

**ASSESSMENT OF PROCEEDS OF CRIME
RESPONSIBILITIES WITHIN FSOC**

“E” Division Federal Serious & Organized Crime – Group 1

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EXECUTIVE SUMMARY

Prior to federal re-engineering in 2012, there was a robust Integrated Proceeds of Crime section which comprised 55 people. The section had a wide mandate which included the disruption and dismantling of organized crime groups through the seizure of assets. The section comprised long-term project teams, a money laundering team, an expert witness program and an asset forfeiture unit. Although there were challenges, the section had several large files which were regarded as successful in meeting the mandate.

Re-engineering resulted in the disintegration of the centres of expertise and support. There have been mixed results to re-engineering across the country, with some divisions retaining IPOC support and some divisions abandoning it entirely.

There are three possibilities for E Division which are presented here:

- The first option is for three teams comprising about fifteen regular members to conduct long-term proceeds of crime and money laundering investigations, to conduct short-term investigations with asset seizure and forfeiture, and to conduct proactive investigations into national targets.
- The second option is for two teams comprising about ten regular members to support FSOC investigations.
- The third option is for two regular members to handle proceeds of crime investigations and two regular members to assist with asset forfeiture.

(To maintain status quo, one regular member would handle proceeds of crime investigations and one regular member would assist with asset forfeiture).

While it is recognized that a decision would be at the discretion of E Division FSOC Senior Management Team, the recommendation is that one of the first two options be strongly considered.

EVOLUTION OF THE PROCEEDS OF CRIME SECTIONS

Profits from crime undermine the social and economic well-being of Canadians in their communities while increasing the power and influence of organized crime groups to conduct their illegal activities and live off the avails of their crimes.

In order to address this threat, in 1989 the federal government passed legislation under Part XII.2 of the *Criminal Code* that enabled law enforcement agencies to combat organized and enterprise crime.

In 1990 E Division formed an Anti-Drug Profiteering Unit comprised of six regular members. The unit received federal funding which was fenced. The unit was integrated with partner agencies that included the Forensic Accounting Management Group, Canada Revenue Agency, Canada Border Services and the Department of Justice (now known as the Public Prosecution Service of Canada).

In 1992, the unit flourished and grew in size to include 55 people (45 regular members, three civilian members, seven public service employees), and was rebranded as the Integrated Proceeds of Crime Section (IPOC). The sole focus of IPOC was to separate criminals from their profits by identifying, assessing, seizing, restraining and forfeiting their assets as well as actively pursuing money laundering investigations. A number of investigations during this period resulted in successful prosecutions and/or criminal forfeitures. The approach was effective, since the substantive and the proceeds of crime offences ran parallel to each other.

At that time the E Division IPOC was comprised of the following units:

- Management and administration
- Intake
- Project teams (three teams)
- Asset Forfeiture Unit
- Anti Money Laundering Team

- Major Case Management support
- Kelowna Proceeds of Crime Team (satellite office)

MANDATE OF THE FORMER IPOC SECTION

IPOC was a national program with a mandate to focus on:

- proactively disrupting and dismantling organized crime groups through the seizure, restraint and forfeiture of their assets accumulated through their criminal activities;
- investigating national and divisional tactical priorities with an emphasis on proceeds of crime and money laundering;
- working with international and national partners to reach a common goal;
- developing and sharing financial intelligence through collection and dissemination;
- delivering education through prevention and awareness initiatives to the community.

LONG TERM PROJECT TEAMS

In order to achieve these goals, IPOC teams were set up to work jointly with the federal Vancouver Drug Section. Because of their financial knowledge and contacts, IPOC members were embedded in international investigations.

The Public Prosecution Service of Canada, the Canada Revenue Agency and Canada Border Services Agency had employees working in the IPOC office and would be assigned to investigations from the onset. Team members would work closely with national and international partners including Homeland Security, the Drug Enforcement Administration, the Department of Justice's International Assistance Group and the RCMP Liaison Officers abroad in order to gather evidence for prosecution.

MONEY LAUNDERING TEAM

A money laundering team was dedicated to working within the parameters of the Proceeds of Crime Money Laundering and Terrorist Financing Act (PCMLTFA). Their mandate included the review and viability of investigations resulting from FINTRAC disclosures, casino reporting, financial institutions and money services businesses (currency exchanges) and CBSA seizures of what was believed to be proceeds of crime.

