



## FPCO Proceeds of Crime Review

### Purpose

The purpose of this review is to assess the status of Proceeds of Crime investigations across divisions for RCMP Federal Policing following the creation of FSOC units in 2013.

### Methodology

This study includes Tier 1 & 2 Federal Policing Financial Crime and Serious and Organized Crime investigations that are either ongoing, in court, or concluded, since beginning of the FP Prioritization Process in 2013<sup>1</sup>. When examining total files for this time period (249), benchmarking against that total when considering Proceeds of Crime charges and/or Asset Forfeiture efforts; would not constitute a fair assessment. Based on a qualitative assessment, files that were deemed inapplicable for various reasons were removed from the sample set, giving a total of 164 applicable files.<sup>2</sup> The results in this report are based on information available in the Records Managements Systems (PROS (FTS<sup>3</sup>), PRIME, IIS (FTS)), O division's major case management system, and through response received from some investigators. A dataset breakdown is in the appendix.

### Key Findings

- Out of 164 SOC & FC investigations included in this study, **77 investigations** considered identifying and pursuing proceeds of crime in their initial operational plan. (47%)
- There were **25 investigations** with proceeds of crime **charges**. (15%)
- In **85 investigations**, there was **no consideration** for pursuing proceeds of crime charges. (52%)
- Criminal Asset Forfeiture was **attempted in 26 cases** (16%)

<sup>1</sup> The specific date that FP Prioritization started is unknown at this time. The earliest date a file was tiered in the sample set is 2013-05-01. There are 11 untiered operations that the FPCO monitored within the full set of 249.

<sup>2</sup> Reasons for file omission include early file conclusion, conclusion due to lack of evidence to support allegations (or not guilty), pure assistance files, or pure intelligence probe files. In cases where a separate IPOC case was opened and used to investigate the POC, only 1 file was kept in the dataset, but both are comprised within the total files under review.

<sup>3</sup> Free Text Search

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- There are **5 known instances** where a referral was made for non-conviction civil forfeiture.
- In cases where more detailed information was provided, additional issues were observed:
  - The R. v. Jordan Supreme Court of Canada decision negatively impacted investigators’ abilities to successfully lay POC charges.(6 cases)
  - Some cases described issues with prosecutors, in that PPSC determinations delayed the pursuit of POC avenues, or did not support the laying of POC charges for a variety of reasons, the most common being issues with running parallel investigations. (8 cases)
  - In some cases, the subject pleaded guilty on substantive offences, and their proceeds charges were withdrawn. In a large OMG investigation in which 28 POC charges were laid, 21 of those charges were stayed and only 4 were found guilty. (4 cases)
- 9 investigations made mention of issues with either identifying a substantive offence, or issues running a parallel POC investigation. (5.5%)
- 8 investigations mentioned goals of pursuing proceeds of crime charges on their 2350, but then made no further efforts or mentions throughout the investigation. (5%)
- 4 investigations partnered with foreign jurisdictions to confiscate assets abroad. In one such case, a charged subject had assets of \$47,000,000 Million that were successfully confiscated.<sup>4</sup>

