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DIRTY MONEY

**An Independent Review of Money Laundering in Lower Mainland
Casinos conducted for the Attorney General of British Columbia**

Peter M. German, QC

Peter German & Associates Inc.

March 31, 2018

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“... the fundamental requirement for success for any form of commercial gaming is a strong regulatory base to provide a strong environment, both legal and economic, which has the potential of attracting long-term financial capital, and which has the potential of generating a profitable environment for those operations.”

- William R. Eadington¹

¹ William R. Eadington, *Indian Gaming and the Law* (Reno: University of Nevada, 1990), at p. 158.

CONSULTANT

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All the stakeholders referred to in the Terms of Reference were contacted, however that was only the starting point. Many people reached out to me and I contacted still more. Understandably, some persons interviewed did not wish to be identified publicly and I have respected their anonymity.

This report is constructed from interviews, documents, and site visits. I have attempted to collate those results in a fair and objective manner, however any errors in that process are mine alone and not those of the persons interviewed. I appreciate the assistance provided by all interviewees.

I would be remiss if I did not acknowledge the stellar investigative journalism of various print and television reporters, beginning in 2011 and continuing to the present. The recent work of Sam Cooper of the Vancouver Sun and Kathy Tomlinson of the Globe and Mail, follows upon

investigative journalism by Eric Rankin and Mi-Jung Lee in 2011 and 2014. Bob Makin of breaker.com continues to most ably perform a political oversight role.

In this Report, I have taken the liberty to use the structure and format of a 2014 report produced by Justice Frank Iacobucci, formerly of the Supreme Court of Canada, when reporting on his review of aspects of the Toronto Police Service. Justice Iacobucci's vast legal experience made his report very readable and, in some small way, I have attempted to do likewise.

Christine McLenan is the Word expert who saved the day on more than one occasion and provided editing services. I thank her for the hard work.

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ACRONYMS AND TERMS

ACAMS	Association of Certified Anti-Money Laundering Specialists
AGBC	Attorney General of British Columbia
AGCO	Alcohol and Gaming Commission of Ontario
AML	Anti-money laundering
AMP	Administrative Monetary Penalty
BCLC	British Columbia Lottery Corporation
BI	Business Intelligence
CDR	Casino Disbursement Report
CFA	<i>Civil Forfeiture Act (B.C.)</i>
CFSEU	Combined Special Enforcement Unit – British Columbia
Commission	Nevada Gaming Commission
DPU	Designated Policing Unit
FinCEN	Financial Crimes Enforcement Network
FinTRAC	Financial Transaction and Reports Analysis Centre of Canada
FIU	Financial Intelligence Unit
FSOC	Federal & Serious Organized Crime (RCMP)
GAIO	Gaming Audit & Investigation Office
Gateway	Gateway Casino & Entertainment Limited
GCA	<i>Gaming Control Act (B.C.)</i>
GCGC	Great Canadian Gaming Corporation
GCR	<i>Gaming Control Regulations (B.C.)</i>
GEPS	Gaming Enforcement Police Service

GMS	Gaming Management System
GPEB	Gaming Policy & Enforcement Branch
GSP	Gaming Service Provider
ICGR	International Center for Gaming Regulation
IHIT	Integrated Homicide Investigation Team
IIGET	Integrated Illegal Gaming Enforcement Team
iTRAK	Incident Report and Risk Management System
JIGIT	Joint Illegal Gaming Investigation Team
KYC	Know Your Customer
KYP	Know Your Patron
LCTR	Large Cash Transaction Report
MEOC	Middle Eastern Organized Crime
MOU	Memorandum of Understanding
MSB	Money Service Business
NGCB	Nevada Gaming Control Board
OLG	Ontario Lottery and Gaming Corporation
OPP	Ontario Provincial Police
OSA	Operational Services Agreement
Paragon	Paragon Gaming
PCMLTFA	<i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i>
PGF / PGFA	Patron Gaming Fund / Account
PS&SG	Ministry of Public Safety & Solicitor General
PRC	People's Republic of China
RCMP	Royal Canadian Mounted Police

RFID	Radio Frequency Identification
RMB	Renminbi
SAFE	State Administration of Foreign Exchanges
SAR	Suspicious Activity Report
SCT	Suspicious Currency Transaction
STR	Suspicious Transaction Report
TOR	Terms of Reference
UFT	Unusual Financial Transaction
UNLV	University of Nevada Las Vegas
UTR	Unusual Transaction Report
VLT	Video Lottery Terminal
VIR	Voluntary Information Report
VVIP	Very, Very Important Person

INTERPRETIVE NOTES

1. There is much discussion and debate respecting the distinction between gaming and gambling. *Wharton's law-lexicon* views the words as synonymous, meaning "the art or practice of playing and following up any game, particularly those of chance".² That is not the modern view. Gaming connotes a certain respectability, by comparison to gambling, which often inspires thoughts of illegal activity. In my view there is yet another nuanced difference in meanings. I simply treat gaming as a noun and gambling as a verb. Accordingly, in this Report I default to using the word 'gaming', except when referring to an individual who is playing or 'gambling' at a casino table or slot machine.
2. Wagering is the contract between one person and another, whereby the first will pay the second if a certain event should occur, in consideration of the second person paying the first person if the event does not occur. The term 'betting' has generally been reserved for horse racing and in more recent times, sports betting. In this Report, I use the words 'bet' and 'wager' interchangeably.
3. The gaming industry has a unique and colourful lexicon all to itself, which has developed over many decades and is now relatively standard within North America. For the benefit of the uninitiated, in this Report I take care to explain some of these unique words and terms.
4. For clarity, I have capitalized reference to this Review, the Report and its Recommendations.

² http://archive.org/stream/cu31924021688555/cu31924021688555_djvu.txt . See also Michael Seelig and Julie Seelig, "Place Your Bets! On Gambling, Government and Society" *Canadian Public Policy*, 24:1 (1998) at p. 93.

EXECUTIVE SUMMARY

5. For many years, certain Lower Mainland casinos unwittingly served as laundromats for the proceeds of organized crime. This represented a collective system failure, which brought the gaming industry into disrepute in the eyes of many British Columbians.
6. The problem grew over time until it outdistanced the ability of existing legislation, process and structure to effectively manage the problem. The combined effect of years of denial, alternate hypotheses and acrimony between entities made for a perfect storm which reached its apex in July 2015.
7. On July 22, 2015, a Royal Canadian Mounted Police (RCMP) officer advised a British Columbia Lottery Corporation (BCLC) investigator that police officers had been looking for a 'minnow' and found a 'whale'. The officer was referring to an ongoing investigation involving a money service bureau, a casino and the proceeds of crime. The BCLC investigator notified his superiors and Gaming Policy and Enforcement Branch (GPEB)'s acting General Manager. GPEB investigators manually prepared an Excel spreadsheet showing the cash buy-ins at one casino for one month and were shocked to learn that \$13.5 million had passed through its cash cages, mostly in \$20 denomination bills, the preferred currency of drug traffickers.³
8. Thanks to the efforts of concerned individuals within government and the spotlight placed on the issue of money laundering in casinos by print and television media, we now know what was taking place over a period of years. In a society which adheres to the Rule of Law, what occurred in our casinos was an affront to that principle. It demonstrated how dirty money was able to track through the economy. A combination of factors; including police involvement, public scrutiny, and the actions of the gaming industry, has dramatically reduced the quantity of suspicious money entering casinos from its high point in 2015. We must ensure, however, that the problem does not resurface in the future.
9. Casino gaming is a legal enterprise in British Columbia, the source of employment for many thousands of British Columbians and a source of entertainment for hundreds of thousands of others. The growth of the industry over the past two decades has been spectacular. Casinos are now destinations for gaming, fine dining, musical shows, and community gatherings. They are an integral part of the Province and a vital industry.
10. The unique governance of gaming in B.C. allows the provincial government to reap huge revenue from casino gambling, making it the largest revenue stream for government outside of taxes. The ability to fund needed government programs, focussed on social

³ The fact that \$20 bills are overwhelmingly the preferred currency of the drug trade is well documented in court cases and reference works. For example, see *R. v. Kandola* (2012) BCSC 968 at paras. 128 and 161.

welfare, education and health out of gaming revenue is a bonus to government, which has over time become a budgetary expectation.

11. Casinos are predominantly cash-based businesses. When you or I visit a casino, we either exchange cash for chips and play table games or we feed coins or bills into slot machines.⁴ The algorithms which underlie each game or slot ensures that the casino will, over time, be the financial winner. Nevertheless, the allure of gaming and the possibility of a big win still motivates us to gamble.
12. Cash based businesses are particularly vulnerable to criminal infiltration. Most crime is motivated by the allure of fast money, usually in the form of cash, which must be repatriated into the mainstream financial system before it can be of use to criminal organizations. Cash based businesses are also vulnerable to the underground economy which seeks to avoid government taxes and, internationally, to circumvent currency controls.
13. Canada outlawed laundering of the proceeds of crime in 1989. The days of criminals walking into mainstream banks with bags of cash ended shortly after the *Criminal Code* amendments came into force.
14. Canada's anti-money laundering strategy involves both prevention and enforcement. Prevention is centred on compliance with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (POCMLTFA)* and its subsidiary regulations. Reports must be forwarded to the Financial Transactions and Reports Analysis Centre of Canada (FinTRAC), Canada's financial intelligence unit, which then analyzes and disseminates material to various agencies. Enforcement is the purview of police.
15. In British Columbia, the conduct and management of gaming is the responsibility of the British Columbia Lottery Corporation, which contracts with service providers to operate casinos. The relationship between BCLC and its Gaming Service Providers (GSP)s is complex and is detailed in an Operational Services Agreement (OSA). BCLC's primary goal is to maximize the revenue which government obtains from gaming.
16. The Gaming Policy and Enforcement Branch is British Columbia's regulator of gaming. It is tasked with ensuring the integrity of gaming. It attempts to fulfill this mandate through the registration of corporations and persons involved in gaming, the certification of gambling supplies, audits, inspections, and the enforcement of regulations.
17. British Columbia's gaming legislation is found in the *Gaming Control Act (GCA)*⁵ When enacted in 2002, the legislation replaced several statutes with the avowed purpose of

⁴ A "slot machine is typically a computer containing a random number generator that determines where the reels will stop [after] each spin and thus game outcomes for that machine are in accordance with programmed game rules" (Robert Kroeker and Jeffrey Simser, *Canadian Anti-Money Laundering Law: Gaming Sector* (Toronto: Thomson Reuters, 2017) at p.5).

⁵ SBC 2002, c. 14, Royal Assent on April 11, 2002.

removing politics from gaming. Over the past two decades, the trajectory of the gaming industry has been extraordinary, while the statute has remained static. The *GCA* does not mention money laundering.

18. FinTRAC requires that entities responsible for the conduct and management of gaming submit transactional reports to it. The curious result in British Columbia is that BCLC, and not the casino operators, is tasked by the federal government with reporting under the money laundering legislation. BCLC has embraced this role and views itself as the gold standard for Anti-Money Laundering (AML) compliance in Canada's casino industry.
19. As early as 2012, some employees within both GPEB and BCLC recognized the reality that small time loan sharking had evolved into large-scale money laundering. After the evidence was clear that unsourced cash, the product of organized crime, was finding its way into casinos, some continued to question its origin. On the heels of a media story in late 2011, the Minister responsible for gaming ordered a review to determine if money laundering was occurring. The report was received early in 2012, answering the question in the affirmative.
20. Both BCLC and GPEB developed AML strategies to address the recommendations of that report. The strategies continued for five years and, although there were other components, the greatest emphasis was on the development of alternatives to cash in casinos. It was a failed strategy for one simple reason. Organized criminals are not looking for cash alternatives. They want to launder cash and we now know that they continued to do precisely that, and with vigour. In more recent years, patrons who made suspicious buy-ins were interviewed and placed on 'cash conditions', which often meant that they must use cash alternatives if they wished to continue gambling.
21. Despite its best intentions, BCLC's journey in the AML world has not been without incident. In 2010, it was subjected to the largest administrative monetary penalty ever levied by FinTRAC. BCLC pointed the finger at FinTRAC and commenced a protracted legal battle with the federal regulator. Through the years which followed, reporting improved but was not without problems. In 2016, the litigation ended in a draw.
22. BCLC has a small AML unit and a larger unit of casino-based investigators. The AML unit does not work evenings or weekends, leaving one senior employee on call to assist casino service providers. BCLC's flagship software system for AML compliance has not met expectations and the AML staff must resort to manual systems to perform analytical functions. It does however operate iTrak, a software system which contains patron information and reports.
23. GPEB employees are frustrated by the lack of tools to regulate BCLC and to carve out a role in the AML landscape. The regulator is constantly being reminded by BCLC that it does not have conduct and manage responsibility, leaving BCLC in the role of pseudo-AML regulator of its own franchisees, the casino operators. GPEB was also frustrated by the reporting structure that existed for many years within the Ministry of Finance.

24. At the pointy end of the stick are the service providers, three large corporate entities which operate the large Lower Mainland casinos. Great Canadian Gaming Corporation (GCGC) is a homegrown B.C. company which is now publicly traded. Gateway Casinos & Entertainment Ltd. (Gateway) and Paragon Gaming (Paragon) have also operated in B.C. for many years and have broad experience in gaming. GCGC and Gateway are also present in Ontario and elsewhere, while Paragon has casinos in Nevada.
25. It is the casino operators who serve as the front line of defence against the infusion of dirty money into casinos. Cage personnel receive cash, and surveillance employees track the movements of gamblers. The casino operators are responsible for completing and forwarding transactional reports to BCLC and GPEB.
26. Service providers are audited by BCLC, FinTRAC, GPEB and their own company auditors. They are subject to a dizzying array of regulations and policies. Most difficult of all, the GSPs must walk the fine line of not offending either their contractor, BCLC, or the regulators, GPEB and FinTRAC, despite often receiving contradictory directives and constantly witnessing the dysfunction which exists between BCLC and GPEB. Equally frustrating to the service providers is the perception that GPEB and, to a lesser degree, BCLC do not sufficiently understand the economics and business of gaming.
27. Large-scale, transnational money laundering has been occurring in our casinos. In the pages which follow there is considerable discussion of the Vancouver Model, an explanation for the advantage which organized crime took of Lower Mainland casinos, as well as other sectors of the economy. There is also considerable discussion of Chinese gamblers and crime. It must be remembered however, that many of the high limit gamblers who used dirty money to feed their gambling activities were dupes. Others were simply attempting to remove their own money from China, in order to make a life for themselves in Canada.
28. We must always remain mindful of the fact that organized crime survives because there is a market for its product. Those who purchase goods and services from organized crime are we, the public. This is not an Asian problem. It is about those who purchase illegal drugs, counterfeit products, and stolen property, as well as those who operate in the underground economy and subvert tax laws. It is our problem, not China's problem.

RECOMMENDATIONS

29. The 48 Recommendations that I make in this Report are listed below. I recommend:

GAMING IN BRITISH COLUMBIA

- R1 That the GCA be amended to provide for the Recommendations in this Report.
- R2 That the GCA clearly delineate the roles and responsibilities of BCLC and the Regulator.

THE CROWN AGENCY - BCLC

- R3 That BCLC, in conjunction with the Regulator and Service Providers, review the present Source of Funds Declaration on at least an annual basis to determine if refinements are required.
- R4 That BCLC re-enforce the importance of Service Providers not accepting cash or other reportable instruments if they are not satisfied with a source of funds declaration.

FEDERAL REPORTING

- R5 That the Service Providers be responsible for completing all necessary reports to FinTRAC, including STRs.
- R6 That discussions with FinTRAC take place with the purpose of designating the Service Providers as direct reports to FinTRAC, failing which that reports from Service Providers be sent in an unaltered form to FinTRAC by BCLC.
- R7 That BCLC provide Corporate STRs if its files contain relevant information not contained within an STR from a Service Provider.
- R8 That Service Providers develop the necessary capacity to assess risk and perform due diligence on suspicious transactions.
- R9 That the service providers copy STRs to BCLC, the regulator (and the DPU), and the RCMP.
- R10 That the Regulator / DPU be provided with access to iTRAK in its offices.

PROVINCIAL REPORTING

- R11 That UFT and SCT reports be eliminated.
- R12 That a Transaction Analysis Team be developed to review all STRs and that the team be composed of a representative of the Regulator / DPU, JIGIT, and BCLC.
- R13 That the Transaction Analysis Team meet on at least a weekly basis to review all STRs and develop strategies to deal with each.

JOINT INTEGRATED GAMING INVESTIGATION TEAM

- R14 That JIGIT be provided continuing support with respect to its investigative mandates.
- R15 That the Province consider transitioning JIGIT to a permanent, fenced funding model within the RCMP's provincial budget.

BCLC GOES UNDERCOVER

- R16 That BCLC not engage in further undercover operations, except in conjunction with the Regulator and, or the police.

SOFTWARE DEBACLE

- R17 That no further expense be incurred by BCLC with respect to the SAS AML software system.

