

**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL  
POLICING AND SECURITY BRANCH  
DECISION NOTE**

**PURPOSE:** FOR DECISION by the Honourable Mike Farnworth, Minister of Public Safety and Solicitor General

**ISSUE:** On June 13, 2019, Minister Farnworth will be meeting with federal Minister of Border Security, Bill Blair, and Minister of Finance, Bill Morneau, to discuss federal funding for a police and regulatory response to money laundering in British Columbia.

**DECISION REQUIRED/RECOMMENDATION:**

That the Minister seek federal resources for the creation of a BC FIU focused on money laundering within the province.

**BACKGROUND:**

In response to Dr. Peter German's *Dirty Money* recommendation #37 regarding the creation of a Designated Policing Unit (DPU) to address money laundering in casinos, in November 2018, the Policing and Security Branch (PSB) received a request from Attorney General David Eby to understand and identify criminal activity in British Columbia (BC) casinos and recommend changes that would deliver an appropriate enforcement solution.

Beginning in November 2018, PSB spearheaded engagements and information requests to police and regulators to understand and identify criminal activity. The result of these engagements produced proposals for the Financial Intelligence and Investigations Units (FIU) in tandem with the BC Anti-Money Laundering Fusion Centre (Fusion Centre).

**Policing Landscape**

All levels of policing in Canada have concurrent jurisdiction to address money laundering under the *Criminal Code* through section 462.31(1) Laundering the proceeds of crime, and section 354(1) Possession of property obtained by crime.

Despite concurrent jurisdiction, law enforcement in BC advised PSB of insufficient capacity and expertise to meaningfully address money laundering, as the transitory nature of both the offenders and the offence results in jurisdictional barriers domestically and internationally. Where capacity and expertise have been available to pursue money laundering investigations, a number of Supreme Court of Canada decisions have further added to the complexities of these cases in terms of evidentiary burdens and short timelines.<sup>1</sup>

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<sup>1</sup> *R. v. Stinchcombe* and *R. v. Jordan* decisions have caused tremendous pressure on prosecutors, the courts, and police. This has resulted in prosecutors refusing to consider charges until police are in a position to fully disclose all relevant facts, materials, and evidence, as an investigation leading to an arrest must be followed by the accumulation of materials into a disclosable package meeting the prosecutor's requirements, as set out in the charge approval standard.

Following the engagements and information requests noted above, PSB worked with the Attorney General's Anti-Money Laundering Secretariat and consulted with police<sup>2</sup> and regulatory partners to refine a proposal that would respond to recommendation #37. In understanding and identifying criminal activity, current intelligence and international reports from trusted sources, partners, and three independent reports<sup>3</sup> commissioned by the Province have demonstrated that casinos are not the only vulnerable sector in BC.

Through these trusted information sources, it was revealed that money laundering has been occurring across many sectors, including real estate, luxury goods, art, and metal dealers, universities, and even at City Hall in Vancouver where an unidentified man approached a city council member wondering where he could pay his property taxes with a bag of unsourced cash.<sup>4</sup> While the City of Vancouver has since made policy changes to deter this behaviour in the future, it admitted that last year alone it collected \$13 million worth of payments in cash.<sup>5</sup>

An increase of brazen acts and schemes employed by money launderers and organized crime should be anticipated given the lack of resources and coordination afforded to regulators and police in BC. This has resulted in a dismal record for prosecutors who have been unable to secure convictions and promote deterrence. While Recommendation #37 seeks to address current challenges in casinos, this sector represents only one of many that are vulnerable to exploitation. Given the time and cost of creating a DPU, a new DPU cannot be created for every sector vulnerable to money laundering.

As such, an effective police and regulatory response to money laundering in BC must have the flexibility to respond across sectors and recruit the expertise required to understand and identify vulnerabilities and make recommendations to remedy these challenges.

### **Financial Intelligence and Investigations Unit (FIIU)**

The FIIU proposal (attached) and mandate encompasses scalability and flexibility that would allow the FIIU to respond to current and emerging sectors by leveraging multi-disciplinary and sectoral expertise as required, while maintaining continuity for core positions to enhance their expertise and support the long-term strategies of the FIIU.

While several critical initiatives have been proposed that would remedy some legislative<sup>6</sup> and regulatory challenges<sup>7</sup>, the FIIU would provide an appropriate enforcement solution.