## Statistics

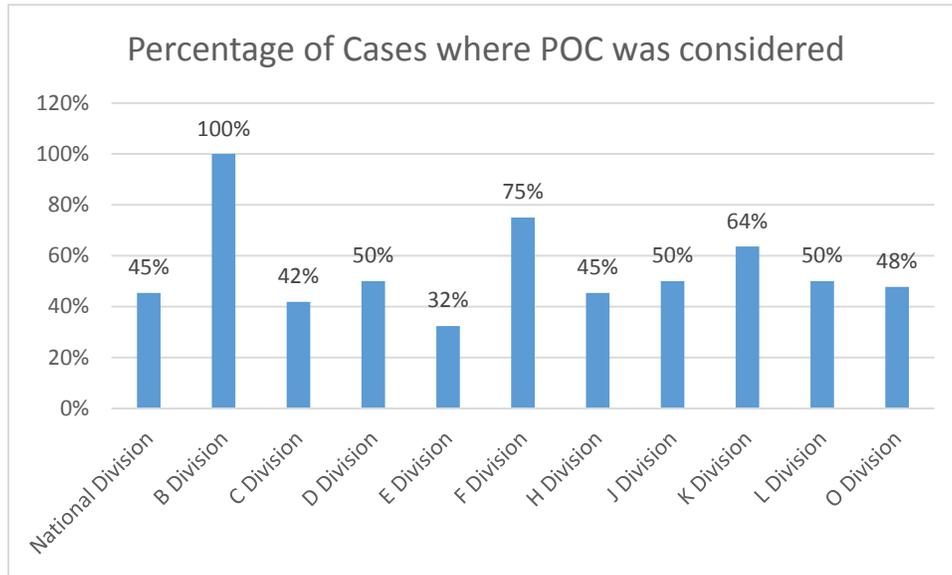
| Division                 | Number of Files | Considered POC | POC Charges laid | Criminal Asset Forfeiture (attempted) <sup>5</sup> | Non-Conviction (Civil) Referral | CRA Referral |
|--------------------------|-----------------|----------------|------------------|--|---------------------------------|--------------|
| National Division        | 11              | 5              | 3                | 1  | 1                               | 1            |
| B Division               | 1               | 1              | 1                | -  | -                               | 1            |
| C Division               | 31              | 13             | 3                | 3  | -                               | 2            |
| D Division               | 4               | 2              | 1                | 1  | -                               | -            |
| E Division               | 37              | 12             | 2                | 3  | 2                               | 2            |
| F Division               | 4               | 3              | 3                | 2  | 1                               | -            |
| H Division               | 11              | 5              | 2                | 3  | -                               | 1            |
| J Division               | 6               | 3              | 2                | 2  | -                               | -            |
| K Division               | 11              | 7              | 1                | -  | -                               | -            |
| L Division               | 2               | 1              | -                | -  | -                               | -            |
| O Division               | 46              | 22             | 7                | 11   | 1                               | 4            |
| <b>Total<sup>6</sup></b> | <b>164</b>      | <b>74</b>      | <b>25</b>        | <b>26</b>  | <b>5</b>                        | <b>11</b>    |

<sup>4</sup> Project ██████████

<sup>5</sup> Attempted includes cases which plan on forfeiting assets, cases which successfully forfeited assets, or cases where assets were ultimately returned

<sup>6</sup>Additional notes: C:(7 concluded unforeseen circumstances; 17 no POC consideration); D:(1 investigation in early stages, 2 with no consideration); E:(7 concluded unforeseen; 25 no POC consideration); F:(1 investigation early stage and not considering POC); H:(6 investigations no POC consideration; 1 early stage); J:(1 early stage; 3 no POC consideration); K:(4

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## Direct Quotes<sup>7</sup>

### C Division:

*“Since the Jordan case, the PPSC has established new procedures in how they deal with the filing of charges. PPSC has decided not to lay any charges until full disclosure is given to them, and is of the view that full disclosure in relation to asset forfeiture should be done at the same time as disclosure in substantive matters, or at least before the substantive trial. The PPSC is of the view that restraints and asset forfeiture should be carried out at the same time as the charges are laid.*

*Since the new procedures implemented by the PPSC following the Jordan decision, we do not see how it would be feasible to start a parallel confiscation of assets investigation if the PPSC asks us to complete the investigation without having previously been able to obtain a restraint order. In order to adequately conduct an asset forfeiture investigation, the PPSC should review their procedures for obtaining restraining orders and permit the restraining orders without any charges being laid.”*

### E Division:

*“An assessment of the file was conducted. Investigators identified several challenges such as the complex nature of the group, a lengthy proceeds investigation would be required to gather evidence, identify a predicate offense,*

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concluded unforeseen; 2 no consideration; 1 forfeiture unknown but awaiting response); L:(1 no POC consideration; 1 mentioned in 2350 then no further); O:(4 concluded unforeseen; 22 no consideration; 4 on 2350 then no further mention)

<sup>7</sup> Each individual quote represents a different investigation. Project names and subject names were removed to protect the identities of individual investigators or prosecutors.

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*overcome issues in obtaining financial records from China and the use of PGP encrypted devices by the main subjects to communicate."*

**H Division:**

*"The RCMP are not able to move forward with the Proceeds of Crime Money/Laundering component in this project at this time as there is a requirement to have a primary designated offence which in this case is Tax Evasion."*

**O Division:**

*"Due to his interpretation of the Jordan decision the PPSC prosecutor took the position that to be included in the search warrants, the proceeds of crime charges had to be ready and laid at the same time as the substantive charges. The decision to exclude proceeds investigators from the search impeded their ability to gather evidence of proceeds of crime offences and to restrain associated criminal assets. A firm decision not to undergo an additional search was also made by PPSC. Reasons given included: "POC charges do not add anything to the sentencing of an accused that is convicted of a serious substantive offense"; "it is too expensive to run two trials for the same accused on associated matters", and, "POC charges are too complicated to prosecute"."*

