



January 29, 2019

The Honourable Bill Blair  
Minister of Border Security and Organized Crime Reduction  
House of Commons  
Ottawa ON K1A 0A6

Dear Minister Blair:

Thank you for meeting with me in Vancouver on January 22, 2019, to discuss the need to improve the detection, investigation and prosecution of money laundering in British Columbia. I have taken the liberty of copying the federal Justice Minister and federal Public Safety Minister on this letter, as several areas of concern relate directly to statutes or agencies within his portfolio.

In 2017, I appointed Dr. Peter German as an independent expert to conduct a review of British Columbia's anti-money-laundering policies and practices in the gambling industry, with a focus on the Lower Mainland. During his review of the province's gaming industry, Dr. German made incidental findings of concern related to horse racing, luxury cars, and real estate. As a result, he is currently working on a second review related to these very sectors.

In addition to the ongoing German review, Government appointed Ms. Maureen Maloney, as chair of the Expert Panel on Money Laundering in Real Estate. This Ministry of Finance panel is looking at gaps in compliance and enforcement of existing laws, consumer protection, financial services regulations, regulation of real estate professionals, and jurisdictional gaps between British Columbia and the federal government. Both final reports are to be submitted to government in spring 2019. While Dr. German's report on this second review is not yet complete, he has provided me with some interim findings that I can share with you.

First, I understand that his review of the horseracing sector is largely complete. He advises that the sector is in decline and is not currently a significant money laundering threat to the Province.

His review of the luxury auto sector is also well underway. In contrast to horse racing, he advises that this sector's review has revealed areas of concern in both domestic and international sales. A likely finding of his will be to encourage the federal government to amend the POCMLTFA to include Geographic Tracking Orders (GTOs), as mentioned in the federal Finance Consultation Paper. GTOs would permit either FinTRAC or the federal Ministry of Finance to impose special reporting obligations on a sector in a defined geographic location, such as Greater Vancouver.

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With respect to money laundering in the real estate sector, as we have discussed, he advises me that he is not yet prepared to provide interim findings due in significant part to challenges in gathering information from federal agencies. Thank you in advance for your commitment to ongoing assistance in addressing this information flow issue.

I would also like to reiterate my request for the “secret police study,” as described by Global News on November 26, 2018. The media reports suggested that in 2017 a study of a data set including 1,200 luxury real estate purchases in 2016 concluded that up to \$1bn in real estate transactions in Vancouver alone were potentially connected to money laundering of the proceeds of crime.

In addition to Dr. German’s above-noted interim findings, there are several policy proposals that I wish to bring to your attention. The context for these recommendations is important.

Following Dr. German’s initial report on money laundering in casinos, and countless media reports both before and since that report, many British Columbians remain deeply concerned about an apparent lack of resources or interest (or both) on the part of law enforcement, federal government agencies, financial institutions, casino operators and regulators for the better part of a decade while organized crime used our casinos and other areas of our economy to openly launder hundreds of millions, and perhaps billions of dollars in proceeds of crime.

This concern about a lack of investigation and prosecution of money laundering is not unique to British Columbians – it is shared internationally. In labelling Canada a “Major Money Laundering jurisdiction” in March of last year, the United States strongly suggested that “The [Canadian] government should take steps to increase enforcement and prosecution.”<sup>1</sup>

This American assessment followed what were already concerning findings from the international Financial Action Task Force, which concluded in a mutual evaluation report of Canada in 2016 (the most recent year available) that:

*Law enforcement agencies [in Canada] generally suffer from insufficient resources and expertise to pursue complex ML cases. In addition, legal persons [corporations] are not effectively pursued and sanctioned for ML, despite their misuse having been identified in the NRA as a common ML typology... Overall, asset recovery appears low... Falsely and undeclared cross-border movements of currency and other bearer negotiable instruments are rarely analysed by the Financial Intelligence Unit or investigated by the RCMP.<sup>2</sup>*

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<sup>1</sup> US Department of State, International Narcotics Control Strategy Report, v.2, March 2018. Accessed online at: <https://www.state.gov/documents/organization/278760.pdf>

<sup>2</sup> Financial Action Task Force, Anti-Money Laundering and Counter Terrorist Financing Measures Canada, Mutual Evaluation Report, September 2016. Accessed online at: <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Canada-2016.pdf>

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I can advise you that this finding is certainly consistent with concerns presented to me during informal conversations with current and former police officers and regulators involved in anti-money laundering enforcement. I note that British Columbia certainly does not place full responsibility on the federal government for these issues. For example, our province is currently overhauling our policing and regulatory enforcement related to gambling in the province. However, we do need your assistance and support in addressing these concerns as they certainly cross jurisdictional lines.