EXPERT WITNESS PROGRAM

Due to the expertise developed in the course of long term investigations and investigations led by the money laundering team, members broadened their knowledge of the legislation, prosecution and court testimony and became qualified as court experts. The development of the expert witness program was supported by RCMP national headquarters, which provided further training and opportunities to develop members in this area of expertise.

ASSET FORFEITURE UNIT

In November 2005 the Civil Forfeiture Act was legislated within the province of B.C. providing police officers the authority to forfeit assets derived from criminal activity through civil proceedings. This tool is an effective alternative if criminal prosecution is not viable. The asset forfeiture unit, working within terms set out in a memorandum of understanding, was comprised of one regular member and an employee of the provincial government. The unit assessed cases that would not proceed through the criminal courts. If the case met the criteria of being successful on a balance of probabilities, a referral would be made to the Civil Forfeiture Office (CFO). Members in the field would work with the CFO to achieve a forfeiture of

assets seized, or to restrain assets as either offence-related property or proceeds of crime.

Assets seized through federal business lines were managed through the federal Seized Property Management Directorate. Assets seized by provincial business lines were managed through the B.C. Asset Forfeiture Unit.

SUCCESS OF THE FORMER IPOC SECTION

The former IPOC section was successful due in part to the integrated approach which brought RCMP members and partner agencies into one unit. A funding structure supported the units' activities. Many of the investigations were long term projects that were international in scope. The following is a small cross section of some of those investigations:

- In 1996 Project **EYE SPY** involved a currency exchange, operated by the section over a four year period. The storefront, working in an undercover capacity with an agent, facilitated the laundering of \$2 billion in cocaine proceeds from clients that included traditional organized crime, outlaw motorcycle gangs, and Columbian drug cartels. There was a prosecution of Hells Angels members and about 50 other people, including other organized crime groups.
- In 2001 Project **ELDEN** involved a group associated to the Hells Angels who were using the services of an agent acting as a money broker to launder their proceeds from drug trafficking on an international level. Charges were laid in both the US and Canada and convictions were registered.
- In 2003 Project **EVENTUALLY** partnered with the Royal Hong Kong Police and the People's Republic of China. The investigation involved Hong Kong, China and Canada. The principal subject of investigation was producing methamphetamine in mainland China and laundered the proceeds in Canada. The investigation resulted in the restraint of residences, vehicles, jewelry and cash totaling \$3 million.
- In 2006 Project **ESTIMATION** involved an Asian organized crime group working out of Vancouver. The group owned expensive residences in the Shaughnessy area, controlled the cocaine market and moved their proceeds

to Asia. A joint investigation with the Hong Kong Police resulted in the seizure of cash and residences in Canada and the arrest and prosecution of several associates in China.

- In 2011 Project **ENEURITIS** involved a joint investigation with Homeland Security in the US in an effort to gather evidence to support money laundering charges in both the US and Canada. Evidence was gathered in relation to known individuals with associations to an organized crime group who are presently charged. Some members of this group are expected to be extradited to the US.

IPOC was also involved in a number of initiatives that were shorter in term and ongoing in nature:

- The Money Laundering Unit was responsible for working with Canada Border Service Agency in an effort to identify travelers who entered Canada with cash smuggled and amounts over \$10,000 that were not reported as regulated under the Proceeds of Crime, Money Laundering and Terrorist Financing Act (PCMLTFA). (Currently, CBSA continues to seize unreported currency and levy fines under the provisions of the PCMLTFA. CBSA makes reports to the RCMP in cases of suspected proceeds of crime, with the intent for appropriate follow up and prosecution.)
- The Money Laundering Unit worked with the casinos in an effort to use the intelligence provided on targets. Intelligence was shared with the probe team which led to a number of viable projects into organized crime groups.
- The Civil Forfeiture Unit worked with IPOC members to educate members across the province in the seizure, restraint and forfeiture of assets. This still takes place through the FSOC Asset Forfeiture Unit in Group 1.