*"PPSC advised GTA FC that due to public resource concerns, all charges will be stayed, with a draft Return Order also entered on that date. \$2.5 Million of assets was ordered returned."*

*"Following The SOI's arrest, investigators analyzed the evidence for further proceeds of crime charges, but in consultation with PPSC, these charges were never laid. The SOI had multiple businesses that were deemed legitimate, and FAMG could not find clear evidence of money laundering and possession of proceeds of crime. Investigators expressed concern that when Crown received the decision to proceed by direct indictment in, proceeds investigators were given much less time to complete their investigation. PPSC provided additional details to the above decision, in that they did not proceed with these charges for a number of reasons including: "wanting to ensure the jury was left with the most fruitful charges, the substantive drug, conspiracy and criminal organization charges and that the proceeds charges would add little if anything to the global sentence"; avoiding "needlessly complicating the jury's decision"*

*"Due to concerns related to the length of time required to obtain further evidence from a law office this file has been concluded."*

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## Appendix

### Dataset Breakdown: Tier 1 and Tier 2 projects from 2013-01-01 to 2017-09-15

| Type of Project   | Total Dataset   | Files included in Review   |
|---|---|--|
| <p><b>Concluded Projects:</b><br/>           Not all Federal Policing investigations warrant a proceeds of crime operation.</p> <p>For cases that opened a separate IPOC file; these were not double counted, and instead considered as 1 investigation that considered a proceeds angle.</p> | <p><b>145 Files</b></p> <ul style="list-style-type: none"> <li>• 53 FC               <ul style="list-style-type: none"> <li>○ 13 Tier 1</li> <li>○ 34 Tier 2</li> <li>○ 6 Untiered</li> </ul> </li> <li>• 92 SOC               <ul style="list-style-type: none"> <li>○ 21 Tier 1</li> <li>○ 66 Tier 2</li> <li>○ 5 Untiered</li> </ul> </li> </ul> | <p><b>87 Files</b></p> <ul style="list-style-type: none"> <li>• 14 FC               <ul style="list-style-type: none"> <li>○ 6 Tier 1</li> <li>○ 8 Tier 2</li> </ul> </li> <li>• 73 SOC               <ul style="list-style-type: none"> <li>○ 21 Tier 1</li> <li>○ 48 Tier 2</li> <li>○ 4 Untiered</li> </ul> </li> </ul> |
| <p><b>Active or On Hold<sup>8</sup> Investigations</b></p>  | <p><b>57 Files</b></p> <ul style="list-style-type: none"> <li>• 36 FC               <ul style="list-style-type: none"> <li>○ 13 Tier 1</li> <li>○ 23 Tier 2</li> </ul> </li> <li>• 21 SOC               <ul style="list-style-type: none"> <li>○ 3 Tier 1</li> <li>○ 18 Tier 2</li> </ul> </li> </ul>   | <p><b>41 Files</b></p> <ul style="list-style-type: none"> <li>• 21 FC               <ul style="list-style-type: none"> <li>○ 10 Tier 1</li> <li>○ 11 Tier 2</li> </ul> </li> <li>• 20 FC               <ul style="list-style-type: none"> <li>○ 3 Tier 1</li> <li>○ 17 Tier 2</li> </ul> </li> </ul>                       |
| <p><b>Investigations In Court</b></p>   | <p><b>47 Files</b></p> <ul style="list-style-type: none"> <li>• 16 FC               <ul style="list-style-type: none"> <li>○ 8 Tier 1</li> <li>○ 8 Tier 2</li> </ul> </li> <li>• 31 SOC               <ul style="list-style-type: none"> <li>○ 3 Tier 1</li> <li>○ 28 Tier 2</li> </ul> </li> </ul>   | <p><b>36 Files</b></p> <ul style="list-style-type: none"> <li>• 7 FC               <ul style="list-style-type: none"> <li>○ 4 Tier 1</li> <li>○ 3 Tier 2</li> </ul> </li> <li>• 29 SOC               <ul style="list-style-type: none"> <li>○ 2 Tier 1</li> <li>○ 27 Tier 2</li> </ul> </li> </ul>                         |
| <p><b>Total Files</b></p>   | <p><b>249 Federal Policing Investigations SOC &amp; FC</b><br/>           (Tiered in 2013- Current Date)</p>  | <p><b>164 Files relevant to Study</b></p>  |

List of files omitted from this study due to qualitative analysis: [REDACTED]

<sup>8</sup> 3 Investigations are currently on hold ([REDACTED])



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