VERY IMPORTANT PATRONS

- R18 That BCLC ensure that VIP hosts do not handle cash or chips.
- R19 That persons working in VIP rooms be provided with an independent avenue to report incidents of inappropriate conduct by patrons.

CASH ALTERNATIVES AND CASH LIMITS

- R20 That cash alternatives become the responsibility of the Service Providers, subject to their compliance with overarching standards.
- R21 That cash limits not be imposed on buy-ins.
- R22 That PGF accounts be eliminated once responsibility for cash alternatives has transitioned to the service providers.

CHIPS GO WALKING

- R23 That BCLC implement a chip tracking system for Service Providers.

STANDARDS-BASED INDUSTRY

- R24 That the casino industry transition to a standards-based model.
- R25 That the foundational standards of the standards-based model be developed by a cross-sector of industry and government, building upon the Ontario Standards, and that they be periodically reviewed and renewed.
- R26 That the CEO / Registrar of the Regulator be the keeper of the standards.

A NEW REGULATOR

- R27 That British Columbia transition to an independent regulator in the form of a Service Delivery Crown Corporation, with a Board of Directors and a CEO / Registrar.

- R28 That the Board of Directors of the Regulator be a governance board and not be responsible for appeals from decisions of the Registrar.
- R29 That regulatory investigators continue to be Special Provincial Constables.
- R30 That anti-money laundering be a responsibility of the Regulator and that it institute mandatory training for front line gaming personnel, including VIP hosts, with consideration of a Play Right program.
- R31 That the Regulator also be the regulator of BCLC and that the BCLC Board, officers and employees be subject to registration.
- R32 That the Regulator provide a 24/7 presence in the major Lower Mainland casinos, until a designated policing unit is in place.
- R33 That appeals from decisions of the Registrar be sent to an administrative tribunal constituted for this purpose, or already in existence.
- R34 That funding of the Regulator continue to be from gaming revenue.
- R35 That the Regulator have dedicated in-house counsel.
- R36 That investigators hired by the Regulator meet core competencies.

GAMING POLICE

- R37 That a Designated Policing Unit [police force] be created to specialize in criminal and regulatory investigations arising from the legal gaming industry, with an emphasis on Lower Mainland casinos.
- R38 That the DPU be an integral part of the Regulator.
- R39 That the DPU not be responsible for investigating illegal gaming outside casinos.
- R40 That the DPU contain an Intelligence Unit.
- R41 That the duties of the OPP Casino Bureau and the Nevada GCB Enforcement Division be reviewed in order to determine an appropriate role for the DPU.
- R42 That anti-money laundering be a specific responsibility of the DPU.
- R43 That funding of the DPU be from gaming revenue.
- R44 That the Provincial prosecution service ensure that it has prosecution counsel familiar with gaming law.

VULNERABLE SECTORS

- R45 That the Province undertake research into allegations of organized crime penetration of the real estate industry.
- R46 That the Province consider a licencing and recording regime for MSBs, similar to the *Metal Dealers Recycling Act*.
- R47 That the Province consider researching the vulnerability of the luxury car sector and the horse racing sector to organized crime.
- R48 That the Province continue to encourage the federal government to amend the *POCMLTFA* to broaden the entities subject to reporting, specifically luxury goods of interest to organized crime.

PART I

THE INDEPENDENT REVIEW

CHAPTER 1

A BRIEF OVERVIEW

INTRODUCTION

30. On September 28, 2017, I was appointed by the Attorney General of British Columbia (AGBC), David Eby, to undertake an independent review of allegations of money laundering in Lower Mainland casinos.
31. The product is this Report, setting out Recommendations for the AGBC's consideration and, where he deems appropriate, action.
32. I begin with three preliminary comments.
33. First, the gaming industry is an important sector of the B.C. economy. It provides approximately 37,000 jobs for British Columbians, is the source of entertainment for many tens of thousands more and generates huge revenue for the Province. It is a legal industry, operated at all levels by dedicated professionals, the vast majority of whom are committed to fair play, clean entertainment, and removing the criminal element from the industry.
34. Second, virtually every jurisdiction in the world that permits gaming has undergone growth pains of one sort or other. Gaming is a massive, world-wide industry and B.C.'s involvement is still relatively pubescent, despite its size and return on investment. This fact is reflected most clearly in the structure and process of regulation and compliance, which are the focus of this report. Despite the sophistication of gaming systems, without an overlay of regulation and compliance which is effective and not unduly burdensome, cracks will appear in the fabric of the industry. Such is the case in British Columbia.
35. Third, it is important at the outset to note what this Review and Report are about, and what they are not about. I do not apportion blame on any person. I was asked to 'review' and not to 'investigate' allegations of money laundering. This is a critical distinction. I made it abundantly clear to law enforcement and other officials that I was not investigating specific incidents, nor did I wish to obtain the details of ongoing investigations or prosecutions, except to the extent that they contribute to the discussion of systemic problems in process and structure.
36. The mandate of this Review, as well as its independence, scope and methodology, are described in the next chapter. We reviewed a mass of data, policies, procedures, reports, websites and academic literature. We met with over 150 persons, most of whom are listed in Appendix "A". Some of these individuals were contacted because their organizations are listed in the Terms of Reference. Others reached out directly, or to the Attorney General's Ministry and were referred to me. We spoke to everyone who asked. We also reached out

to numerous persons and organizations that we felt could assist. I visited with gaming officials in Toronto and Las Vegas.

37. In preparing this Report, I have attempted to be as comprehensive in my approach to the issue as possible, recognizing always the importance of remaining strategic and not becoming mired down by specific incidents or details, unless they were relevant to the bigger picture. I also do not wish to imply that the practices in one casino are necessarily replicated in all casinos, or by all GSPs.
38. In addition to the substantive issues explored in this Review, cultural issues play a prominent role in the relationships between the various organizations. These are not always easy to parse, however they are of critical importance. The culture of co-operation that I witnessed in Ontario between Ontario Lottery and Gaming Corporation (OLG) and the Alcohol and Gaming Commission of Ontario (AGCO) does not currently exist in British Columbia between BCLC and GPEB.
39. The premise of this Report is that there should be no money laundering in Lower Mainland casinos. This is no different from the larger public safety goals of a community. The elimination of crime is the goal and must be the intention of public safety agencies, even if it is not necessarily attainable, unless of course you shutter the doors of a casino, or refuse to leave your home in order to prevent a burglary.
40. We cannot therefore resort to absolutes as they are likely not attainable. There will be a balancing, but that balance occurs with respect to the finite resources of government, which must apportion scarce resources among education, health, public safety, and so many other societal needs.
41. Several themes emerge from the Recommendations in this Report. First, they are intended to be comprehensive and cover the topics in the mandate. Second, they seek to achieve the balance referred to above. Third, many of the Recommendations will require greater amplification at the time of implementation. I have attempted to not be unduly prescriptive. Fourth, the process of improvement regarding the structure and processes discussed in this Report must be ongoing. Although this Report seeks to address issues that will arise in the future, today is but a moment in time and all industries, including gaming, can be expected to change dramatically in the future. Hopefully however, the re-structuring contemplated in these Recommendations will afford decision makers with a better framework to address future challenges.
42. I would be remiss if I did not commend those who have attempted to effect change within B.C.'s gaming industry, through their individual and, or collective action. As noted in the Report, some individuals 'fought the good fight' for years, hoping to effect change.
43. It should be noted that the AGBC did not have to appoint an independent reviewer. He could have moved ahead with reforms in the absence of this Report. The fact that he did request a review provides him with another perspective on the issues, and

recommendations which are both practical and responsive. Seeking recommendations from an independent reviewer can, however, complicate matters for a policy maker. I fervently hope that will not be the case.

44. The real work remains to be done. The value of this Report will only be known after some, or all the Recommendations are implemented. I am confident that all stakeholders will band together to assist with this change process. To do so is of fundamental importance for this very important industry and will contribute to the restoration of public trust and confidence in our gaming institutions.

CHAPTER 2

MANDATE, INDEPENDENCE, SCOPE AND METHODOLOGY

MANDATE

45. On September 28, 2017, the AGBC announced the appointment of an independent review of money laundering in Lower Mainland casinos. The Terms of Reference (TOR) for this Review were as follows:

BACKGROUND

Gambling in British Columbia is a source of entertainment for adults, a revenue driver for the province, and an attraction for tourists.

However, unregulated or under-regulated gambling or inadequate compliance can lead to problems with organized crime, fraud, violence and addiction.

These are problems that no community wants to, or should have to, deal with.

The support of British Columbians for the gaming industry in the province is dependent on government regulating this industry adequately and responding to issues promptly as they arise.

BC has a proud history of an exceptionally well managed gaming industry.

ISSUE

On assuming responsibility for provincial gaming, BC's Attorney General was provided with briefings from law enforcement and BC's gambling regulator, the Gaming Policy Enforcement Branch and has now requested the appointment of an independent, expert advisor on the issue of money laundering and organized crime.

TERMS OF REFERENCE

The Minister requires an independent expert to inquire into whether there is an unaddressed, or inadequately addressed, issue of money laundering in Lower Mainland casinos, and if there is, the nature and extent of this issue, and the history of the issue.

If an issue is identified, the Minister requires advice on:

1. What connection, if any, the issue has with other areas of the BC economy, laws or policies that require government, law enforcement, statutory or regulatory attention;
2. What connection, if any, the issue has with other crimes; and
3. What steps within existing laws, or what new laws, are required to address the issue.

In order to complete this review, the independent expert may meet with any individual or organization that will assist in addressing the areas of review, but must meet at a minimum with the following groups:

1. The Gaming Policy and Enforcement Branch;
2. The BC Lottery Corporation;
3. The Combined Forces Special Enforcement Unit British Columbia Joint Illegal Gaming Investigation Team;
4. Service Providers of any facilities identified during the review; and
5. Where possible, employee organizations at identified facilities.”

46. The TOR requested a final report prior to March 31, 2018, with a request that any earlier recommendations be brought to the attention of the AGBC.

47. The rationale for this Review was contained in a press release. The announcement read, in part:⁶

“VICTORIA - Attorney General David Eby has appointed 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.

"We're going to make sure the gaming policies and procedures that protect the interests of British Columbians are in place and are being followed," Eby said. "There are concerns about money laundering that have been growing for years – our government is taking action to deal with them quickly and thoroughly."

Eby has asked lawyer Peter German, a former deputy commissioner of both the RCMP and Correctional Service Canada, and the author of Canada's leading anti-

⁶ 2017AG0025-001642.

money laundering law textbook, to conduct an independent review and make recommendations, if necessary, for reform.

Last week, the Government of B.C. released a 2016 report completed by MNP LLP that looked at practices related to suspicious cash transactions at a single B.C. casino. That report, commissioned by the former government but never publicly released, made a series of recommendations to reform provincial policies and practices.

"I believe that if we have the right policies and procedures in place, we can address any concerns the public may have about gambling in B.C.," said Eby. "We have the full support of operators in the sector, as well as BCLC and the Gaming Policy and Enforcement Branch for this review."

Eby has asked German to determine whether there is an unaddressed, or inadequately addressed, issue of money laundering in Lower Mainland casinos, and the history, nature and extent of any issues he identifies.

As part of the review, German will meet with government's Gaming Policy and Enforcement Branch, the B.C. Lottery Corporation, the Joint Illegal Gaming Investigation Team within British Columbia's Combined Forces Special Enforcement Unit, casino service providers, and employee organizations at any identified facilities, as well as with any other parties who may assist.

German has also been asked [to] provide advice to Eby about connections between any identified issues and other areas of the economy, or provincial laws or policies that may require attention as a result of information he gathers.

The review will be complete by the end of March 2018. German has been asked to make recommendations to government as they are identified, rather than waiting for a final report, so that any necessary changes may be implemented in a timely way."

48. The TOR were amended, by agreement, on October 7, 2017. The amendments included minor grammatical changes, the addition of FinTRAC in item 4, and renumbering the list.
49. The TOR were also expanded by means of a request from the Attorney General that I enquire into a BCLC computer system utilized for AML analysis. In response to Postmedia's questions about BCLC's delayed implementation of the system, the Ministry of Attorney-General stated: "Upon request from the Attorney-General, Dr. Peter German is investigating Statistical Analysis Software as part of his independent and thorough review of British Columbia's anti-money-laundering policies and practices in relation to B.C. casinos."

50. The questions posed in the TOR require an understanding of the respective roles and responsibilities of GPEB, BCLC, FinTRAC and the police. The issues are not simple and are burdened by history.
51. In this Report, I have attempted to answer the foregoing and to provide recommendations for future action. During this assignment, I was provided with unique access to government documents without the need for compulsory measures.

INDEPENDENCE

52. By his statements and actions, the AGBC made it clear that my Review was to be independent of both politics and the bureaucracy. The goal was to produce a report, setting out recommendations that can be used as a blueprint in dealing with the serious issue under examination. I elaborate on independence in Chapter 2.
53. This Review was conducted at arm's length from all other parties. I sub-contracted with Mr. Jerome Malysh, a forensic accountant and former police investigator, to assist me. I also sought assistance from other specialists with respect to specific issues which arose during the Review.

THE BIG PICTURE

54. In its simplest form, public gaming is entertainment. It allows individuals to play games of chance in a safe and fair environment. Gaming regulation is intended to provide a legal framework for the operation of casinos and other venues. Excessive or unnecessary regulation can negatively impact on the entertainment value of gaming. It can also stifle innovation within the industry.
55. It is not uncommon for regulatory frameworks to lag behind an industry as it expands into new markets. It is also not practical to expect that legislation can be amended in real time. In fact, frequent change can lead to a lack of certainty that would be counterproductive. Instead, statutes and regulations must be drafted in the first instance with sufficient flexibility for them to remain relevant as the subject matter develops.
56. To be effective, legislation must also have clarity, in order that it can be operationalized by those who are tasked with compliance. It is important that there be general acceptance among the regulators and the regulated that the rules are reasonable, allow the parties to work together with a minimum of legal challenges, resolve disagreements over interpretation, and ensure compliance. Regulations should be fair, secure, auditable, and protect the public. Regulation is different from control, as it provides the minimum expectation necessary to achieve the desired objective.
57. In the world of gaming, it is ultimately about the money. Gamblers may love to play the game, but they enjoy winning even more. For their hosts, the service providers, the goal is to maximize profits and the return on investment. For government, it is to ensure that there

is a public benefit from gaming. Pressure to increase returns will often result in a corresponding pressure to decrease what may be viewed as regulatory impediments to growth and innovation. To counteract this, it is most important that governments ensure that their regulatory frameworks are nimble and efficient, and that duplication is minimized.

58. The explosion of social media has radically changed how we live and work. It has provided great opportunities for business and commerce, but it has also rendered many traditional forms of employment redundant. Terrestrial gambling, a term used to describe land-based gaming in brick and mortar facilities, has been revolutionized by eGaming. To remain viable, public gaming has had to adapt and offer services in both terrestrial and cyber modes. BCLC has led the way in Canada.
59. Internationally, the move to eGaming has caused many artificial borders to collapse in the gaming world and has also changed the dominant structure of gaming in many countries. Increasingly, European nations are reducing their stake in gaming facilities, in favour of taxing private service providers, in a similar fashion to other sectors of the economy. This move away from state monopolies is most stark in Denmark, Sweden, Norway, and The Netherlands.
60. The largest emerging markets for gaming are in Asia. At present, both Macao and Singapore have larger casinos than Las Vegas, the traditional mecca of gambling. VIP junkets populate the casinos of Macao with players from Mainland China. Singapore's two casinos are well regulated, with an independent board reporting to a minister. The board has an appropriate legal framework and a strong relationship with law enforcement.
61. The State of Nevada is, of course, the best-known centre for public gaming in North America. The mob provided the original lifeblood to the industry and to the city of Las Vegas. Until very recently its model was terrestrial and heavily influenced structurally by the State's efforts in the past century to remove organized crime from the industry.
62. The emergence of mega, corporate casinos on the Las Vegas strip outside center town, spelled the end of mob control. Combined with the evolution of the industry, Nevada created a part-time Gambling Commission with strong, non-reviewable powers to decide who could and who could not participate in the business. A Gaming Control Board acts as the compliance and enforcement wing of the Commission. There has never been a state monopoly, or equivalent to BCLC, in Nevada. The state extracts its benefit directly from casino operators, in the form of taxes. This is referred to as the 'tax and regulate' model.

SCOPE OF THE REVIEW

63. This Review is by its nature forward looking, designed to make improvements to the policies, procedures and practices within the casino industry in British Columbia. It is not concerned with the conduct of specific individuals, nor is it concerned with specific incidents except where they are examples of a broader pattern of behaviour. Similarly, this

Review does not consider cases under investigation by the police or which are before the criminal courts. The Review makes no factual findings and reaches no conclusions about any issue of criminal, civil or disciplinary liability. Nothing in this Report should influence or is intended to influence the outcome of any court process or other adjudicative proceeding.