- Ongoing training was conducted with respect to Part XII.2 legislation. There was a library of precedents. Investigators were embedded in projects, shared their knowledge and mentored members in the field. The legal aspects of proceeds of crime and money laundering are complex and investigators require a solid understanding of the legislation if they hope to be successful in the seizure, restraint and forfeiture of assets and the prosecuting of proceeds of crime related offences.
- The Expert Witness Program provided ongoing advice and expert testimony on cases that required a connection between the seized assets and the substantive drug offence. (Since the expertise is being lost and as qualified experts leave FSOC, this area of specialization is being lost).

Issues that presented a challenge included:

- projects required long term funding and resources;
- projects were complex;
- projects required a long time to investigate, due in part to the time which was required to collect documentary evidence from financial institutions and from other jurisdictions;
- from a prosecution standpoint, money laundering investigations are labor intensive and costly to prosecute;
- a money laundering charge often followed a prosecution for the substantive offence, resulting in two separate prosecutions.

FEDERAL RE-ENGINEERING

In 2012 the RCMP re-engineered federal policing. Federal sections including IPOC were restructured. The intent of this re-engineering was to bring areas of expertise into each project. Ideally, each serious organized crime investigation would include a member who had expertise in the proceeds of crime.

The new focus of federal policing, and in particular FSOC, was to be on national tactical enforcement priorities and on investigations that tiered at the highest level. Resources were redistributed accordingly.

It appears that specialized expertise has slowly started to deteriorate. Some members have not remained current in their discipline as they are no longer in an environment that would feed their knowledge.

Following a 2012 Financial Action Task Force, Canada's anti money laundering strategy now falls under the direction of the Commissioner. This strategy is a work in progress and divisions across the country are participating in this ongoing process.

RESTRUCTURING OF RCMP HEADQUARTERS

RCMP headquarters was restructured during re-engineering, and specialized branches were discontinued. IPOC Branch was disbanded. Responsibilities for IPOC are now within Federal Policing Criminal Operations.

Since investigations no longer directly relate to specific disciplines, the previous specialized support network that existed is no longer available.

Historically, all referrals and the outcome of referrals were captured by submitting a form to the IPOC Directorate at NHQ, but this is no longer being done.

The Expert Witness Program for IPOC ran as a separate program in the past. This program continues to operate from national headquarters however it now encompasses experts from all disciplines including IPOC experts.

STATUS OF IPOC SECTIONS NATIONWIDE

Research has been conducted in relation to the status of the IPOC units across other divisions to understand what impact, if any, restructuring has had on investigations with proceeds of crime or money laundering components. The results are as follows:

“K” Division

The IPOC unit in Alberta was disbanded and resources were absorbed into FSOC in K Division. Investigations that require proceeds of crime expertise now rely on resources that have been dispersed within the FSOC groups. Requests for civil forfeiture referrals are now directed to the intake units in both Calgary and Edmonton and then disseminated to investigators within FSOC. There are no positions funded by the Province of Alberta. K Division’s Asset Forfeiture Team has modeled themselves after the E Division Asset Forfeiture Unit, and they have an assigned resource that serves as the gatekeeper for civil forfeiture referrals.

“F” Division

The IPOC units in Saskatchewan have been kept intact. There are units in both Regina and Saskatoon, each with one sergeant, two corporals, two constables and a public service employee. Regina has a PPSC Crown and a forensic accountant integrated within the unit. The IPOC units are resourced with members seconded from FSOC drug investigative units and CFSEU. These units have had a high success rate. IPOC investigators are also embedded into long term projects that require mentoring, guidance and knowledge of case law in this area of expertise.

PPSC is fully supportive of offence related property and proceeds of crime charges and sees this as a priority. Requests for civil forfeiture are funneled through the IPOC units. The Asset Forfeiture Unit is embedded within the Regina IPOC Section and is funded

by the Province of Saskatchewan. A regular member occupies the asset forfeiture position and prepares referral letters.

“D” Division

The IPOC section in Manitoba was disbanded during re-engineering, and investigators were absorbed by the Financial Crimes Section. Members with a proceeds of crime background are called upon to provide assistance and work with investigators in the Division.

“O” Division

“O” Division chose to maintain its IPOC Units as a result of the 2012 Financial Action Task Force evaluation.

The RCMP in Ontario fully supports IPOC. Their two IPOC sections are within London Financial Crime and the Greater Toronto Area Financial Crime Teams 1 – 4. The GTA Teams focus primarily on national tactical enforcement priorities and Tier 1 projects. Former IPOC personnel from Hamilton-Niagara and Kingston regions do not have a critical mass to sustain permanent proceeds of crime / money laundering teams. These former IPOC members, now absorbed into other areas, continue to be relied upon to provide guidance to field investigators.