The FIIU are police-based units with multi-disciplinary and regulatory support to counter the criminal features that may appear in regulated sectors traditionally monitored by government agencies or independent regulators. The FIIU will respond to *Criminal Code* offences involving money laundering, proceeds of crime, and unregulated sectors dealing with high volumes of unsourced cash where criminality has been established through predicate offences.

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<sup>2</sup> RCMP Federal Serious and Organized Crime, Combined Forces Special Enforcement Unit BC, various municipal police departments.

<sup>3</sup> *Dirty Money* (2018 and 2019) reports and the *Expert Panel* report chaired by Professor Maureen Maloney.

<sup>4</sup> *Money Laundering* (January 29, 2019) CKNW Interview with Lynda Steele and David Eby.

<sup>5</sup> *BC Money Laundering* (February 1, 2019) Canadian Press News Briefing.

<sup>6</sup> Adding *Recklessness* to Criminal Code provisions for Money Laundering, and introduction of *BC Land Transparency Act*

<sup>7</sup> Proposed Beneficial Ownership Registry stemming from *BC Land Transparency Act*

- The Financial Intelligence Unit is made up of police and multi-disciplinary positions to support complex financial intelligence investigations. Composition includes 28 staff that are a combination of police, analysts, and subject matter experts.
- The Financial Investigations Unit is comprised of primarily police and investigator positions, supported by forensic accountants, subject matter expert liaisons, and two embedded Crown prosecutors at the federal and provincial level for a total of 40 positions. *Note:* while Crown positions are critical to the Investigations unit, these 2 positions are currently not included in police budget estimates.

While the total staffing requirements for the FIU is 78 positions, 12 of these positions are shared positions between the Financial Intelligence Unit and Investigations Unit, including the Senior Management team, administrative support, and international liaison positions. Of the 78 positions, 5 are existing positions that can be leveraged through existing resources.

The estimated cost for the FIU (including both the Intelligence and Investigations units with 78 police and support positions) is \$18.5 million for fiscal year (FY) 2019/20 and includes approximately \$3 million for start up costs. In subsequent years this number falls to \$15.4 million in FY 2020/21 with a slight incline leading to \$16.4 million in FY 2023/24.

### **BC Anti-Money Laundering Fusion Centre**

The Fusion Centre is a place for regulators across sectors to provide de-identified and anonymized data for analysis, future data comparison, and possible dissemination to prosecutions or law enforcement for further action. This data is important to collect, monitor and analyze, as regulatory infractions may be strong indicators leading to *Criminal Code* offences for money laundering or proceeds of crime.

The Fusion Centre would lead and support collaborative, integrated and coordinated regulator response and will enable BC regulatory organizations to become more accountable, informed, and collaborative in their efforts to disrupt the criminal economy in BC.

As the Fusion Centre proposal continues to be developed and refined, information sharing and privacy considerations must be carefully navigated to ensure compliance with legislation and promote respect for the public's personal information.

### **Implications**

In BC, money laundering has inflated real estate prices, media speculation on the integrity of the BC economy, and prompted public debate on the appropriate government response.

While these indicators continue to devastate families and erode public confidence, there are additional and compelling reasons why money laundering must be addressed through an appropriate regulatory and law enforcement response:

“Because the more we allow money laundering to take place, the more we are inviting criminals to come here, so we are increasing crime. The drug problems will only escalate, and we will have more horrendous deaths from fentanyl or other drugs, more organized crime which can lead to more corruption, and will distort the economy, because we found out it has distorted the real estate market.

It also undermines the rule of law and the trust of professions and institutions, and finally, it distorts BC and Canada's international reputation, and if we want legitimate, good businesses to come here, we have to make sure we have a clean society."<sup>8</sup>

Police and regulators require a coordinated approach that responds to the current and emerging trends that are cross-sector and often involve multiple predicate offences<sup>9</sup> beyond the *Criminal Code* offences defined for money laundering and proceeds of crime. The magnitude of data and analysis coordination required to produce actionable intelligence products for use by law enforcement and prosecutions will not materialize from the current resources and expertise available at provincial and federal levels.

Since March 2019 when the federal government made a funding announcement regarding an allocation for money laundering initiatives<sup>10</sup>, the BC Attorney General has been vocal in advocating for federal funding to support BC initiatives that would support police and regulators to respond to money laundering at a provincial level.