METHODOLOGY

64. The work of this Review was undertaken over the course of six months, from October 1, 2017, until March 31, 2018.
65. Due to the timeframe for the Review and the need for me to personally review all the information gathered and to develop Recommendations, I decided against assembling a team, as one would in many reviews or investigations. Instead, I reached out to a former colleague with a strong investigative and accounting background and knowledge of the casino industry, to assist me. I also obtained the assistance of other specialists for discreet areas of the Review.
66. As part of the Review, I was authorized to engage in, and did conduct, the following activities:
 1. met with stakeholder groups and individuals;
 2. examined BCLC and GPEB policies and correspondence;
 3. attended and met with operational personnel at BCLC and GPEB;
 4. conduct research;
 5. make Recommendations based on the work performed and the information obtained; and
 6. perform such other work as may reasonably be incidental to the independent Review.
67. The work involved the following principal components.
 1. Interviews
68. During the Review, numerous individuals were interviewed, some more than once. The interviews were conducted on a confidential basis between the individuals and the Review team. Many persons interviewed were told that the information they provided to the Review would not be attributed to them and would not otherwise be shared in a way that could identify them. The goal was to encourage candour in discussing these difficult issues. The interviewees were not asked to swear or affirm to the truth and interviews were not recorded.

69. The interviews varied in length from a few minutes to many hours. Most were conducted with one interview subject, although multiple persons were occasionally interviewed at the same time. All were conducted in a semi-structured manner, utilizing open-ended questions designed to elicit fulsome accounts of the interviewee's involvement.
70. Over 150 persons were met and, or interviewed during this Review, most of whom are listed in Appendix A. Interviews took place in person at our office or at the interviewee's place of business; by teleconference or videoconference; and at various locations that I visited during the Review. In addition, I exchanged e-mail correspondence with several individuals and received solicited and unsolicited submissions from others.
71. I arrived at all the Recommendations in this Report independently.

2. Document and Literature Review

72. Copious hard copy and electronic documents were reviewed. In addition, public sources were reviewed for website postings, policies, procedures, academic literature and reports.
73. A selected bibliography is found at the end of this Report.

3. Casino site visits

74. Site visits were conducted at the five large casinos in the Lower Mainland. This included visits to the VIP or High Limit (HL) rooms at River Rock and Parq casinos and to the surveillance facilities at River Rock, the Grand Villa and the Parq.

4. Ontario and Nevada visits

75. In Toronto, meetings were held with the CEOs of both the Ontario Lottery and Gaming Corporation and the Alcohol and Gaming Commission of Ontario. They were most gracious with their time and arranged meetings with certain executives and staff.
76. In Las Vegas, I met with the Director of the International Centre for Gaming Regulation (ICGR) at the University of Nevada Las Vegas (UNLV), Andre Wilsenach, a world expert on gaming systems. I also attended a meeting of the Nevada Gaming Commission, met with members of the Nevada Gaming Board, and visited with the head of compliance for Wynn casino and with executives and back office staff at the Westgate casino.

CHAPTER TOPICS

77. The chapters in this Report are grouped into Parts. I begin by setting the stage in terms of crime, law and the entities that are relevant to casino gaming. The discussion progresses to an in-depth review of what has occurred in the past decade, as well as various problem areas. It then examines how best to respond to the current situation which faces casino gaming and considers wider impacts on the economy. Lastly, I focus on implementation of the Recommendations. Below is an overview of each Part.

78. Part I is introductory. It provides an overview of the Review and this Report, leading into a more detailed discussion of the mandate, scope and methodology utilized, recognizing the overarching independence of the Review.
79. Part 2 overviews the phenomenon of transnational organized crime and the unique position in which Vancouver finds itself. It describes the 'Vancouver Model', which provides a very practical framework for what has occurred in recent years. A primer is included on money laundering. It explains the basics of this form of criminal activity. The Part ends with an overview of the role and jeopardy of loan sharks in the casino industry.
80. Part 3 introduces the law of gaming as it developed and currently exists in Canada and then describes how the law has been interpreted and applied in B.C. It is quite important to understand certain overarching themes which create the framework in which gaming has developed as an industry.
81. Part 4 overviews the entities which are discussed throughout this Report, beginning with the Crown Corporation that has conduct and management of gaming, followed by the casino operators who contract with it, and the provincial and federal regulators. It finishes with an overview of policing in B.C.
82. Part 5 provides an overview of the reports which must be filed by casino operators and by BCLC to regulators. This is not as easy to explain as one might expect due to an abundance of reports and incongruent processes.
83. Part 6 tells the tale of the last decade in terms of loan sharking and money laundering in Lower Mainland casinos, from the perspective of the actions of the various entities overviewed in Part 4. It is a complex story which reviews the efforts of government and bureaucracy to come to terms with a problem, without any real consensus on its root cause. The Part then discusses the MNP Report which was released just prior to this Review being announced and ends with a police perspective on what has been occurring.
84. Part 7 considers specific problem areas that have been identified and have a bearing on the subject matter of this Review. They include the somewhat acrimonious relationship between BCLC and GPEB, specific actions by BCLC, technical challenges, the issue of high limit or VIP gamblers, alternatives to cash, and casino chip walking.
85. Part 8 looks at the structure of gaming in both Ontario and Nevada, which can help inform our search for solutions. It then progresses to a discussion of a standards-based approach to dealing with many of the issues raised in this Review, followed by chapters on the need for a newly constituted regulator and a dedicated police service.
86. Part 9 considers the impact of criminal activity in casinos on other sectors of the economy. It concentrates on areas of vulnerability based on the framework of the Vancouver Model.

87. Part 10 examines what has occurred within B.C.'s casino industry since this Review was announced in September and concludes on the important topic of implementation of the Recommendations in this Report.
88. Appendices complete the Report.

PART 2

CRIME AND GAMING

CHAPTER 3

TRANSNATIONAL ORGANIZED CRIME

ORGANIZED CRIME

- 89. Organized crime is not unique to one country, one race, one ethnicity, or even one continent. It is a world-wide phenomenon which, thanks to current technology and transportation systems, can operate internationally with relative ease. Organized crime knows no allegiance to the Rule of Law. It is amorphous and increasingly not commodity specific.
- 90. Organized crime is about making money and using money for the benefit of the organization and its members. It will develop allegiances wherever necessary to further this goal. These can be with politicians, the bureaucracy, revolutionary groups, terror networks, other organized crime groups, and ordinary citizens of a country who desire a quick buck. Organized crime feeds off poverty and despair. It uses people as instruments of crime, whether to procure, transport, or sell illegal substances.

TRANSNATIONAL ORGANIZED CRIME

- 91. When organized crime crosses international borders it is referred to as transnational organized crime. The very fact that it is international in scope requires a degree of sophistication which may not be required with domestic organized crime. It also becomes infinitely more difficult for law enforcement to track. Furthermore, criminal law is country specific which means that transnational organized crime is only prosecuted if an offence is committed against a nation's domestic laws.
- 92. Transnational organized crime syndicates are flexible and will continue to form and reform, while the response by government typically operates with much less flexibility. Some forms of organized crime are quite complex however complexity can also lead to managerial difficulties for the syndicates and is not necessarily the preferred option. The ideal criminal enterprise is one which produces high value for low risk.
- 93. Transnational organized crime groups are not only a criminal threat but may also be a destabilizing force in the countries where they transact business. The threat level increases exponentially if the organized crime group or syndicate is linked to a terrorist group or is carrying out its activities at the behest of a rogue regime.
- 94. There are no international agencies dedicated to monitoring transnational organized crime. Other than Interpol, which is principally a clearing house for warrants and intelligence; and regional groups such as Europol, transnational organized crime is monitored by a potpourri of police and military intelligence agencies.

ASIAN ORGANIZED CRIME

95. Asian organized crime is characterized by global linkages; the fluid and ever-changing nature of its operations; its sophistication, including a high degree of coordination, planning, technical knowledge, and business acumen; the global mobility of its members; and the financial strength of organizations which can cross with ease between legal and illegal markets.⁷ The infiltration of organized crime in overseas diasporas allows these syndicates to rapidly move into new markets and exploit vulnerabilities.
96. Japanese, Taiwanese, and Vietnamese organized crime has appeared on the west coast of Canada at one time or another, along with Latin American and home grown Canadian organized crime. Of greatest interest to this Review however, is organized crime which emanates from Mainland China. Unfortunately, there is very little publicly available intelligence in Canada on Chinese organized crime. Much of what does exist is case specific or emanates from international sources.
97. Chinese organized crime groups function like multi-national corporations, using the transport and business networks of southern China, Hong Kong and Macau to trade commodities such as methamphetamines, precursor chemicals, counterfeit goods and illegal migrants for cash and commodities.
98. Chinese organized crime has spread its tentacles much further, however. Regional 'hub and spoke' operations have been identified in Italy and Spain, where affiliations are made with local organized crime to facilitate the flow of commodities from China, with the profits being transferred back home, or elsewhere via banks and money transfer services. Closer to home, the Philippines has recently experienced the involvement of Chinese criminal groups in its banking sector and in the illegal drug industry. The Philippines are also vying to overtake both Macau and Singapore as the premier Asian gaming destination, including for Chinese high rollers and gambling junkets.

SOUTHERN CHINA

99. Pivotal to any discussion of Chinese organized crime are three geographic entities: Guangdong Province, Hong Kong and Macau.
100. Guangdong Province is the great southern province of China and home to over 110 million people. It is a province with a population greater than most countries and almost three times the population of Canada. It has evolved in recent years from an agrarian society to a bustling, urban environment, on the cusp of emerging as a technological powerhouse. It has a world class global logistics network, the huge seaports of Guangzhou and Shenzhen, a skilled workforce, as well as millions of unskilled migrant workers. Its future is in the high-tech sector, where it promises to be a Silicon Valley of the East.

⁷ Mahlmann, Ning-Ning, *Chinese Criminal Enterprises*, (Washington, FBI, 2005). See <https://filmpiracy.wikispaces.com/Chinese+Criminal+Enterprises,+Ning-Ning+Mahlmann,+PhD,+FBI>

101. Persons familiar with the early days of gambling in Vancouver speak of the Chinese Triads and Tongs which had a foothold in the industry particularly with respect to providing money to avid gamblers. It has been reported that the principal Triads are all represented in Vancouver. Attempting to align criminal activity to a specific Triad is difficult, however. A modern view is to look at Asian-based organized crime much as we do organized crime elsewhere. It is about alliances focussed on generating money.
102. Guangdong has two unique windows on the world, with the former city states of Hong Kong and Macau acting as bookends to its external thrust. Positioned where the delta of the mighty Pearl River meets the Pacific Ocean, it is not surprising that Hong Kong and Macau were key strongholds for the British and Portuguese Empires. In a very physical sense, they guarded the entrance and exit to the riches of China. Both cities continue to do so today, but in a very different and modern sense. Hong Kong, returned to China in 1997, and Macau, returned in 1999, have continued to provide Mainland China with a unique window on the world. Both are now Special Administrative Units.
103. From an economic perspective, Guangdong, Hong Kong and Macau perform very different functions. Expats from these regions live around the world, including in Greater Vancouver. Migration abroad has traditionally come from southern China, although migrants are now also coming from Fujian Province, and from further inland and north in China.
104. The great majority of the residents from these provinces and cities are industrious people, who abide by the law and love their families. Like every society, however, there is a shadow world and that is the world of interest to us.
105. With its strong infrastructure, Guangdong is a supplier of commodities to the world. Included among these commodities are illegal substances. In addition to drugs and counterfeit goods (cigarettes, medicines, military parts, etc.), Guangdong is known for illegal gaming syndicates, the ivory and wildlife trade, boiler room scams, and more. It also serves as a jumping off point for the illegal migration of people destined to work in sweat shops and in prostitution in various parts of the world. Increasingly, however, as Guangdong expands into the high-tech sector, it may also become a hub for cybercrime. Alliances are fluid and transcend both the legal and illegal economies.
106. The threat posed by organized crime in Guangdong Province is facilitated through the banking and economic hub of Hong Kong and the casino and money transfer facilities in Macau. Hong Kong is one of the most secretive offshore financial jurisdictions and is a global hub for shell companies used by Asian and other crime gangs.⁸ The anonymity provided by these services makes them ideal for transnational organized crime. Hong Kong and Mainland Chinese banks were reportedly involved in the Russian Laundromat, which removed between US\$20 and \$80 billion from Russia between 2010 and 2014.

⁸ "Hong Kong: China's premier secrecy jurisdiction" Tax Justice Network, Dec. 30, 2013 at <http://taxjustice.blogspot.ca/2013/12/hong-kong-chinas-premier-secrecy.html>

107. Both Hong Kong and Macau are offshore banking and finance centres. Bankers, lawyers, accountants, money service bureaus and other businesses in Hong Kong and, to a lesser extent Macau, facilitate much of the international transfer of goods in Asia. It is also the intersection of international organized crime groups from Latin America, Europe, North America, and elsewhere.
108. The Venetian Macau casino in Macau is the largest in the world. The casinos of old and new Macau are almost carbon copies of their American cousins and continue to expand. There is a strong underground economy in Macau, known to facilitate crime, vice, money laundering and capital flight.

CHINA'S CURRENCY CONTROLS

109. It has been widely reported that the People's Republic of China (PRC) imposes restrictions on the amount of currency which can leave that country. These restrictions are published by the State Administration of Foreign Exchanges (SAFE) and are placed on its website.⁹
110. China is by no means the only country that places outgoing restrictions on its currency. For many years, India has restricted the movement of its rupee. There are good reasons why a nation may not wish its currency to leave the country. Currency is a debt to the central bank and, when outside a country, is also outside its control.
111. In recent months, media reports suggest that the Chinese government is placing greater emphasis on enforcing its currency controls. In fact, there have been two major policy adjustments in the recent past.
112. The limit of US\$ 50,000 on the amount of cash a Chinese citizen can transfer or remove from China to Hong Kong, Macau, Taiwan, or any foreign destination, remains in effect. Prior to 2017, however, it was not uncommon for individuals to remove larger amounts of currency by pooling the quotas for relatives, friends, and even employees. SAFE now prohibits anyone from transferring money on behalf of someone else. In addition, since the beginning of 2017, Chinese banks are required to report any cash transaction of Renminbi (RMB)¹⁰ into foreign currency, if the amount equals or exceeds RMB 50,000 (US\$ 10,000).
113. Beginning on January 1, 2018, anyone using Mainland Chinese "bank cards" to withdraw cash outside the Mainland is subject to a limit of RMB 100,000, or the equivalent in foreign currency, per year.
114. As an aside, it has been suggested that the Chinese people do not trust banks, preferring to buy goods and services with cash.¹¹ It may still be a widely held belief in peasant communities, however today modern China is as sophisticated, or more so than Western nations in terms of its financial systems. In fact, China appears to have leaped from a cash-

⁹ <http://www.safe.gov.cn/wps/portal/english/Home>

¹⁰ The People's Money, formerly referred to as the Yuan.

¹¹ This is not unlike the Western belief that gold is the only truly safe investment.

based society to a financial system based on electronic transfers in a matter of two decades, bypassing other forms of negotiable instruments with which Canadians are very familiar; such as cheques. The enormous growth of UnionPay, a Chinese financial payment system which now outstrips Visa and Master Card in terms of total debit and credit transactions, has allowed this leap to occur.

115. The intent of the new currency policies is to slow the rapid outflow of cash from Mainland China. However, many workarounds still exist, oftentimes involving Chinese companies doing business overseas. The methods used to evade currency controls are many and oftentimes imaginative. Some involve an ancient form of banking, which has adapted to the present.

UNDERGROUND BANKING

116. Underground banking systems, or informal money transfer systems, are unlicensed operations which rely on political, geographic, family, or close personal relationships, in order to conduct business. Their clientele tends to be from a specific ethnic group. The U.K., Canada, and the U.S. all possess underground bankers who perform unregulated banking transactions between countries, often seeking to avoid currency import or export restrictions. Also referred to as alternate remittance (or value) systems, some of the best known are the hawala (India), hundi (Pakistan), and the chit and chop (China).¹² In many cases, underground bankers exist due to a mistrust among the populace for mainstream financial institutions. Still others are the product of long standing and strong social and cultural factors.¹³
117. The irony of underground banking is that in some countries, underground banking is practiced quite openly. Many developing world countries, which do not have established banking systems, are heavily reliant on them. War ravaged countries are particularly dependant. In some places, international aid organizations use these bankers to pay employees and to transmit funds.¹⁴ However, some underground bankers also transmit the proceeds of corruption and bribery. Therein lies the problem.
118. In the early 1990's, underground banking was virtually unheard of in Greater Vancouver. Although certain ethnic groups had relied on informal banking networks to transfer money, often within families, it was relatively benign and did not reach the attention of law enforcement until the U.S. Drug Enforcement Agency alerted the RCMP to an underground bank of concern. At the time, Canada did not have a financial intelligence unit (FIU),

¹² See Leonides Buencamino and Sergei Gorbunov, *Informal Money Transfer Systems: Opportunities and Challenges for Development Finance*, DESA Discussion Paper No. 26, Nov. 2002 at <http://www.un.org/esa/esa02dp26.pdf>

¹³ Barry A.K. Rider, "Recovering the proceeds of corruption", *Journal of Money Laundering Control*, V10:1 at 18-20.

