportunity where current gaps exist.

POSITIONS OF OTHER JURISDICTIONS:

Unknown.

IMPLICATIONS FOR BC:

- Through recent correspondence letters and meetings in 2017 and 2018, the Policing and Security Branch has raised these concerns of federal resource allocation for provincial priorities with Minister Goodale, Assistant Deputy Minister Ellen Burack, and other senior government officials.
- At a recent meeting on August 8, 2018 with RCMP Deputy Commissioner Gilles Michaud, ADM and Director of Police Services Clayton Pecknold and other senior government representatives, Michaud expressed a willingness to consider provincial priorities in the annual federal targeting process, and indicated that the FSOIC officer in BC would contribute those priorities to the process.
- As the Dr. Peter German's 'Dirty Money' report has recently highlighted, money laundering will continue to affect public safety in BC until additional resources, expertise, and collaboration between all levels of government is achieved.

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