The civil forfeiture program (known as “civil remedies” in Ontario) is utilized at a minimum in Ontario. Civil remedies referrals or referrals to the Canada Revenue Agency are not reflected on PROS.

“A” Division

Former “A” Division IPOC members have been absorbed into Sensitive and International Investigations in National Division.

“C” Division

The RCMP has a dedicated IPOC unit in Montreal. The unit remains an integrated unit and continues to operate as it has in the past. Civil forfeiture is not utilized in Quebec, and referrals default to the Canada Revenue Agency.

“H” Division and the Maritimes

The IPOC unit in “H” Division historically served the Maritimes, but has been disbanded. The Province of Nova Scotia has maintained four provincial positions that are mandated to investigate Criminal Code matters. The mandate does not include other federal offences. Three FSOC teams have been mandated to investigate proceeds of crime offences. The civil forfeiture process is operated by the Province of Nova Scotia and has no affiliation to the RCMP.

Anti-Terrorist Financial Investigations Unit

The Anti-Terrorist Financial Investigations Unit is a national security initiative governed through national headquarters. This “E” Division team is embedded in INSET and is mandated to focus on the financial component of national security investigations. However, at present the team is responsible for investigating national priority files and resourcing is limited. Members in FSOC groups that investigate financial crime / proceeds of crime related offences have the knowledge to assist and work on projects that have a terrorist financing component.

PROPOSAL

According to the 2012 Financial Action Task Force recommendations and the January 2015 Anti Money Laundering Strategy, proceeds of crime and money laundering investigations appear to continue to be a national priority.

It is proposed that E Division FSOC recognize a mandate, as follows:

- **To investigate and prosecute money laundering with a focus on prosecution, asset seizure and forfeiture upon convictions;**
- **To consider, in all existing FSOC files, an investigation into the proceeds of crime, with a goal of restraining and seeking forfeiture of assets derived from criminal activity;**
- **To seize assets and apply for civil restitution of crimes across all policing lines in British Columbia;**
- **To work with international and national law enforcement partners, including FINTRAC, to gather and share intelligence;**
- **To provide assistance and education to “E” Division FSOC members by sharing best practices.**

PROPOSED PLAN OF ACTION

In keeping with Canada's international obligations as a signatory member of the Financial Action Task Force and the RCMPs' nationally-led Money Laundering Strategy, where Proceeds of Crime and Money Laundering are an identified threat and a named priority, there is need to respond to this threat. A designated Unit is recommended for consideration.

Three different options that align with the current prioritization model have been presented; each offers a response to an identified need and outlines the mandate and intended results.

The first option would address a wide scope of offences related to Proceeds of Crime and Money Laundering at a national and global level. The second option would offer the capacity to support long and short term projects. The third option would provide support in the form of consultation and guidance to members in the field.

Option 1

Proposed: three operational Proceeds of Crime teams comprised of one Corporal and four Constables each, working under the supervision of a Sergeant within the chain of command of FSOC.

Team 1 - Long Term Proceeds of Crime / Money Laundering Projects

One team focusing efforts on long-term proceeds of crime / money laundering projects could provide consultative support to projects in FSOC groups across the province that have proceeds of crime components. The team would have knowledge in Part XII.2 legislation and case law and would be able to provide related training and guidance. Members would work in a team environment, assessing and gathering evidence from the onset with focus on proceeds of crime or money laundering to support criminal charges. They would also serve as a liaison to Seized Property Management

Directorate (SPMD) for asset seizure and management, the Forensic Accounting Management Group for net worth analysis on proceeds of crime or money laundering investigations, the CFO for property restraint where prosecution is not viable, and partnering agencies in foreign jurisdictions. Time permitted, this team could proactively generate files.

Example: To work on national priority investigations that involve a financial component where the money is followed through bank accounts, wire transfers, and moved abroad.