¹⁴ Afghanistan lacks a modern banking system, and therefore is unable to curb money laundering through normal means. In partnership with the U.S., the Afghan government registered hawala brokers, who in turn are expected to report all transactions to the central bank and permit audits ("Restricting cash flow to Taliban difficult, U.S. says", *Plus News Pakistan*, September 29, 2009).

however Australia's FIU had detected suspicious transactions originating in Vancouver, transiting and clearing through Hong Kong, and arriving in Australia.

TOC AND VANCOUVER

119. Greater Vancouver's orientation is toward the west and the burgeoning markets of Asia. It is a gateway for commerce, banking, and people wishing to access the North American continent and for Canadian businesses seeking to exploit strong ties of friendship between Canada and many Asian countries. Vancouver has a world-class airport, seaport, and communications and transportation systems. It has large diasporas of Asian immigrants, many of whom arrived after the turnover of Hong Kong to the PRC in 1997.
120. Canada's rich ties with China date back over a century. Vancouver's Chinatown has been and continues to be a fixture in the city. Chinese workers began migrating to Canada soon after Confederation. They performed much of the heavy work that allowed Canada to fulfill its constitutional obligation to British Columbia by creating a trail across the Prairies and through the Rocky Mountains. Other Chinese migrants dug trenches beside Canadian and Allied soldiers in the mucky, bloody European theatre during World War I.
121. What is markedly different today is the change in migration patterns from a largely Cantonese speaking population in Hong Kong to migration from Mainland China, the influx of many other languages and dialects, and the growing plurality of Mandarin speakers.
122. The most lucrative crimes in Vancouver are related to illegal drug sales. The drugs of choice cover the spectrum, from natural products such as cannabis, cocaine and heroin, to chemical creations such as opioids and hallucinogens. The purchasers are everyday residents of Vancouver and are of every ethnicity, cultural heritage and gender.
123. Police sources indicate that large quantities of illicit drug money also transit through Vancouver and are related to Mexican drug cartels, including the Sinaloa and the CJNG. Furthermore, Middle East Organized Crime (MEOC) is believed to have a strong foothold in Vancouver and be working in concert with Mexican cartels.¹⁵ Local crime groups provide transportation and other support services. The involvement of home grown outlaw biker gangs in the illegal drug trade has been documented for decades.
124. Allied to the Mexican and MEOC crime groups are Chinese crime groups, buttressed by huge amounts of money. Their modus operandi is to create partnerships for different illegal enterprises and commodities. In addition, there have been multiple reports of state actors operating in Greater Vancouver.¹⁶

¹⁵ The removal of the visa requirement for Mexican visitors to Canada has been suggested as a cause.

¹⁶ 'Hybrid warfare' is a term used to describe states working in concert with organized crime to achieve its objectives. This can include economic subversion and threat finance, in which a nation state conducts offensive actions through financial vehicles.

'THE VANCOUVER MODEL'

125. Professor John Langdale of Macquarrie University in Australia coined the term, the Vancouver Model, which has resonated in the Vancouver media. In simple terms, it describes how organized crime adopted an old business strategy by “clipping the ticket both ways”, meaning that it will double its share of profits by providing services at both ends of the same transaction. The ‘genius’ of the scheme is the ability to achieve two objectives and be paid for both in the same transaction.¹⁷
126. In the Vancouver Model, Chinese citizens wish to relocate some of their wealth from China to Canada. To do so, they agree to accept cash in Canada from a lender. At that point, a settling of accounts occurs, app to app, between the person making the loan and an underground banker in China. The catch is that the provenance of the cash loaned in Canada is unclear. It generally comes in the form of stacks of \$20 bills, wrapped in a fashion that more closely resembles drug proceeds than it does cash originating at a financial institution. The Chinese individual will then buy-in at a casino with the cash, gamble, and either receive higher denomination bills or a cheque upon leaving the casino. The lender is both servicing a drug trafficking organization by laundering its money, and the Chinese gambler by providing him or her with Canadian cash.
127. Langdale’s research indicates that Vancouver is a hub for Chinese based organized crime. A complex network of criminal alliances has coalesced with underground banks at its centre. Money is laundered from Vancouver into and out of China and to other locations, including Mexico and Colombia. Illegal drug networks in North America are supplied by methamphetamines and precursor chemicals from China and cocaine from Latin America. In addition, “high rollers” from China facilitate the flight of capital from China using Canadian casinos, junket operations and investment in Canadian real estate.
128. Professor Langdale fears that the Vancouver Model may soon find its way to Australia if preventative steps are not taken there. In this regard, Sydney, Australia mirrors Vancouver in many respects. Its real estate is considered among the most desirable in the world; its casinos beckon high rollers; and money transfer companies are commonplace. Like Vancouver, there is also a high local demand for illegal drugs.
129. The Vancouver Model is a classic operation which reflects the opportunistic way that organized crime works. It is always looking for new markets and is mindful of what government is doing in response. Once ‘the heat’ becomes too much in a particular sector, such as casino gaming, it should be no surprise that organized crime will move to another sector or methodology. This may be real estate, luxury goods, counterfeit products, or many other enterprises. The only criteria is that the new landing spot be lucrative, because organized crime is entrepreneurial by nature. It will not go away. As a result, the Vancouver

¹⁷ John Langdale, “Impact of Chinese Transnational Crime on Australia: Intelligence Perspectives”, unpub., Nov. 2017.

Model is a snapshot in time for the casino industry, but it may replicate in other sectors of the economy.

COMMENT

130. We now turn our attention to an essential tool of organized crime and the means by which it sanitizes the illegal proceeds of its crimes.

CHAPTER 4

MONEY LAUNDERING – A PRIMER

MONEY LAUNDERING

131. For all the advantages that technology, transportation, and communications provide, there are disadvantages. Criminal organizations have also embraced these mediums to streamline, expand, and profit on a global basis. In the words of Canada's Minister of Justice, spoken over 40 years ago:¹⁸

“Increasingly we are seeing the effects of criminal organizations operating both from within and without this country that are totally dedicated to the commission of crime for profit. These organizations take advantage of modern communications, transportation and corporate structure to frustrate the reach of national legal systems to amass illicit and illegal wealth.”

132. The phenomenon of money laundering captured headlines throughout Europe and North America during the 1980's. Although integral to many forms of criminal activity, drug trafficking unquestionably raised its international profile. Illegal drug use peaked in the U.S. during the late 1970's and early 1980's. It was variously described as both an epidemic and an emergency. The rise of transnational organized crime groups exacerbated the concerns over drug use.
133. Similar in many ways to legitimate enterprises, criminal organizations are self-sustaining, unaffected by the arrival or departure of individual members. Money has often been described as the “golden thread” which ties syndicates together. With the development of large drug cartels and the trans-border shipment of illegal drugs by all manner of conveyance, the financial proceeds of the drug trade increased exponentially.¹⁹ These proceeds crossed borders with relative impunity, in tangible or electronic form, and often changed appearance many times before reaching a final destination.
134. Just as money is the golden thread, it has also been described as the “Achilles heel” of organized crime. As a result, the so-called ‘War on Drugs’, which blossomed during the Reagan Administration in the U.S., increasingly focused on the profits of crime. The U.K., Canada and many other countries followed suit, joining in what can best be described as a bifurcated attack on drugs and the profits from their sale.

¹⁸ *House of Commons Debates*, September 14, 1987 at p.8888. For a discussion of the emergence of transnational crime and its impact on the criminal law, see *United States of America v. Cotroni*, [1989] 1 S.C.R. 1469.

¹⁹ The word ‘proceeds’ is used in preference to ‘profits’. Although they both convey a similar meaning, the former is broader in scope as it includes monies realized which are reinvested in product – gross versus net.

135. 'Money laundering' or 'money changing' refers generally to the process by which money obtained through illegal activity is introduced to legitimate financial intermediaries, where the source of funds is then obscured by means of more than one further transaction, in the end creating an appearance of legitimacy. The money is often referred to as dirty money, as opposed to black money. Dirty money is the product of criminality, whereas black money is the product of presumed legal activity but is hidden to evade the payment of taxes – the blacking out of income and profits. The launderer seeks to hide the origin of dirty money and the destination of black money. The money being laundered need not be cash, although cash continues to be the most prevalent mode of payment in the world of drug trafficking, as well as for numerous other criminal activities, including extortion, prostitution, and counterfeit products. Professor Stephen Schneider refers to cash as "the universally accepted mode of payment in the underground economy".²⁰
136. Despite its recent notoriety, profit-oriented crime and the laundering of those profits is by no means new. Many have attempted to trace the origins of money laundering, without success.²¹ Professor Barry Rider notes that the "objectives and essential modus operandi" of modern money launderers are no different than those of "the gem carriers of India or the Knights Templar".²²
137. The modern era of money laundering is often associated to the development of the Cosa Nostra during America's Prohibition in the 1920's and 1930's. Meyer Lansky was the mob's banker. In addition to being credited with developing Las Vegas into an international gambling mecca, Lansky pioneered the use of private banking for criminal purposes, laundering assets through onshore and offshore havens, including Swiss and Bahamian banks.²³
138. The *Vienna Convention* of 1988, although focused on the illicit trade in drugs, ventured further than its predecessors²⁴ and examined the proceeds of crime, the challenges posed by attempting to locate, seize, restrain and forfeit them, as well as the need for international co-operation. It recommended that laundering be criminalized.²⁵ Canada complied in 1989.²⁶

²⁰ Stephen Schneider, "The Incorporation and Operation of Criminally Controlled Companies in Canada", *Journal of Money Laundering Control*, V7:2 (2003), p.126.

²¹ John Broome actually links the origins of prostitution to those of money laundering, noting that prostitution was considered a crime and therefore gave rise to proceeds, which had to be hidden (John Broome, *Anti-Money Laundering – International Practice and Policies* (Hong Kong: Thomson, 2005), p.3, ft.1).

²² Barry A.K. Rider, "Law: The War on Terror and Crime and the Offshore Centres: The 'New' Perspective?" in Donato Masciandaro, ed. *Global Financial Crime* (Aldershot, Eng.: Ashgate, 2004) at p.63.

²³ See generally Broome, *Anti-Money Laundering*, *supra*, pp.6-8.

²⁴ *UN Single Convention on Narcotic Drugs*, opened for signature at New York, March 30, 1953, 520 UNTS 151, i/f December 13, 1964, as amended by the Protocol of March 25, 1972, 976 UNTS 3, i/f August 8, 1975; and the *UN Convention on Psychotropic Substances*, opened for signature at Vienna, February 21, 1971, 1019 UNTS 175, i/f August 16, 1976.

²⁵ Article 3.

²⁶ *An Act to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act*, S.C. 1988, c. 51.

STAGES OF MONEY LAUNDERING

139. For definitional purposes, the money laundering process is usually divided into three stages: *placement* of the dirty money in a financial vehicle, *layering* the money by moving it through other vehicles, and *integration* into the legitimate economy. Each stage can manifest itself in many ways.
140. Placement, the 'wash cycle', has traditionally been the most vulnerable stage for money launderers because cash is a bulky commodity in large amounts.²⁷ It generally occurs by making deposits at a bank, or other financial institution. If this process is structured, by using low-level members of criminal organizations to deposit relatively small amounts of money at several institutions, it is referred to as 'smurfing'. Placement may also occur through co-opting an employee of a legitimate financial institution, such as a bank official who permits back door deposits; or by establishing a business for this specific purpose.
141. Companies which handle cash, such as travel agencies, foreign exchange dealers, bars, and restaurants, are ideally suited because they allow for the mixing of illegal money with legitimate income, and also provide employment to members of crime syndicates, affording them an air of legitimacy. Another common method is to smuggle money out of a country, sometimes as commercial cargo, for placement abroad, oftentimes but not always in a country which shrouds its financial institutions with secrecy. Lotteries and casinos offer still other opportunities, with the further benefit of mixing the business of crime with the timeless passion of humans for games of chance. Even whole life insurance presents possibilities. The antithesis of placement is to hoard cash, which tends to be a temporary solution.
142. Layering, the 'spin cycle', includes purchasing precious metals and automobiles; investing in securities (including bearer bonds); wiring money overseas and between offshore jurisdictions; using offshore trusts, or 'brass plate' banks;²⁸ using front or shell companies and other 'pass-through' investments; making private investments or acquiring companies near bankruptcy; trade-based laundering or transfer pricing; purchasing real estate; or purchasing bank drafts, money orders or travellers' cheques. Co-mingling proceeds with legitimate revenue will further obstruct tracing efforts. Intermediaries, including lawyers, wittingly or not, may be used as conduits for many of the foregoing schemes. The intent at this stage is to pass the money through layers of transactions, in an attempt to obfuscate the paper trail.

²⁷ Daniel P. Murphy, *Bank Secrecy in Canada and the Need for a General Search Warrant*, paper presented to the Canada-United States International Money Laundering Conference, Windsor, Ont., May 1-3, 1996, p.1. The weight and volume of cash generated by the sale of a kilo of cocaine is greater than that of the drug itself. Malarek notes that a suitcase containing \$1 million in \$20 bills weighs fifty kilograms, a fact not lost on large drug cartels, which reportedly weigh rather than count their proceeds (Victor Malarek, *Merchants of Misery* (Toronto: Macmillan of Canada, 1989 at p.162).

²⁸ Banks with little or no physical presence.

143. Integration, the 'dry cycle', can also range from the simple to the very complex. Wire transfers and the physical transport of monetary instruments back to their country of origin are examples of the former. The creation of sham companies, fraudulent accounting practices, and loan-back schemes are at the other end. Oftentimes money is exported via one conduit and repatriated through another. Here the intent is to reintegrate the money into the legitimate economy. Once back in the country, the proceeds can be used to purchase consumer goods, real estate, high end investments, luxury cars and boats, or any number of other items. In addition, ongoing criminal enterprises require working capital. Therefore, some laundered money must be reinvested in the illegal business to purchase additional stock, pay bribes, pay lawyers and accountants, provide personal security, and to support those members of an organization who are arrested.
144. Through the process of placement, layering and integration, the money launderer will effectively accomplish three objectives: conversion of bulk proceeds of crime into another form, concealment of its origin and ownership, and creation of an 'alibi' for the funds.²⁹ Once the cycle is complete, the criminal typically uses most of the proceeds to continue the enterprise, generally by purchasing more product. Other uses include the purchase of personal assets, for infrastructure building, or as cash on hand.
145. Some countries act as sources of illegal money, others facilitate the cleansing process and still others, such as the U.K., Canada, and the U.S., act as the source of funds for domestic criminals laundering money, and cleanse money for foreign criminal elements. Cleansing can involve placement of money in the country's financial system or simply acting as a trans-shipment point.
146. A classic money laundering typology is the 'black market peso exchange', common among Colombian drug dealers over the past decades, as they trafficked their product to the U.S. and Western Europe, while facing restrictive currency controls and tax laws at home. Ray Kelly, former Chief of the New York Police Department and former Commissioner of the U.S. Customs Service, described the scheme as "perhaps the largest, most insidious money laundering system in the Western Hemisphere". It allows the world of commerce to mask money laundering, while also removing the risk to traffickers, of dealing with proceeds of crime.³⁰
147. In the black market peso exchange, a drug trafficker sells his product and receives U.S. dollars or Euros in exchange. These proceeds are then sold to a currency trader in the U.S. or Europe, who exchanges pesos, which he controls in Colombia, for the dollars or Euros in the hands of the traffickers. At this point, the drug traffickers obtain the pesos in Colombia and have accomplished their purpose. The broker then launders the U.S. dollars or Euros by selling them to a Colombian importer, or by purchasing goods from manufacturers, on

²⁹ Schneider, "The Incorporation and Operation of Criminally Controlled Companies", *supra*, p.126. Schneider provides numerous examples of money laundering vehicles and schemes.

³⁰ Oriana Zill and Lowell Bergman, "the Black Peso Money Laundering System", *PBS Frontline Drug Wars*, p.3, online at <http://www.pbs.org/wgbh/pages/frontline/shows/drugs/special/blackpeso.html>.

behalf of Colombia importers. These goods enter Colombia illegally, avoiding the payment of tariffs and charges. The broker replenishes his peso account in Colombia once the goods are delivered. He will typically be paid a commission from both sides and will also benefit from fluctuating exchange rates. Much like the Vancouver Model, in the black market peso exchange, organized crime is clipping its ticket at both ends!