All reviews and information gathered to date by British Columbia strongly suggests that there is urgent need for significant reforms, including:

1. **Establishment of a dedicated agency or body to take on money laundering and organized crime investigations and prosecutions in British Columbia across jurisdictional lines**, similar to Quebec's *Unité Permanente Anticorruption* in singularity of focus, dedicated resources, and cross-jurisdictional information sharing.
2. **Reform of Federal law related to money laundering**, with particular attention to the predicate offence proof requirements under Canada's anti-money laundering criminal laws. I understand that under the *Criminal Code*, property which is not directly connected to an offence can only be forfeited as the proceeds of crime if there is proof beyond a reasonable doubt. This is a continual and unnecessary frustration to successful money laundering investigations and prosecutions.
3. **Establishment of a Canadian version of the *Racketeer Influenced and Corrupt Organizations Act* and/or *Continuing Criminal Enterprise Statute***. Versions of these two American laws have been used successfully in the United States and elsewhere for decades to prosecute organized crime. Law enforcement veterans who specialize in organized crime regularly raise concerns in the media and privately about the inability, under Canadian law, for successful large-scale prosecutions of the leaders of organized criminal groups to proceed, regardless of resources in law enforcement.

Dr. German advises me that it is his belief that the existing organized crime provisions within the *Criminal Code* have been singularly unsuccessful in dealing with actual organized crime. Furthermore, he advises that the expanding criminal discovery process stymies and unnecessarily protracts complex investigations and prosecutions, without providing any apparent significant benefit to the goal of preventing wrongful convictions. This situation cannot be allowed to continue if public confidence in our justice system is to be preserved.

4. **Establishment of a Canadian version of the United Kingdom's "Unexplained Wealth Order"** to assist Revenue Canada and federal RCMP, as well as provincial police, to identify and seize proceeds of crime and corruption. While such a measure could not be used for criminal prosecutions, if it were used judiciously and coupled with British Columbia's upcoming beneficial ownership registry, such orders could greatly assist in identifying the origins of money in our real estate market and could assist in property seizures or tax prosecutions where cash originated in criminal or otherwise corrupt activities.

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5. **Explore options to strengthen FINTRAC and provide support for securities regulators in Canada, including the BC Securities Commissions (BCSC) who face significant challenges in their efforts to collect the financial sanctions they impose on violators of securities laws.** The BC Ministry of Finance and the BCSC have determined that amendments to federal legislation have the potential to provide significant complementary enhancements to the sanctions imposed through the provincial securities regime. They anticipate that a complete package of legislative amendments modernizing and enhancing the BC securities framework will be passed spring 2019. As you are aware, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act establishes the Financial Transactions and Reports Analysis Center of Canada (FINTRAC). This federal statute has a specific provision allowing for information disclosure to securities regulators. I would ask that officials explore options to strengthen the effectiveness of FINTRAC's relationship and information sharing processes with securities regulators. It is my hope that discussions may reveal ways to improve prosecutions of criminal misconduct for securities-related offences.
6. **Improvements in the interaction between provincial Civil Forfeiture statutes and the *Criminal Code* to resolve uncertainty, including but not limited to:**
  - a. Minor amendments to Section 490 of the *Criminal Code* to deal with the preservation, detention, and return of property during criminal proceedings; and,
  - b. Clarifying in Section 490 the ability of police and/or government to preserve property in conjunction with civil forfeiture proceedings and the ability of courts to grant standing to provincial civil forfeiture offices (CFO) to appear in criminal proceedings.
7. **Support for implementation of a provincial law enforcement and industry strategy similar to the United Kingdom, which launched its first national risk assessment of money laundering and terrorist financing in 2015.** In British Columbia it is common that specific allegations of money laundering discussed in the media have a connection to financial institutions that fall within Provincial or Federal jurisdiction.<sup>3</sup> These organizations deserve a legal and regular opportunity to draw transactions of concern to the attention of law enforcement at all jurisdictional levels proactively. Similarly, police may wish to raise concerns with industry about activities or individuals police have identified in investigations. Such a strategy of information sharing could assist in identifying targets of interest for industry, law enforcement, tax authorities, and regulators.

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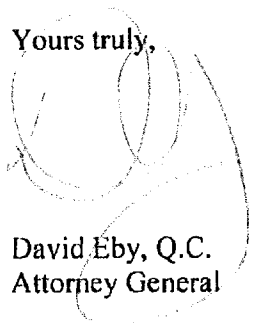
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<sup>3</sup> For example, just days ago: "Banks offer little on how BC man with criminal record could allegedly launder money in real estate," Hoekstra, Vancouver Sun and Province, 26 January 2019. Accessed online at: <https://vancouversun.com/news/local-news/banks-offer-little-on-how-b-c-man-with-criminal-record-could-allegedly-launder-money-in-real-estate>

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BC has already made significant progress in reducing bulk cash transactions associated with money laundering in our casinos. Further work needs to be done, but requires your office's assistance so that we may expand on this preliminary effort and follow the money wherever it goes by addressing systemic problems that are obvious to most British Columbians by now. After you have had an opportunity to review the above-noted policy suggestions, I ask that our teams meet again to begin discussions on next steps.

Yours truly,



David Eby, Q.C.  
Attorney General

pc: The Honourable David Lametti, Minister of Justice and Attorney General Canada  
The Honourable Ralph Goodale, Minister of Public Safety and Emergency Preparedness  
The Honourable Carole James, Minister of Finance British Columbia  
Dr. Peter German, Q.C.

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