BC requires financial support to move forward with the FIU and Fusion Centre and is requesting \$20 million for FY 2020/21 and \$15 million per year for subsequent years.

In support of the creation of the FIU, the Attorney General David Eby has provided a draft letter (attached) seeking federal funding.

### **Provincial Core Policing Considerations:**

- Since 2015/16, PSB has advanced through the annual budget process requests to Treasury Board for increased funding in support of Provincial Core Policing. To date, the Branch has been unsuccessful in securing increased Core funding.
- The pressures and resource shortages in front-line policing and resulting risk has reached a critical point.
- In December 2018, the RCMP formally signaled the critical nature of these shortages in a letter to the Minister. The Commanding Officer stated that absent of new investments in Core policing the RCMP would have to re-allocate existing positions to ensure public and officer safety in areas of provincial policing responsibilities.
- On April 25, 2019, the RCMP formally outlined a proposed strategy to the Minister for addressing front-line shortages (see Appendix 1) through reductions of approximately 100 positions related to Organized Crime/Gangs & Guns, Major Crimes, and other specialized function areas.
- Provincial funding of a FIU at the expense of Core policing may lead to a point where the provincial RCMP may not support or must delay/reduce implementation of the FIU.

### **Option 1 – Seek federal funding for the creation of a provincial FIU**

<sup>8</sup> *Money Laundering is Canada's Problem* (May 16, 2019) The Current, CBC Podcast. Quote from interview with Maureen Maloney, Chair of Expert Panel.

<sup>9</sup> *Financial Intelligence Units: An Overview* (2004). World Bank and International Monetary Fund. Examples include: fraud, robbery, theft, extortion, forgery, piracy, corruption, bribery, murder, arms and human trafficking,

<sup>10</sup> *5 year commitments: ACE team- \$24 million; Investigative capacity -\$68.9 million; Increase in RCMP annual funding - \$20 million. 4 year commitment: Trade-base AML Centre - \$28.6 million, and \$10.5 million ongoing. Year 1 – 5 total: \$152 million (ACE, Investigative, Increase, Centre)*

This option will result in a provincial, evidence-led FIIU focused on areas of risk identified.

Pros:

- Creation of a provincial FIIU would be linked to provincial money-laundering priorities.
- The focus of a provincial FIIU would be provincial targets and linkages into national and international targets.
- Linked to Federal Policing and the Fusion Centre, a provincial FIIU would provide a robust response to the harms to the BC economy as identified in the German and Maloney reports.

Cons:

- The creation of a provincial FIIU at this time would exasperate the current and future serious stresses and risks within Core policing

**Option 2 – RECOMMENDED – Seek 100 % Federal funding and resources for the creation of a BC FIIU focused on money laundering within the province**

This option will result in a federal, evidence-led FIIU focused on the federal and provincial criminal economy. Based on the FIIU Business Case, this federal unit will focus the cross-sectoral money laundering identified in the German *'Dirty Money'* and Mulroney *'Expert Panel on Money Laundering in Real Estate'* reports.

Pros:

- Money laundering is a concurrent responsibility for federal and provincial governments.
- Funding of new federal RCMP positions will not have a serious effect on current provincial Core policing stresses.
- The federal funding will allow for the immediate scaling up of the FIIU.
- Federal resources within British Columbia are currently underfunded and subsequently operating below full capacity. This increase would address the shortages and facilitate their ability to better manage the complexities of these types of investigations.
- By design, the FIIU will support other federal money laundering initiatives.

Cons:

- A federal FIIU will be subject to the federal government and RCMP HQ priorities rather than those of British Columbia.
- The focus of a federal FIIU would be national and international targets.
- The current Federal resource shortages may impact positions assigned to the FIIU and they could become subject to reassignment to other priority areas. British Columbia would have no leverage to influence any reassignments or vacancies within the FIIU.
- The current FIIU and Fusion Centre models are designed to address money laundering in British Columbia. There are risks to implementing a federally influenced BC FIIU, as when the FIIU is reduced from its original BC designed model, it is anticipated that it would affect its capacity to deliver on provincial expectations.

CLIFF: 555489  
Date prepared: June 7, 2019

**RECOMMENDED OPTION APPROVED:**

**DATE:**

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**Attachments:**

1. Draft Correspondence: Attorney General David Eby to federal Minister Bill Blair regarding FIIU and Fusion Centre funding
2. Draft FIIU business proposal: May 7, 2019 version 5