MONEY LAUNDERING – A MACRO PERSPECTIVE

148. Ironically, the unique characteristics of a particular city or region which make it attractive to business and tourism, are often the same characteristics which make it an ideal location for money laundering. For example, it was once rumoured that Vancouver served as a point of departure and return for Cdn\$1-billion annually in illegal drug profits, funnelled out of the country and brought back into Canada under the guise of legitimate investments.³¹ Vancouver's close proximity to the U.S. and Asia, its international banking and commercial centres, ethnic communities with strong foreign ties, and a stock exchange with a colourful past, all helped to make this activity possible.
149. Laundering is practiced by many persons, including organized crime families, drug traffickers,³² and those who wish to hide funds from government authorities. It becomes a necessary process in order to disgorge large sums of illegally obtained money, due to the sheer weight and bulk of cash, the risk of detection and the danger created by carrying large sums on one's person.³³ Transnational criminal organizations³⁴ and others which facilitate the laundering of proceeds of crime "undermine the integrity of financial systems, breed corruption, and weaken democratic societies". They are all fuelled by one motive – the creation of wealth.
150. Money laundering occurs in many forms and in most sectors of the economy and includes deposit-taking institutions, currency exchange houses, the securities industry, real estate, commercial trading, corporations, gold and precious gem merchants, cash purchases of expensive items, gambling, the insurance industry, lawyer trust accounts, and accountants. Of all these conduits, deposit-taking institutions, which encompass chartered banks, credit unions, *caisses populaire* and trust companies, are of greatest importance, as they

³¹ "Big Time Crime" *Equity*, September 1989 at p.16.

³² In *R. v. Clymore* (1992), 74 C.C.C. (3d) 217, the British Columbia Supreme Court accepted expert opinion evidence that of all "enterprise crimes generating income, narcotics transactions are one of the most likely to generate very large amounts of cash"; "that "mixed denomination bundles [of cash] are consistent with the drug trade"; that false identifications, false addresses and mail drops are used by drug traffickers and money launderers.

³³ *Ibid.* The B.C.S.C. accepted expert opinion evidence that cash in small denominations continues to be used by drug traffickers out of a desire "not to leave paper trails and because of negotiability."

³⁴ Due to the fact that many, if not most illegal commodities, such as drugs and counterfeit products, are shipped across borders, it can be said with relative certainty that the vast majority of major organized crime networks in Europe and North America, are transnational in character.

represent a perfect vehicle to provide the legitimization of illicit money while maintaining anonymity for the criminal enterprise.”³⁵

151. Although great strides have been made in the past decade to regulate financial institutions worldwide, the reality of prevention and containment through legislation is that persons in the business of laundering will invariably move from one weak link to the next. As traditional financial institutions tighten their systems and reporting, other industries or professions become more attractive to criminal elements. As a result, legislative amendments, though laudable and necessary, tend to be endless.
152. The horrific attacks on the U.S. in 2001, created additional complexities in the fight against money laundering. Although terrorism is not new in the world and has plagued many nations in past decades, the shock of foreign terrorists on U.S. soil served to propel that nation into both a defensive and an offensive posture, defending the ‘homeland’, and fighting terror overseas. One aspect of its fight has been to target the sources of funds for terrorist groups. The U.S. immediately engaged the international community, and terrorist financing is now viewed internationally as an equally or more serious problem than money laundering.
153. Clearly money laundering and terrorist financing are very different. The former represents the proceeds of criminal activity, recycled and hidden from law enforcement. The latter is a means to an end, a necessary element in virtually any terrorist strike. While money that is laundered tends to be the product of illegality, the funding of terrorist activity is often of legal origin, hidden in its transmission to the terrorist cell using oftentimes legitimate conduits, such as small businesses, foreign aid and charity organizations.³⁶ One of these conduits is believed to be underground bankers.
154. I had the benefit of speaking with senior executives at the Vancouver Police Department who expressed their concern that we have not “scratched [the] surface” of the money laundering which occurs in the Lower Mainland. Despite the “significant money laundering in legal casinos”, it “is a drop in the bucket” compared to what is taking place. Although police resources are focused on violent crime and other immediate public safety issues, money laundering offers “fruitful policing opportunities” as it is a portal into other organized crime activities, both transnational in character and homegrown. In their view, there is a need to disrupt and dismantle the organizations that are engaged in this activity, as well as the intermediaries and facilitators.

³⁵ Margaret E. Beare and Stephen Schneider, *Tracing of Illicit Funds: Money Laundering in Canada No.1990-05* (Ottawa: Solicitor General Canada, 1990). An update can be found in Beare, *Criminal Conspiracies – Organized Crime in Canada* (Toronto: Nelson, 1996), p.101.

³⁶ The concept of terrorist financing is gradually expanding to include the threat posed by the proliferation of weapons of mass destruction and their illegal trade.

FINANCIAL INTERMEDIARIES

155. At each stage in the process – placement, layering, and integration – banks have the potential of playing a key role.³⁷ It is not surprising therefore that the first anti-money laundering laws targeted banks and similar financial institutions, branching further afield as money launderers realized that banks no longer offered the same form of protection as they did in the ‘good old days’.
156. In the normal course of banking, monies on deposit, save for those held *in specie*, such as in a safety deposit box, are used by banks for their own purposes, primarily for lending. What remains in the name of the depositor is nothing more than a credit for the money deposited. These *choses in action* are not tangible but are maintained on the books in either a written or increasingly, an electronic form. Where banks have branches in various countries, those same deposits can be accessed electronically.
157. As banking became a global business, the concept of correspondent banking gained momentum and is now at the heart of the international payments system. Predicated on the need for speed, accuracy, and global reach, correspondent banking allows a bank in one country to maintain a correspondent account in a different bank in another country. When banks develop a correspondent relationship, credits and debits can be applied to the bank’s correspondent account in the overseas bank.³⁸
158. Correspondent banking is subject to abuse by money launderers for the benefits which it provides, the same benefits that make the international payments system desirable. Increasing scrutiny and regulation of correspondent banking now requires that in addition to maintaining a high level of due diligence over their own customers, banks must be aware of any concerns which may exist respecting the practices of customers in a bank with which they have a correspondent relationship.³⁹
159. When a correspondent bank presents a high risk of vulnerability to money laundering; due to its deposit practices, risks associated with the country or banking system, a lack of co-operation with international initiatives, or for other reasons, it may be necessary to perform checks on the foreign bank customers who maintain correspondent accounts.⁴⁰ The problem, however, is the practical issue of conducting due diligence on another bank and its customers.

³⁷ In one of the first modern U.S. money laundering investigations to obtain international media attention, Operation Casablanca, millions of dollars in drug proceeds were traced to banks in numerous countries (Stefan Cassella, “The Recovery of Criminal Proceeds Generated in One Nation and Found in Another”, *Journal of Financial Crime*, V9:3, pp.270-1).

³⁸ The New York Clearing House Association L.L.C., *Guidelines for Counter Money Laundering Policies and Procedures in Correspondent Banking*, March 2002, p.1.

³⁹ *Ibid.*, p.2.

⁴⁰ For example, see those of the The New York Clearing House Association L.L.C., *ibid.*

FACILITATORS

160. In addition to financial institutions, it is difficult and often impossible, to launder large amounts of money without the assistance, witting or otherwise, of financial or professional intermediaries, including company formation agents, accountants and lawyers.⁴¹ There is a precarious, yet lucrative position, often being recipients of money which seeks not to be found or be related back to its beneficial owner. An intermediary utilizes his or her skill in effecting the movement of funds at the direction of the client. The returns are almost always handsome, and the risks are often minimal.

ACCOUNTANTS

161. Most accountants in North America and Europe provide valuable services to corporations and individuals. Their work covers a wide spectrum from audits to annual reports, from tax planning to asset and share sales, and from corporate registrations to corporate filings. Through this work, accountants come face to face with money laundering in two very different situations.
162. Mainstream accounting firms are always mindful of the requirements imposed on clients by government regulation. This is particularly important when dealing with stock markets, prospectus filings, and related corporate affairs. In the post-Enron world, accountants are mindful of increased due diligence requirements which flow from various pieces of legislation. For example, in the U.S., the *Sarbanes-Oxley Act*⁴² imposed a new regulatory regime on domestic and foreign accountants who represent corporations which trade on U.S. stock exchanges. Failure to adhere to the new regulatory minefield can be devastating to a corporation. For that matter, compliance generally, has become a very important responsibility for all public companies and requires professional expertise to develop, implement, and maintain the necessary systems.
163. Accountants and financial planners of various backgrounds and accreditation, are also key players in the less public and sometimes, shadier business, of offshore money placement. Most bank secrecy and offshore jurisdictions are populated by a cadre of corporate planners, company formation agents, accountants, and others, who provide a facilitation service for moneyed clients. Oftentimes, their role is to create corporate vehicles, open bank accounts in the names of those corporations, and oversee the transfer of money from abroad. Once in place, the money will either remain on deposit, or be moved from one corporation and bank to another. At some point, the layering ends and the money remains on deposit, until repatriated in cleansed form.

⁴¹ The concept of gatekeepers is similar to, but different from intermediaries. Gatekeepers are those who provide access, or 'open the gate' to services. This includes regulators, and firms which have been delegated regulatory and compliance tasks. Intermediaries act on behalf of persons seeking to accomplish a task, such as laundering money. They can include lawyers, accountants, and financial service providers.

⁴² [Pub.L.107-204](#), enacted July 30, 2002, entitled the *Public Company Accounting Reform and Investor Protection Act* in the U.S. Senate, and the *Corporate and Auditing Accountability and Responsibility Act* in the House of Representatives.

LAWYERS

164. Much like accountants, lawyers can encounter the proceeds of crime and money laundering in many situations. The key difference between the professions however, is the solicitor and client privilege which lawyers enjoy, and jealously guard. Lawyers may unwittingly facilitate the money laundering process by acting as a nominee, conducting financial and commercial transactions, incorporating companies, handling real property transfers, coordinating international transactions, or merely by receiving cash.⁴³
165. According to Derek Lundy: “[n]o matter what kind of law you practice, you are potentially a money launderer’s facilitator - and his victim.”⁴⁴ Lawyers provide the knowledge, expertise, and access which criminal organizations may not possess in order to operate sophisticated money laundering schemes. They are the gatekeepers.⁴⁵
166. A critical issue is the impact of proceeds of crime and money laundering legislation on the administration of lawyer trust accounts. At what point are lawyers potentially at risk of criminal prosecution for concealing or converting illegal funds in those accounts?
167. Lawyers who are charged under money laundering legislation or face professional disciplinary proceedings for their actions are a very small subset of the profession, however their conduct tends always to attract considerable media attention when it becomes public.⁴⁶

CRIMINAL OFFENCES

168. Prior to 1989, law enforcement was forced to use common law and extraordinary remedies to seize money that was clearly the proceeds of crime. These attempts were few and far between.
169. Now there are two serious offences in the *Criminal Code* with direct relevance: possession of the proceeds of crime and laundering. The offences read as follows:

Possession of property obtained by crime

354.(1) Every one commits an offence who has in his possession any property or thing or any proceeds of any property or thing knowing that all or part of the property or thing or of the proceeds was obtained by or derived directly or indirectly from

⁴³ Theresa M. Brucker, “Money Laundering and the Client: How Can I Be Retained Without Becoming a Party to An Offence?” *The Advocate*, V55:5, September 1997, p.679.

⁴⁴ Derek Lundy, “It’s a Law Firm, Not a Laundry”, *Canadian Lawyer*, January 1997, p.35.

⁴⁵ See Marvin R. Storrow and Lindsay Batten, “The New Proceeds of Crime Legislation or ‘Caveat Avocatus’”, *The Advocate*, V49:1 (1991), p.53; P. Michael Bolton and M. Kevin Woodall, “The Age of Uncertainty: Due Diligence and Proceeds of Crime”, paper presented to the *Proceeds of Crime Seminar*, Continuing Legal Education Society, Vancouver, B.C., April 24, 1993.

⁴⁶ Proceeds of Crime Subcommittee, Law Society of B.C., “The Impact of the Proceeds of Crime Legislation on the Practice of Law in British Columbia”, *Bencher’s Bulletin Supplement*, V7:1, August 1990.

- (a) the commission in Canada of an offence punishable on indictment; or
- (b) an act or omission that, if it had occurred in Canada, would have constituted an offence punishable by indictment.

Laundering proceeds of crime

462.31(1) Every one commits an offence who uses, transfers the possession of, sends or delivers to any person or place, transports, transmits, alters, disposes of or otherwise deals with, in any manner and by any means, any property or any proceeds of any property with intent to conceal or convert that property or those proceeds, knowing or believing that all or a part of that property or of those proceeds was obtained or derived directly or indirectly as a result of

- (a) the commission in Canada of a designated offence; or
- (b) an act or omission that, if it had occurred in Canada, would have constituted a designated offence.

- 170. The easiest way to distinguish these offences is to understand that possession is a noun and laundering is a verb. The possession offence occurs when a person is found in possession of the proceeds of a criminal offence, such as cash from illegal drug sales. Laundering occurs when a person moves those proceeds by one of a number of methods.
- 171. Both offences require that the proceeds of crime be derived from an indictable offence, although laundering is slightly more restrictive as it refers to designated offences. In fact, most indictable offences are also designated offences. These source offences are often referred to as predicate offences; in other words, the possession and the laundering offences are reliant on a criminal offence having been committed, which gave rise to the proceeds of crime. This is of importance as there was a considerable difference of opinion for many years concerning the source of the cash that flooded Lower Mainland casinos.
- 172. It should also be noted that the laundering offence can be committed in a multiplicity of ways (sends, delivers, transmits, transports, etc.). Both offences are serious, with possible maximum sentences of 10 years in prison.⁴⁷ It is also an offence to attempt to commit, assist in the commission, or counsel another person to commit one of the offences.

CIVIL FORFEITURE

- 173. In recent years, the civil law has been called upon to assist with the proceeds of crime. This is accomplished in B.C. through the vehicle of the *Civil Forfeiture Act* (CFA).⁴⁸ The statute followed the Ontario lead into this uncharted area of law. Most other provinces have since passed their own civil forfeiture statutes. The concept of civil forfeiture is actually quite old and derives from the same parentage in English law as criminal forfeiture.
- 174. Although the criminal law is focused on individuals, civil forfeiture focusses on property.

⁴⁷ Section 355 and s. 462.31(2).

⁴⁸ S.B.C. 2005, c. 29.

The advantage of civil forfeiture is that it can go where criminal forfeiture cannot, and it can get there much faster. The suspect property becomes the respondent in a civil action. Under section 3 of the *CFA*, the provincial director of civil forfeiture may apply to a court for an order forfeiting any property or an interest in property. There is no requirement for a criminal conviction. The Province must simply demonstrate on the civil standard of a balance of probabilities, that property, such as cash, is more likely than not the proceeds of unlawful activity or an instrument of unlawful activity.

175. Police now refer many cases to civil forfeiture if, for some reason they cannot or choose not to proceed with criminal charges. Civil forfeiture is a valuable tool in the arsenal of the government when dealing with suspicious cash and has relevance to our discussion of casinos.

COMMENT

176. Money laundering is the conduit by which dirty money moves within and outside a country. It is a murky world of shady characters, assisted by financial intermediaries and facilitators. As we shall see in the following chapters, the B.C. gaming industry and the AML system that governs it was unprepared for the onslaught of money laundering and how best to deal with it.

CHAPTER 5

LOAN SHARKS

INTRODUCTION

177. The very nature of casinos makes them vulnerable to criminality of various sorts. The combination of money being won and lost; the emotional highs and lows that result; being open 24-hours, every day of the year; providing various amenities; and allowing alcohol to fuel the experience, can result in a range of illegal conduct. These include various *per se* gambling offences, such as cheat at play; property crimes, such as theft from patrons and casinos; offences involving the facilitation of play, such as loan sharking; and casinos being used for money laundering.
178. York University Professor Margaret Beare describes the link between casinos and criminality in the following terms: “the gambling industry provides an array of laundering opportunities that do not necessarily relate specifically to the gambling operations themselves—loan sharking, drugs, cash cards, credit, etc.”⁴⁹
179. This Review does not focus on gambling offences or property crime, but rather on offences involving the movement of the proceeds of crime. This chapter examines the involvement of loan sharks in the casinos.

LOAN SHARKS

180. The FATF defines loan sharking as follows:

“Loan Sharking (also known as usury)... is a crime that involves loaning money to individuals at an interest rate that is above a maximum legal rate, sometimes collected under blackmail or threats of violence. Loan sharks may be financed and supported by organised crime networks who are also involved in money laundering activities. A loan shark usually preys on individuals who are problem gamblers, struggling financially or, for some reason, are unwilling to seek credit from legal sources. Persons in debt to loan sharks may be coerced into assisting with money laundering schemes in the casino.”

181. In the early days of casino gaming in the Lower Mainland, loan sharks were a staple of casino life. Men and women hovered around gaming tables to supply cash to gamblers who ran out of their own resources. Staff and players at many casinos paid little attention to these people, as if they were a fixture, akin to a mobile ATM machine.

⁴⁹ E-mail to Independent Reviewer, Oct. 29, 2017.