Team 2 - Short Term Investigations with Asset Seizure and Forfeiture

A second team could focus on short term investigations with reporting requirements, the seizure/forfeiture of assets and intelligence sharing and partnering with agencies in an effort to disrupt organized crime groups moving money across the border and laundering proceeds. The scope of investigations could be local or international depending on the location of the substantive offence and the proceeds. The team would limit their involvement to matters dealing with Proceeds of Crime / Money Laundering and Terrorist Financing Act (PCMLTFA), Canada Border Services Agency and *Criminal Code* legislation. Information obtained from voluntary disclosures from FINTRAC could be pursued. This team could also provide assistance and education to partnering agencies within the community, for example financial institutions, money services businesses and casinos.

These shorter term investigations would also broaden the scope of knowledge for these members, and develop them for the expert witness program where team members would be expected to provide lectures, CV preparation and expert witness opinion evidence.

Example (1): If a marihuana grow operation requires restraint of property, the investigators could work with PPSC and SPMD to restrain, manage and seek forfeiture through the courts.

Example (2): If a casino has identified a loan shark or an organized crime figure with bank accounts offshore who is laundering the proceeds from drugs/fraud through a local casino, the investigators could work with casino officials to gather evidence to support money laundering charges in Canada and liaise with the Liaison Officer to secure and share evidence relating to the substantive offence abroad.

Team 3 – Proactively Generated National Priority Projects

The third team could focus on longer term projects that are proactively generated to identify NTA, NTEP or PTA groups and individuals involved in proceeds of crime and/or money laundering offences and where prosecution and restraining of assets are viable. The team could use resources such as FAMG to conduct a net worth analysis to identify the source of the funds independent of the substantive offence.

Example: The team could investigate an individual who may be laundering proceeds derived from drug trafficking through personal businesses and purchasing assets. Both the substantive offence and the proceeds offence would be investigated simultaneously, with one report and disclosure package to PPSC which would result in a stronger likelihood of conviction and forfeiture of the assets.

For Option 1, a total of 15 full-time regular members would be required to resource all three teams.

Option 2

A second option would involve two teams, each consisting of one Corporal and four Constables reporting to a Sergeant within the chain of command of FSOC. Both teams could provide support to FSOC in the seizure and forfeiture of assets and deal with long term proceeds and crime and money laundering projects. This team would be results driven with efforts focused on maximizing impact in shorter term investigations. In the event that a team is required to support an NTEP project, resources from one or both of the two teams could be redeployed with responsibilities being re-distributed accordingly. Managers within FSOC would be encouraged to actively support the development of expertise within their respective groups.

A total of 10 full-time regular members would be required to resource two teams.

Option 3

The third option describes the current structure with one proceeds of crime position overseeing the Asset Forfeiture Unit in addition to providing guidance to members in the field or projects as required. Presently, the incumbents of the Proceeds of Crime position and the AFU position are occupied by members with Proceeds of Crime experience and are available for consultation by members in the field. They are also providing support to an NTEP priority file, seconded on a part time basis, providing expert witness opinions as time permits. This option considerably limits FSOC's capacity for pursuing criminal investigations into proceeds of crime offences that could result in criminal asset forfeiture. The success of this option in the longer term would depend on the Proceeds of Crime unit incumbent having the expertise to provide guidance to others as well as each FSOC manager's investment in the development and maintenance of expertise within their respective groups.

A total of 2 full-time regular members in addition to the AFU position would be required to maintain full-time coverage for FSOC.

It should be noted that the Asset Forfeiture Unit should remain with the Proceeds of Crime Unit for the following reasons:

- Eighty percent of referrals arise from federal enforcement initiatives (FSOC);
- The Asset Forfeiture Unit is the “designated” gatekeeper responsible for quality assurance and overseeing cases that are referred CFO across the province;
- The CFO Program Manager position is funded by CFO while the regular member is a funded provincial position. They are primarily responsible for preparing the referral from information gathered in the course of investigations where criminal forfeiture is not viable;
- Funding and grants from the province are available to the RCMP to support the partnership with CFO to ensure its effectiveness.

RECOMMENDATIONS

In the absence of returning to a robust unit that existed prior to re-engineering, it is recommended that FSOC management consider building and retaining areas of expertise as outlined in Option 1 or Option 2, above.

(The first option is for three teams comprising about fifteen regular members to conduct long-term proceeds of crime and money laundering investigations, to conduct short-term investigations with asset seizure and forfeiture, and to conduct proactive investigations into national targets. The second option is for two teams comprising about ten regular members to support FSOC investigations.)