182. Loan sharks are not, of course, ATM machines and their transaction rate is much higher than an ATM fee. They typically carry illegal or undeclared cash which has been provided to them by their bosses. The money is to be repaid with interest, sometimes a criminal interest rate, secured by the borrower's personal safety or possessions. Loan sharking is itself a dangerous business, as many loan sharks have suffered at the hands of bosses who rightly or wrongly accused them of pilfering or failing to turn over the profits.
183. Over time, the loan sharks in B.C. casinos became quite aggressive. Chip passing⁵⁰ and cash transactions were openly conducted on the floors of casinos, creating an environment in which the loan sharks operated with virtual immunity.
184. Eventually, casino operators removed the loan sharks from the gaming floors, only to find that they would then meet clients in washrooms. BCLC attempted to deal with the problem through province-wide, defined term prohibitions of offenders. This had the effect of moving the loan sharks outside the casinos. They began to arrange offsite cash transfers with patrons in nearby parking lots. As these transfers occurred off casino property, regulatory reporting did not apply.
185. The loan sharks then increased their use of associates, referred to as "runners", to transport and distribute cash within the casinos. If caught, the individual was prohibited from re-entering, but was quickly replaced by another runner.
186. A loan shark typically works on a percentage of the cash that he or she can loan. It can be a high-risk profession. Simply carrying large amounts of cash or chips is dangerous, but that is just the beginning. Problems typically surface when a loan is not repaid. The loan shark or runner is sometimes blamed for the loss, accused of spending the money, or of complicity with the debtor. This is the sinister side to loan sharking, evidenced by a spate of extortion and kidnapping reports that police have received over the years.
187. There are also reports of loan sharks who went missing, never to be found. What is known is that between 2006 and 2017 there were three homicides in the jurisdiction of the Integrated Homicide Investigation Team (IHIT),⁵¹ in which the victim was believed to be involved in loan sharking. An individual was convicted in one of these murders, however two remain under investigation. The RCMP advised me that there was also "an incident which involved the kidnapping, extortion and murder of an innocent victim, whose ransom was to be used by the primary suspect to repay his gambling debts. Additional charges of forcible confinement, assault and uttering threats were laid pursuant to a previous, similar but unrelated offence. These investigations resulted in convictions of the primary suspect and an associate."⁵²

⁵⁰ Chip passing refers to one person giving chips to another person, either inside or outside a casino.

⁵¹ The City of Vancouver investigates its own homicides.

⁵² RCMP memo, Jan. 30, 2018.

188. An investigative report by the CBC in 2008, included the following:⁵³

"Garry Smith, a gambling researcher at the University of Alberta, said casinos may not have any motivation to crack down.

"They benefit because the player who lost money is able to stay in action. If he gets another \$5,000 to play, that's more money they'll eventually get from the player."

The documents illustrate the extent of the problem. One man borrowed a staggering \$110,000 from a loan shark at a B.C. casino, only to be forcefully thrown into a vehicle a few hours later, and told he owed \$130,000. He paid the debt, but went to authorities for protection.

The documents also show Rong Lily "Lilly" Lee, a suspected loan shark, was last seen alive outside Richmond's River Rock Casino in 2006. Police say she was the victim of a kidnapping and targeted hit. A man charged with her murder goes to trial next week.

The B.C. Lottery Corp., which oversees casinos, insists combating loan sharking is a top priority.

"Our policy on any criminal activity, including loan sharks, is zero tolerance. It's that simple," said Paul Smith of the BCLC."

189. In January 2009, an RCMP report was prepared on the extent and scope of illegal gaming in B.C.⁵⁴ The report was prepared from data for the years 2005 to 2008. It included the following in its Executive Summary:

"... during the three-year research period there were four murders and one attempted murder of people who had some involvement in gaming. Forty-seven individuals have been identified in suspected loan sharking activities."

190. The 47 individuals believed to be involved in loan sharking included go-betweens or runners. It noted that besides lending money at a criminal rate of interest, loan sharks can be involved in money laundering and extortion. Many victims are reluctant to call the police while others may contact the police as a means of buying time from the loan shark.

191. The report noted that in 2009 there were at last seven significant loan sharking rings operating in the Lower Mainland, including family operations. Some were believed to be involved with known organized crime groups. The report noted that loan sharking can be a very lucrative business, judging by one loan shark owning a house valued at over \$2 million.

⁵³ <http://www.cbc.ca/news/canada/british-columbia/suspected-loan-sharks-operating-around-b-c-casinos-documents-say-1.695303>.

⁵⁴ RCMP, "Extent and Scope of Illegal Gaming in British Columbia 2005 to 2008", January 5, 2009.

192. The report also quoted from a June 2008 national RCMP report on the vulnerability of casinos to money laundering and organized crime. It cited various types of crimes being committed as well as FinTRAC disclosures which related to casinos.

COMMENT

193. With this as an introduction to the criminal backdrop, it is important to understand the legal framework that governs gaming in Canada and British Columbia.

PART 3

LAW AND GAMING

CHAPTER 6

GAMING IN CANADA

HISTORICAL BACKDROP

194. Gaming confounded the British common law for centuries. For well over a thousand years, Westminster recognized the desire of citizens to bet and wager. For almost as many years, the law attempted to develop a framework to determine which forms of betting or wagering should be lawful, and which should not.
195. At common law, wagering was not against the law, except in regard to cock fighting. Common gaming houses⁵⁵ were permitted, provided that the wager was not against morality, decency, or sound policy. What was relatively simple became much more complex once Parliament outlawed the quaint but deadly blood sport of fencing in 1285.⁵⁶ Things got worse yet when the King of England's archers, today's equivalent of special forces, became enamoured by dice games. A blanket statutory prohibition in 1388 ended the practice and archers returned to their bows and arrows. However, the die had been cast and we live today with the legacy of that statutory prohibition.⁵⁷
196. The British Parliament gradually legislated in discreet areas: no betting on religious holidays, declaring certain games to be unlawful, and prohibiting betting in private homes and on public streets.⁵⁸ These discreet prohibitions expanded over time as statutes were passed in an often haphazard manner to deal with the issue of the day, resulting in what has been coined "a patchwork of fossilized law".⁵⁹ Betting at horse races, the sport of the aristocracy, received preferential treatment and was allowed to continue with little interference.
197. Canada's *Constitution* grants the federal government exclusive jurisdiction to enact criminal law.⁶⁰ Provincial governments have jurisdiction over the maintenance of charitable institutions,⁶¹ business licensing,⁶² and property and civil rights.⁶³ In addition, provinces can impose sentences for any matter coming within their authority.⁶⁴

⁵⁵ The term 'casino' is today considered synonymous with a legal betting house. The word is actually of recent vintage, Italian in origin, and sometimes referred to as a 'false friend', due to it having different meanings in different languages.

⁵⁶ 13 Edward I, c. 7.

⁵⁷ G.E. Glickman, "Our gaming laws: conditions dicey, to say the least" (March 1979) 3 *Can. Law.* 11.

⁵⁸ *R. v. Howel* (1675) 3 Keb., 465, 510, and C.F. Shoolbred, *The Law of Gaming and Betting* (London: Pitman & Sons, 1932) at pp. 1-2.

⁵⁹ *Ibid.*

⁶⁰ *The Constitution Act, 1867 (UK)*, 30 & 31 Victoria, c. 3, s. 91(27).

⁶¹ *Ibid.*, s. 92(7).

⁶² *Ibid.*, s. 92(9).

⁶³ *Ibid.*, s. 92(13).

⁶⁴ *Ibid.*, s. 92(15).

198. By the time that Canada enacted its first *Criminal Code* in 1893, the ancient right to wager had been replaced in British law by an almost total ban on betting. Canada's criminal law mimicked the British model of prohibition.⁶⁵

THE CRIMINAL CODE

199. Over time, the *Code* was amended to permit "Paris mutuel" betting in horse racing; occasional games of chance for charitable or religious purposes; and certain games at agricultural fairs and exhibitions.⁶⁶ The bulk of gaming remained illegal. There was never sufficient political will to make a change to the scheme, likely due in large part to a fear of antagonizing organized religion.⁶⁷
200. During the 20th century, gambling developed in discrete areas of the world. It was generally seen as an indulgence for the rich (for example, Monaco) or a breeding ground for organized crime (for example, Nevada). As income levels rose in post-war Canada and the United States, governments came under increased pressure to loosen the rules around gaming and allow the general populace to engage in this pastime, and not just at the racetrack. Religion was often seen as an inhibitor to a broader gaming environment, however the increased use of bingos and other games at church fairs likely produced the opposite result. In the end, the economics of gaming persuaded governments to open the doors.
201. A *Criminal Code* amendment in 1969⁶⁸ granted the federal and provincial governments an exemption from the prohibition against commercial gaming, provided that government is responsible for its conduct and management.⁶⁹ The provinces could therefore "run approved lottery schemes, including casinos".⁷⁰
202. In 1985, the federal and provincial governments agreed that the *Criminal Code* should be amended again, to repeal the federal government's exemption from section 207, leaving gaming to the provinces. In exchange, the provinces agreed to make payments to the federal government.⁷¹
203. In *R. v. Furtney*,⁷² Stevenson J., writing for the Supreme Court of Canada, observed that "the regulation of gaming activities has a clear provincial aspect under s. 92".⁷³ Furthermore, "the decriminalization of lotteries licensed under prescribed conditions is not colourable."

⁶⁵ See Part V of the *Code*, entitled "Disorderly Houses, Gaming and Betting".

⁶⁶ Paris mutual betting was abbreviated to 'pari-mutuel betting'. Bets are pooled and the winners share the pool minus a commission or fee to the operator, such as of a horse race.

⁶⁷ Judith A. Osborne and Colin S. Campbell, "Recent Amendments to Canadian Lottery and Gaming Laws: The Transfer of Power between Federal and Provincial Governments", *Osgoode Hall Law Journal* 26.1 (1988) at p. 22.

⁶⁸ S.C. 1968-69, c. 38.

⁶⁹ Now CC 207(1)(a), (g).

⁷⁰ Section 190 C.C.

⁷¹ *Criminal Code (Lotteries) Amendment Act*, S.C. 1985, c. 52.

⁷² [1991] 3 SCR 89.

⁷³ *Ibid.* at p. 103.

It constitutes a definition of the crime, defining the reach of the offence, a constitutionally permissive exercise of the criminal law power, reducing the area subject to criminal law prohibition where certain conditions exist.”⁷⁴

204. As a result, section 206 of the *Criminal Code* carries forward the general prohibition over a broad range of gaming activities. Exceptions to the prohibition are found in section 207(1), which permits a province to create and operate lotteries and lottery schemes, including games of chance, slot machines, video devices and those played on a computer.
205. The archaic legal framework for gaming in Canada leads to many anomalies. One of the most popular forms of wagering is sports betting, which is not permitted other than on government approved sites. This creates a huge unregulated market that extends internationally. Another anomaly is the grey market of online gaming which targets offshore betters.

GOVERNMENTS AND GAMING

- 204A. The evolution of gaming from a criminal enterprise to a source of provincial government funding is an interesting development, reflective of changing mores within society and the increased demands on government resources. Gaming has become a popular activity for governments and citizens alike.
- 204B. In 1998, a scholarly article referred to the “desperate neediness of governments” which are now “tied to gambling because of the enormous revenues it derives from gambling”, noting that “it is perhaps the most heavily addicted party in the gambling arena.”⁷⁵ Twenty years later, this observation is equally or more reflective of the current situation in Canada. In British Columbia, the net income which the Province receives from BCLC is greater than what it receives from the fuel tax, BC Hydro, the Liquor Distribution Branch, or royalties from forestry and natural gas.
- 204C. The involvement of government has also served to raise the profile of gaming from a private pastime to the public agenda. As Seelig and Seelig note, this shift is the result of four factors: the active involvement of the public sector; addiction, crime and other problems associated with gaming; its rapid proliferation; and the extent by which sports and cultural activities are funded through gaming revenue.⁷⁶ The authors also remark on the “awkward duality” of government acting as both the regulator and the beneficiary of gaming revenue.⁷⁷ An architect of Canada’s modern Constitution, Dr. J. Peter Meekison noted in a

⁷⁴ *Ibid.* at p. 106.

⁷⁵ Seelig and Seelig, *supra* at pp. 93-94.

⁷⁶ *Ibid.* at p. 91.

⁷⁷ *Ibid.* at p. 93.

2000 report for the Province of British Columbia that government “has gone from being primarily a regulator of gaming to being both regulator and chief promoter.”⁷⁸

⁷⁸ J. Peter Meekison, O.C., “Relocation of and Changes to Existing Gaming Facilities in British Columbia: Report and Recommendations” (Jan. 31, 2000) at p. 15.

CHAPTER 7

GAMING IN BRITISH COLUMBIA

THE EARLY YEARS

206. Hot on the heels of the 1969 amendment to the *Criminal Code*, B.C. promulgated an Order-in-Council in April 1970 which permitted the Province to conduct public gaming within its borders.⁷⁹ A Licensing Branch within the Ministry of the Attorney General began issuing licences to charitable and religious organizations, permitting them to conduct lotteries. It also began developing regulations.
207. In 1974, the Legislature passed the *Lotteries Act*,⁸⁰ which authorized the responsible minister to regulate and licence persons to conduct lotteries. This was effected through the newly created Lottery Branch within the Ministry of the Provincial Secretary and Government Services to conduct lotteries run by the province and to regulate and license other gaming activities. The Licensing Branch became part of the Lottery Branch.
208. In 1976, licensing and imposition of licence fees was provided for in the *British Columbia Lottery Regulations*.⁸¹
209. On April 1, 1985, BCLC was incorporated pursuant to the *Lottery Corporation Act*.⁸²
210. On November 6, 1986, the Public Gaming Branch was created. It included licensing, inspections, policy development, and audit sections.
211. On April 1, 1987, the B.C. Gaming Commission was established by Order-in-Council⁸³ to develop gaming policy and to set the terms and conditions of licences for charities to operate bingos, lotteries or casinos. It also regulated and licensed gaming at fairs and exhibitions. On August 5, 1987, the Commission was authorized to issue licences to incorporate bona fide social clubs or their branches, and to prescribe the terms and conditions of those licences.⁸⁴
212. The Public Gaming Branch screened applicants for the Commission. Among other duties, it undertook compliance measures to ensure that the terms and conditions of licenses were

⁷⁹ "Gaming refers generally to a game of chance or a game of mixed skill and chance. The player must have a risk of losing and a chance of winning" (Kroecker and Simser, *supra* at p. 1).

⁸⁰ S.B.C. 1974, c. 51, renamed the *Lottery Act* by R.S.B.C. 1979, c. 249.

⁸¹ B.C. Reg. 651/76.

⁸² S.C. 1985, c. 50.

⁸³ OIC 612/87.

⁸⁴ OIC 579/87. Administration and enforcement was left to a police unit, the Combined Law Enforcement Unit until November 1987.

being respected. The Commission and the Branch were concerned however by their “apparent overlapping of responsibilities”.

213. In its 1988 *Report on the Status of Gaming in British Columbia*, the BC Gaming Commission wrote:⁸⁵

“[Prior to the Commission being established] all inspection, compliance, regulatory and licensing requirements were carried out by the [Public Gaming] Branch [which] was all powerful, not just the first line of interface with charities and the service companies/hall owners.... There was an incentive to comply with any directions emanating from the Branch and this carried over into the attitudes of service companies and bingo hall owners.”

214. The Commission noted a change after it was created:⁸⁶

“The Commission became the focus of their [the less scrupulous within the charity gaming community] concern; interest in the Branch became secondary. This has had a predictably negative effect with regard to compliance, and, such adjectives as “toothless” and “ineffective” have been used to describe the Branch by its detractors.”

215. The Commission recommended a realignment of roles and responsibilities, a new reporting structure, and the creation of a provincial gaming act.
216. In 1994, as a result of a gaming policy review, the Province established the Gaming Audit and Investigation Office (GAIO) in the Ministry of Attorney General, with primary responsibility for monitoring and enforcement. Its mandate included to “investigate any occurrence which may be of a criminal nature or bring into disrepute lawful gaming under either s. 207 of the *Code* or provincial enactments”.⁸⁷ It was the predecessor of GPEB.
217. During the mid-1990’s, numerous cases involving casinos and lotteries reached the courts as B.C. attempted to come to terms with the evolving gaming industry and how best to frame its business model.
218. On March 13, 1997, the Province announced new gaming initiatives, framed by the goals of a predictable and growing stream of income to charities, and a source of revenue for government in support of social program priorities. Various enhancements were approved to the existing charitable casinos and bingos, however “major Las Vegas-style casinos” would not be considered, nor would video lottery terminals (VLT)s.⁸⁸

⁸⁵ At pp. 1-2.

⁸⁶ *Ibid.* at pp. 1-3.

⁸⁷ Province of B.C., “Report on Gaming Legislation and Regulation in British Columbia” (*White Paper*) at pp. 151-52.

⁸⁸ Frank A. Rhodes, *Gaming Policy Recommendations*, February 1998 at p. 3. A VLT is usually a networked device “attached to a single central system that determines game outcomes across all connected devices.” Due to the

219. Concern was expressed by charitable groups over the proposed strategy which would see their receipts decline as they shared the revenue stream with government, albeit for social programming.⁸⁹
220. On October 31, 1997, the *Gaming Proceeds Distribution Regulation*⁹⁰ was promulgated. It allowed government to pursue its bifurcated approach to the distribution of proceeds from gaming. Almost immediately, the *Regulation* was challenged by the Nanaimo Community Bingo Association. On January 14, 1998, the B.C. Supreme Court decided that there was no legal authority for government to regulate the distribution of proceeds from charitable gaming, an inconsistency between the provincial regulation and Section 207(1)(b) of the *Code*, no authority for the payment of fixed percentage fees to commercial gaming management companies, and no authority for government to share in the proceeds of charitable gaming.⁹¹
221. Shortly after the decision was delivered, Frank A. Rhodes was assigned to review the matter. He delivered his *Gaming Policy Recommendations* to the Minister responsible for gaming in February 1998. Rhodes' report recommended that gaming be fundamentally restructured on an interim basis, thereby providing a degree of certainty and to meet government's revenue goals for charities and social programs.
222. Rhodes considered five potential options involving the distribution of responsibility for gaming between conduct and management by government under section 207(1)(a) and conduct and management by charities under section 207(1)(b). He recommended two options, both of which would see BCLC assume responsibility for the conduct and management of casino gaming and slot machines. It would enter into service arrangements with casino management companies.⁹²
223. In 1998, BCLC assumed responsibility for all casino gaming in the province. It was also in that year that the Investigations Division was formed within GAIO.
224. The foregoing led to the province commissioning a White Paper in 1999. The "Report on Gaming Legislation and Regulation in British Columbia" (*White Paper*), was released with an accompanying draft *Gaming Control Act*.

location of VLTs, they tend to be accessible to anyone and a temptation to many who will unconsciously use the machines. The remedy is sometimes referred to as 'space and time', or reasonable barriers for patrons who could be persuaded to lose control over their gambling (Kroeker and Simser, *supra*.).

⁸⁹ Rhodes, *ibid.* at p. ii.

⁹⁰ B.C. Reg. 362/97.

⁹¹ Rhodes, *supra* at p. i.

⁹² *Ibid.* at p. ii.

225. In June 2001, the government directed a core review, at the conclusion of which it decided to amalgamate a patchwork of five gaming-related agencies⁹³ and four statutes, into two entities, an operator and a regulator, and two statutes.
226. When introducing the future *Gaming Control Act* in the Legislature, the Hon. Rich Coleman explained that it was intended to replace “a dysfunctional operation with a seamless operation without influence by members of this House”. Minister Coleman mentioned the absence of any previous legislative authority for the work being performed by GAIO.⁹⁴ The Act became law on April 11, 2002.⁹⁵
227. By Spring 2004, the new model was in place. Through a franchise arrangement, revenue to the government could be doubled. The regulator remained in government but was placed under an ADM. ‘Problem gambling’ was renamed as ‘responsible gaming’.
228. In July 2005, the Auditor General of B.C. released a report into a number of gaming issues, including compliance and enforcement,⁹⁶ and in May 2007, the Office of the Ombudsperson released its own report, which also considered compliance and enforcement.⁹⁷
229. Today, the *GCA* continues to be the primary gaming legislation in British Columbia. Three regulatory instruments have been promulgated, including the *Gaming Control Regulations (GCR)*.⁹⁸

COMMENT

230. The following Part introduces the players, or entities that play an important role in B.C.’s casino industry. This includes the Crown Corporation, the service providers, the regulators and the police.

RECOMMENDATIONS - GAMING IN BRITISH COLUMBIA

- R1 That the *GCA* be amended to provide for the Recommendations in this Report.
- R2 That the *GCA* clearly delineate the roles and responsibilities of BCLC and the Regulator.

⁹³ Gaming Policy Secretariat, GAIO, BCGC (licenced charities), BCRC (register and operate), and BCLC (lotteries, electronic and bingo halls).

⁹⁴ *Hansard*, March 13, 2002 at p. 1906.

⁹⁵ S.B.C. 2002, C. 14.

⁹⁶ *Keeping the Decks Clean: Managing Gaming Integrity Risks in Casinos*.

⁹⁷ *Winning Fair and Square: A Report on the British Columbia Lottery Corporation’s Prize*.

⁹⁸ BC Reg. 208/2002.

PART 4

THE PLAYERS

CHAPTER 8

THE CROWN CORPORATION - BCLC

INTRODUCTION

231. BCLC is a Crown Corporation of the Province of British Columbia. The Province is its sole shareholder and appoints the directors of the Corporation. BCLC is, for all purposes, an agent of government.⁹⁹
232. The Minister of Finance is BCLC's fiscal agent.¹⁰⁰ The *Business Corporations Act*¹⁰¹ does not apply to BCLC,¹⁰² although the *Financial Administration Act* does.¹⁰³ The responsible minister, presently the Attorney General, may issue written directives to BCLC "on matters of general policy", and BCLC must comply with those directives.¹⁰⁴
233. BCLC operates pursuant to authorities granted to it under the *GCA*. Central to these is exclusive responsibility "for the conduct and management of gaming", on behalf of the Province. This mandate includes lotteries, bingos, casino gaming, sport betting, and eGaming. The title of the corporation predates its involvement in casinos and is now anachronistic.
234. The exclusivity of BCLC's mandate is critical, as virtually all commercial gaming in the Province operates under its control. It is not involved, however, in the conduct or management of licenced (charitable) gaming, which is provided for in Part V of the *GCA*.¹⁰⁵
235. Members of BCLC's Board of Directors owe a fiduciary responsibility to BCLC. I had the opportunity to speak with the Board Chair as well as the President and several of BCLC's Vice-Presidents. These are all accomplished individuals who spoke candidly about their challenges. In the past, both BCLC and GPEB have found themselves under the umbrella of the same Ministry, currently the Ministry of Attorney General and previously the Ministry of Finance, and others.¹⁰⁶ The Board Chair observed that this can be problematic as much will depend on whether a Minister gives greater focus to regulatory or business issues.

⁹⁹ *GCA*, s. 3(1).

¹⁰⁰ *Ibid.*, s. 3(2).

¹⁰¹ SBC 2002, c. 57.

¹⁰² *GCA*, s. 2(4).

¹⁰³ RSBC 1996, c. 138, s. 1.

¹⁰⁴ *GCA*, s. 6(1), (2).

¹⁰⁵ A ministerial exception was requested in 2010 under s. 7(1)(d) of the *GCA* for BCLC to provide online services to charitable gaming.

¹⁰⁶ For a list of responsible Ministries see Appendix "B".

236. BCLC has the onerous responsibility of maintaining and growing the business of gaming in B.C., including providing revenue to the Province. In a 2000 report to the Province, J. Peter Meekison referred to the mandate of BCLC being “to maximize revenues for the province” and referred to “its obvious role in promoting its activities”.¹⁰⁷ In fiscal year 2016-17, over \$907 million from \$1.339 billion net income generated by gambling went into health care, education and community initiatives. By comparison, the much larger gaming industry in Nevada produced \$900 million in revenue for the State in 2015, based on an 8 to 15% fee which it collects from casino operators.¹⁰⁸ BCLC’s average share of casino revenue is 65%. It is a government model which turns most business models on their head, as it generates exponentially more revenue than it spends to produce that revenue.
237. BCLC has adopted an operational model for casino services in which it contracts with private entities for the operation of facilities and the provision of certain services. In essence, it is a franchiser and the GSPs are franchisees. BCLC refers to it as the ‘conduct, manage and operate’ model, with the operational portion being contracted out to GSPs. The contractual relationship is contained within OSAs. These are commercial contracts, which contain remedies for non-performance.¹⁰⁹
238. This is a very different model from what prevails in the United States and most of the world, where there is no agency between the regulator and the casino operator, and the state obtains revenue through taxation. The upside for service providers in B.C. is the mandated geographic dispersion of casinos, designed to ensure the profitability of each.
239. In B.C., the revenue share between BCLC and GSPs varies depending on the number of table games and slots, with GSPs obtaining a greater share of table revenue, presumably due to the need for staff to operate them.
240. A review of BCLC’s website and public documents quickly reveals that it is committed to operate with ‘integrity’ and to help ensure the integrity of gaming in B.C.¹¹⁰ Nevertheless, the recent spate of unfavourable news reports concerning casino gaming has impacted on BCLC’s reputation and has affected its staff.

“CONDUCT AND MANAGE”

241. Section 7(1) of the GCA is the foundational section which vests responsibility in BCLC for “the conduct and management of gaming”. The words, ‘conduct and manage’ flow directly

¹⁰⁷ Meekison, *supra* at p. 33.

¹⁰⁸ In 2015, Nevada received US\$ 889.1 million in tax from 271 casinos.

¹⁰⁹ <http://corporate.bclc.com/content/dam/bclc/corporate/documents/bclc-2015-2016-annual-report.pdf> at p. 6. BCLC currently operates 15 casinos, 2 racecourse casinos, 18 community gaming centres, and 7 bingo venues. It should be noted that the GCA does not specifically state that BCLC is responsible for the ‘integrity’ of gaming in B.C.

from the exemption in section 207 of the *Code* and are interpreted to mean “develop, undertake, organize, conduct, manage and operate provincial gaming”.¹¹¹

242. Despite the best efforts of many courts, it is impossible to discern with precision what Parliament intended with the words, ‘conduct and manage’ in section 207. Clearly the words encompass more than ‘to operate’. Conduct and manage requires a directing mind, a person or entity that is in control of an enterprise.¹¹²
243. Many years ago, the British Columbia Court of Appeal considered these words in *R. v. Rankine*,¹¹³ a case involving the sale of foreign lottery tickets. The court focussed on the need to possess the “power of control over the scheme”. More recently, the British Columbia Supreme Court in *Great Canadian Casino Company Ltd. v. City of Surrey*,¹¹⁴ referred to the need to be “its own master” or the “operating mind”.¹¹⁵
244. In essence, a court will examine “the scheme to determine who is guiding or leading the scheme, who is controlling the major decisions and who is benefitting directly from the lottery scheme.”¹¹⁶ This must be more than simply regulating a scheme.¹¹⁷ It is important to get this right, as it continues to be a criminal offence for an entity other than a provincial government, to ‘conduct and manage’ a lottery scheme.
245. Section 7 also grants BCLC the authority to enter into an array of agreements. Not only does BCLC own, manage and vicariously operate most public gaming in the Province, it may, with Ministerial authority, provide operational services to gaming.¹¹⁸
246. The *GCA* is careful, however, to require that BCLC obtain Ministerial approval for many actions, including if it wishes to implement a new type of lottery scheme.¹¹⁹ On a daily basis however, BCLC’s operations are run by its CEO who reports to the Board.
247. All gaming revenue generated by BCLC constitutes public funds. BCLC’s net income is distributed in part to the federal government pursuant to an agreement with the provinces, and the remainder to the province to fund GPEB, local government and community projects, health care services and research, and a variety of additional provincial programs. BCLC has generated over \$20 billion in net income for government during the past 32 years.

¹¹¹ *GCA*, s. 7(1)(a).

¹¹² Although now a bit dated, the *White Paper* contains a lengthy discussion in Chapter 3.4 on Conduct and Management.

¹¹³ [1938] 4 D.L.R. 201.

¹¹⁴ (1998), 45 M.P.L.R. (2d) 240, with supp. reasons at p. 261.

¹¹⁵ On appeal, a *coram* of Justices Lambert, Rowles and Braidwood found no error of law (*Great Canadian Casino Co. v. Surrey (City of)*), 1999 BCCA 619.

¹¹⁶ Donald J. Bourgeois, *The Law of Charitable and Non-profit Organizations*, 2nd ed. (Butterworths, 1995) at p. 227.

¹¹⁷ *White Paper*, *supra* at p. 64.

¹¹⁸ *GCA*, s. 7(1)(d).

¹¹⁹ *Ibid.*, s. 7(2).

248. The games and equipment in casinos are provided by BCLC. The GSPs either own or lease and operate the facilities. They hire the staff, provide surveillance and security,¹²⁰ and conduct daily operations. They sign OSAs with BCLC and receive commissions based on the gambling revenue that the facilities generate.
249. The GSPs must comply with the instructions and directions of BCLC. In turn, BCLC monitors compliance by service providers with the GCA, its regulations and BCLC's rules.¹²¹ It does not have the power to impose a penalty.¹²² The B.C. Supreme Court has noted that the power to penalize must be expressly conferred by statute and will not be implied from the general power to make regulations.¹²³
250. Both BCLC and GSPs are subject to the regulatory oversight of GPEB.¹²⁴ In addition, BCLC is regulated for its AML compliance by FinTRAC.
251. Critical to this Review are the parameters of conduct and manage. The flashpoint has been the issue of anti-money laundering compliance and enforcement. Where does compliance end and enforcement begin? Corporations often speak of their social license. To what extent does social license assist in resolving this issue?
252. As a rule of thumb, compliance is for a business while enforcement is for a regulator or the police. Social licence refers to public acceptance of a corporation's business practices and procedures.¹²⁵ This approval by community and stakeholders allows a corporation, particularly a public corporation, to pursue its Mission and Vision, knowing that it has community support. Unfortunately, the unrelenting news in the media respecting money laundering in Lower Mainland casinos has impacted on BCLC's social licence.
253. To meet the compliance demands placed upon it, BCLC has its own dedicated division, headed by the Vice-President Security and Compliance. BCLC investigators and compliance employees monitor GSPs to ensure that they conform to law, policy and procedure. These investigators are not accorded peace officer or police officer status, requiring that they rely upon the common law authorities which all citizens enjoy. In the absence of statutory powers in the GCA, BCLC compliance staff work in much the same way as corporate security officers in private industry.

¹²⁰ *Ibid.*, s. 8(1)(g).

¹²¹ *Ibid.*, s. 8.

¹²² *Ibid.*

¹²³ *Haghdust v. British Columbia Lottery Corporation*, 2014 BCSC 1327, at para. 109.

¹²⁴ See 2011 BCIPC 6 at para. 5 and 2007 CanLII 9597 (BC IPC) at para. 7. There should be no disagreement of the fact that BCLC is regulated by GPEB. This terminology has been employed by the courts and oversight agencies, and is also evidenced by s. 75, in regard to technical integrity standards, s. 86(2) with respect to compliance and s. 27(2)(d) regarding public interest standards. It is also referred to by BCLC on its own website.

¹²⁵ See <https://sociallicense.com/definition.html>

RECOMMENDATIONS - *THE CROWN CORPORATION* - BCLC

- R3 That BCLC, in conjunction with the Regulator and Service Providers, review the present Source of Funds Declaration on at least an annual basis to determine if refinements are required.
- R4 That BCLC re-enforce the importance of Service Providers not accepting cash or other reportable instruments if they are not satisfied with a source of funds declaration.

CHAPTER 9

GAMING SERVICE PROVIDERS

INTRODUCTION

254. The Lower Mainland of British Columbia is home to numerous casinos and gaming facilities. Gambling is without question a very popular form of entertainment. Modern gaming facilities are supplemented by hotels, large restaurants, and performance venues. Many have become part of the community fabric. Except on the issue of new developments, casinos seem generally to have been accepted by the populace. Without question, they are frequented by many hundreds of thousands of British Columbians on a regular basis. At least one service provider noted that the region is actually underserved by gaming establishments.
255. There are three large service providers in the Lower Mainland. I met with the management teams of GCGC, Gateway and Paragon, and was impressed by their business acumen and willingness to embrace B.C. as a place to live and work. They provided complete access to their facilities and no request for information was rejected. I am not naive to the reality that cooperation was in the best interests of the service providers and that they, like all public and private corporations, are committed to making a profit and doing well by their owners and shareholders. Below is an overview of the three GSPs in the Lower Mainland.
- 260A. Gateway advised that it “has a long-standing positive reputation in the industry of operating in compliance with applicable laws and regulations, and of following the AML requirements for service providers.” It added that it has “a track record of taking appropriate disciplinary measures, including termination, when an employee has gone offside these obligations.” I accept these comments with respect to all three service providers.

GATEWAY

256. Gateway operates the Grand Villa casino in Burnaby and the Starlight casino in New Westminster.¹²⁶
257. Gateway Casinos & Entertainment Limited (Gateway) has been part of the B.C. casino scene since April 1992, when it acquired two casino operations in the Vancouver area: at the Mandarin Centre in Vancouver’s Chinatown and on the top floor of the Royal Towers Hotel in New Westminster.
258. Gateway is one of the largest and most diversified gaming and entertainment companies in Canada. It operates in Alberta, British Columbia and Ontario, has 6,000 employees and

¹²⁶ <https://www.gatewaycasinos.com/>

operates 25 gaming properties. Gateway has recently been selected as the service provider for the Southwestern, Central and Northern Ontario bundles.

- 259. Gateway is owned by The Catalyst Capital Group Inc., a private equity investment firm with more than \$6 billion in assets under management.
- 260. The Starlight Casino in New Westminster and the Grand Villa Casino in Burnaby were opened in 2007 and 2008 respectively and are its flagship properties.

GCGC

- 261. Great Canadian Gaming Corporation operates the River Rock Casino Resort (River Rock) in Richmond and the Hard Rock Casino Vancouver (Hard Rock) in Coquitlam,¹²⁷ as well as casinos in eight other locations within B.C.
- 262. GCGC has been a part of the B.C. gaming environment since the earliest days. Beginning in 1982, its history parallels that of gaming in the province, moving from small operations into the world of casinos, and steadily growing thereafter. GCGC was also incorporated in 1982 and went public on the TSX Venture Exchange in 1992.
- 263. Also in 2004, GCGC opened the River Rock Casino Resort in Richmond. In 2005, the River Rock became GCGC's first flagship property, adding a hotel with two towers and a 1,000 seat show theatre. The River Rock received an additional boost in 2009 with the opening of the Canada Line, which stops at its door and unloads 15,000 travelers a week. In 2011, the River Rock added a third hotel tower.
- 264. Canada's first Hard Rock casino opened its doors on December 20, 2013, following a multi-million dollar renovation and rebranding of the Boulevard Casino in Coquitlam.
- 265. GCGC has grown into a corporation that now employs almost 10,000 employees across Canada and the United States, at 28 gaming and entertainment destinations. It operates throughout British Columbia, Ontario, Nova Scotia, New Brunswick, and Washington State.

PARAGON

- 266. Paragon operates the Parq casino in downtown Vancouver.¹²⁸
- 267. Established in 2000, Las Vegas-based Paragon Gaming is an internationally recognized developer and operator of gaming destinations. With an executive team led by second-generation members of one of Nevada's prominent gaming families, Paragon has amassed a portfolio that includes Parq Vancouver in British Columbia, the Hard Rock Hotel and Casino

¹²⁷ <https://gcgaming.com/>

¹²⁸ <http://paragongaming.com/>

Lake Tahoe, and Westgate Las Vegas Resort and Casino, which includes the largest sports betting facility in the world.

- 268. In 2006, Paragon opened the River Cree Resort and Casino in Edmonton. It became the most profitable casino in Alberta. After eight years, Paragon sold its interest in the property to turn its focus to development of Parq Vancouver. Paragon's Edgewater Casino in Vancouver, acquired in 2006, remained in operation until transitioning its facilities and personnel to Parq.
- 269. Parq opened on September 29, 2017. Development of the Parq was controversial and took several years to obtain necessary approvals. Its ownership team spent six years focussed on developing the project, which has the potential of becoming a mecca for downtown Vancouver entertainment.
- 270. The Parq entertainment complex is intended to be one third hotel, one third food and beverage and one third casino. The complex includes the luxury JW Marriott Parq Vancouver and the Douglas, an Autograph Collection Hotel, as well as two levels of gaming, eight restaurants and lounges, more than 60,000 square feet of meeting and event space, and a sixth-floor, all season outdoor park.
- 271. The Parq casino is physically situated between the two hotels and literally beside BC Place and near Rogers Place. The complex is somewhat dependent on attracting an international clientele at its hotel and conference facility. It is already seeing signs of new visitors to British Columbia, particularly from the U.S.

REGISTRATION

- 272. The GSPs, all officials and gaming employees are registered by GPEB. The service providers pay the cost of registration investigations, despite the companies and officials often being registered in multiple jurisdictions (where they also must pay the cost).

COMPLIANCE

- 273. Compliance is an important area of any casino operation. Arguably, greater emphasis is placed on compliance in the casino industry than in virtually any other financial industry. This is largely due to the heavy regulation of the gaming industry, the fact that so much of its income is cash based, and because it does not screen who walks through the doors of a casino, other than for age and other 'no-go' requirements.
- 274. An example of a compliance structure is that of GCGC, where the division is headed by the Vice-President, Corporate Security and Compliance, who reports to the CEO. Beneath him are four units: Contract Management & Regulatory Affairs, Compliance, Surveillance, and Corporate Security.
- 275. Each of these units is large. Surveillance and Security are equipped with the most modern of analog and digital surveillance tools. On a practical level, there must be a close 'handshake'

between the human and the technological sides of compliance, to ensure real time reporting of suspicious behaviour. In 2012, the Officer in Charge of Richmond RCMP recognized GCGC's surveillance team for its "continued professional and timely assistance with criminal investigations".

276. Of greater importance than the structure of compliance, however, is the importance of a GSP developing and maintaining a culture of compliance. All three GSPs have assured me that their organizations do indeed have such a culture. A common feature of all three service providers is that they are very large businesses, and each operates in multiple provinces and, or states, meaning that their senior officers are cross-registered in those various jurisdictions.
277. It was repeatedly mentioned by the GSPs that they not only wish to maintain a culture of compliance, but they must, simply because the downside to not being compliant with regulatory requirements is far too great. For example, a GSP found lacking in one jurisdiction will be required to account for those deficiencies in the other jurisdictions where it does business. Therefore, what happens in B.C. can impact on a GSP in Ontario or Nevada, and elsewhere. I comment on the issue of a compliance culture later in this Report.
278. B.C. is fortunate that the current compliance officers for Gateway, GCGC and Paragon are persons with broad based experience in gaming. Two of them have extensive experience in Ontario and another in Las Vegas. All are cross-registered in multiple jurisdictions. Two come from an enforcement background.
279. Considerable discussion has occurred in gaming circles, including in B.C., with respect to the appropriate reporting relationship of the compliance officer within the structure of a gaming organization, be it public or private. The most common options are as a direct report to the CEO, to the Board, or to the Board's Audit Committee.¹²⁹ There are advantages to each, however what is most important is that there be access to all and an expectation that the compliance officer can speak freely, without fear of repercussions. Furthermore, it is essential that the CEO and the Board recognize the critical importance of compliance.
280. The larger challenge may well be to ensure that the senior compliance officer is able to spend sufficient time in B.C., due to the multiple jurisdictions in which each works. That has not been an issue to date but may surface now that all three GSPs have large facilities in more than one jurisdiction.

THEIR VIEWS

281. The Crown agency model is complicated because the service providers own or lease the land and fixtures on which casinos are located, while BCLC owns the gaming equipment. It

¹²⁹ In Ontario, compliance officers are not required to report directly to the Board. The preference there is that they report to the CEO.

contracts with the service providers and imposes numerous constraints on how they carry out business, many of which impact on the generation of revenue.

- 282. The service providers are frustrated by what they view as a system which is stuck. They expressed an interest in a more transparent system, similar to what they are familiar with in Ontario and Nevada. Casinos prefer cash alternatives to cash, for reasons of safety, tracking, and ease of banking, however the alternatives offered in B.C. are not sufficient and some are cumbersome to use. The delay in obtaining financial approvals for patrons also defies commercially acceptable standards.
- 283. The existing model produces a huge return for government, however the commission obtained by service providers is low by comparison to the tax and regulate model. Service providers are prepared to assume greater responsibility and wish to move to a business model which permits cash alternatives, such as credit and international EFTs, that will allow the industry to grow.
- 284. The industry feels that the MNP report (discussed later) missed its mark in terms of its characterization of the industry. They wish to be part of the solution and note that GSPs have invested \$2 billion in B.C. since 2004 and employ over 10,000 people in the Province. It is a highly committed industry and well aware of the cost of failure.
- 285. GSPs must follow all procedures required by BCLC, other Crown partners and regulatory bodies across all the jurisdictions in which they operate. They also liaise with law enforcement agencies as and when required. According to the CEO of GCGC, its “obligation and responsibility in British Columbia’s AML system is to identify and report unusual and large cash transactions to BCLC.” He added that although their role “is not to investigate suspicious transactions, [they] regularly go beyond [their] regulatory obligations and proactively undertake investigative work ourselves, providing that information to BCLC.” This includes GSP security and surveillance officers working closely with police investigators. He noted that the company detected and reported the suspicious activity at the River Rock which led to one of the current RCMP investigations.
- 286. Numerous external reviews and audits are conducted at the casinos on a regular basis. For example, River Rock is subject to external audits and reviews by BCLC, GPEB, and FinTRAC. BCLC also commissions an independent audit of its AML compliance every two years. FinTRAC typically conducts an AML audit every two years. In addition to this, GCGC conducts its own internal and external audits.

CHAPTER 10

THE REGULATOR - GPEB

INTRODUCTION

287. The *White Paper* of 1999 recommended that GAIO be recognized in statute and accorded clear jurisdiction over the regulation of gaming, including the operations of BCLC.¹³⁰ A step in this direction occurred when GPEB was established in Part IV of the *Gaming Control Act* of 2002. It represented the consolidation of the Gaming Policy Secretariat, the BC Gaming Commission, the BC Racing Commission, the problem gambling programs within the Ministry of Finance, and GAIO. It also represented a realignment of some regulatory and operational responsibilities between GPEB and BCLC.
288. GPEB is an office of the provincial government, directed by a General Manager, who typically is also an Assistant Deputy Minister. By written authorization, the GM may delegate his or her powers and duties to a staff member.¹³¹
289. GPEB regulates all gaming operations, facilities, employees, equipment and activities in the province. This includes all gaming conducted, managed and operated by BCLC.¹³² GPEB cannot undertake any activity related to the conduct, management or operation of gaming, or enter into an agreement with a gaming service provider.¹³³ BCLC and GPEB are intended to have different, but complimentary mandates.
290. GPEB's reason for being is found in section 23 of the *GCA*, which provides that it is "responsible for the overall integrity of gaming". This is a huge responsibility. For gaming to be conducted with integrity, it must operate fairly and within the law. GPEB defines the impacts on the integrity of gaming to include the following:¹³⁴

"... all actions, incidents or things which could or may (either actually or by way of perception) corrupt the gaming and/or horse racing industries, or any portions of

¹³⁰ *White Paper*, supra at 189.

¹³¹ *GCA*, s. 24 (1), (3).

¹³² *Investigation into a Privacy Breach of Customers' Personal Information by the British Columbia Lottery Corporation (Re)*, 2011 BCIPC 6.

¹³³ *GCA*, s. 27(4).

¹³⁴ <http://www2.gov.bc.ca/assets/gov/sports-recreation-arts-and-culture/gambling/gambling-in-bc/regulatory-responsibility-gpeb-bclc.pdf> at p. 1. It is hard to translate this definition into discernable roles and responsibilities. The definition is extracted from a 15 page document, entitled "Key Regulatory Responsibilities of the Gaming Policy and Enforcement Branch and their Application to the British Columbia Lottery Corporation", dated March 25, 2008. Part 4 deals with "Investigating Allegations of Wrongdoing". Process and nomenclature have changed considerably since it was completed. There is also residual wording which no longer applies.

them, or bring the reputation of, or public confidence in, those industries into disrepute.”

291. As noted earlier, BCLC also views itself as being responsible for the integrity of gaming in the province. This is not an unreasonable position, as one would hope that all parties, including GPEB, BCLC, and service providers, are committed in this fashion. That is surely what the public expects of a business conducted and managed by government. However, the Legislature placed the adjective, “overall” in front of “integrity” in Section 23, presumably to signify GPEB’s superintendence of that function.
292. GPEB’s Vision is to ensure “The public has confidence in B.C.’s gambling industry” and its Mission “is to ensure the integrity of gaming”.¹³⁵ It does this through programs which “promote compliance with and enforce public standards, laws and regulations, support communities through charitable licensing and grants, and provide public education on responsible gambling and treatment of those affected by problem gambling”.
293. The minister may issue written directives to the GM on matters of “general policy”, with which the GM must comply.¹³⁶ The GM, on the other hand, is responsible for enforcement of the *GCA*.¹³⁷ Under the minister’s direction, the GM “must advise” the minister on policy, standards and regulatory issues; develop, manage and maintain gaming policy; and, among other things, may establish public interest standards for gaming operations.¹³⁸
294. The GM may direct that GPEB investigate matters relating to “the integrity of lottery schemes”, or “the conduct, management, operation or presentation of lottery schemes”. The GM can also receive complaints from gaming patrons. In addition, the GM may make inquiries or research any matter that could reasonably affect the integrity of gaming.¹³⁹
295. The GM may issue directives to GPEB and, with the minister’s approval, to BCLC, regarding “the carrying out of responsibilities” under the *GCA* (but not directly to service providers). BCLC must comply with those which are directed to it.¹⁴⁰ A long, but not exhaustive, list of responsibilities is provided in section 28(1), including standards for security and surveillance at gaming facilities.¹⁴¹
296. Four Executive Directors (EDs) report to the ADM, who is also referred to as the General Manager under the *GCA*. The EDs head units referred to as Strategic Policy and Projects; Community Supports; Licensing, Registration and Certification; Compliance; and Operations (sometimes referred to as a secretariat, providing financial, IT and administrative support).

¹³⁵ The Vision and Mission are not found on the website but within hyperlinked documents.

¹³⁶ *GCA*, s. 26(1), (2).

¹³⁷ *Ibid.*, s. 27(1).

¹³⁸ *Ibid.*, s. 27(2).

¹³⁹ *Ibid.*, s. 27(3).

¹⁴⁰ *Ibid.*, s. 28(1-3).

¹⁴¹ *Ibid.*, s. 28(1)(f).

There are over 140 positions within GPEB. All the units are relevant to this Review, however the following two are of particular interest.

297. GPEB's Compliance Division conducts audits, inspections and investigations of the gaming industry; including BCLC gaming activities, licensed gaming events, lottery retailers, the use of gambling grants by charitable organizations, and the distribution of gaming proceeds.¹⁴² It is also charged with investigating allegations of wrongdoing in legal gaming. Its principal vehicle for deciding what requires investigation are reports received from service providers under section 86(2) of the *GCA*. The Compliance Division also includes a horse racing unit and investigators seconded to a combined forces unit (discussed later).
298. The Compliance Division is intended to be GPEB's principal enforcement arm, consisting of both investigators and auditors. Although the word 'Compliance' is used in preference to 'Enforcement' in the name of the division, I am advised that this was not intended to distinguish or in some way diminish the enforcement role.
299. An Intelligence Unit was created within the Compliance Division. This was a positive development and essential considering the close nexus between certain patrons and criminal conduct.
300. The Licensing, Registration and Certification Division deals with three discreet regulatory fields; the licensing of charitable gaming, the registration of corporations, individuals and lotteries; and the certification of casino equipment. A number of interviewees, including the GSPs, were complimentary of the work performed by this unit. Most relevant to this Review are corporate and personal registrations.
301. Not only must gaming service operators be registered under the *GCA*, but all gaming personnel are individually registered and subject to background investigations every five years to ensure their continued suitability and good character. The GM has the power to suspend, revoke or cancel registrations and licenses.¹⁴³

REGULATORY ENFORCEMENT

302. The GM may designate employees to be inspectors.¹⁴⁴ The GM or an inspector may conduct inspections and audits for various purposes including "monitoring compliance" with the *GCA*, by service providers and BCLC.¹⁴⁵ An inspector is accorded wide ranging powers to undertake the foregoing inspections and audits.¹⁴⁶ This includes the power to "enter and inspect or audit gaming facilities, gaming premises and any gaming operation", "make

¹⁴² *Ibid.*, Part 9.

¹⁴³ *Ibid.*, Part 8.

¹⁴⁴ *Ibid.*, s. 78(1).

¹⁴⁵ *Ibid.*, s. 78(2)(c).

¹⁴⁶ *Ibid.*, s. 79.

inquiries the inspector considers necessary”, require production and permit removal of records or other things, and enter business premises for this purpose.¹⁴⁷

303. The GM may also designate any employee to be an ‘investigator’,¹⁴⁸ who may conduct background investigations¹⁴⁹ and also enforcement investigations.¹⁵⁰ The investigator has the powers and duties of an inspector.¹⁵¹ It is important to recognize, however, that the investigator’s authority relates to “the enforcement of this Act” [the *GCA*], and does not extend to other legislation, such as the *Criminal Code*. Investigators may issue violation tickets under the *Offence Act*.¹⁵²
304. Although the *GCA* is silent on whether other persons have a similar authority to investigate offences under the *GCA*, section 81(2) uses the words “may conduct”. This wording is permissive, with no suggestion of exclusivity. The preferred view is that provincial constables have a similar authority by virtue of their office.¹⁵³ This is reinforced by section 82 which states that the GM, and persons authorized by the GM (not necessarily GPEB investigators), may obtain a search warrant from a justice, for the purpose of enforcing the *GCA*. This power of search extends to a dwelling house and can be for records or things.¹⁵⁴
305. Furthermore, the GM, or a person authorized by the GM, is permitted to use video surveillance as part of an investigation.¹⁵⁵ GPEB has issued *Security and Surveillance Standards* for the BC gambling industry. These standards require security and surveillance at all casinos, to maintain observation and record clear and unobstructed views of cash handling areas, cash counting areas and all public entrances to gaming facilities.¹⁵⁶
306. Section 86(1) of the *GCA* requires that BCLC and service providers must provide the GM with “any information, records or things” that the GM considers relevant to an investigation, and must do so within a time period specified by the GM. The features of this provision to note are that it applies to both BCLC and to service providers, it is mandatory, and the request must be relevant to an investigation (as determined by the GM).

¹⁴⁷ *Ibid.*, s. 79.

¹⁴⁸ *Ibid.*, s. 81(1).

¹⁴⁹ *Ibid.*, s. 80.

¹⁵⁰ *Ibid.*, s. 81(2).

¹⁵¹ *Ibid.*, s. 81(3).

¹⁵² RSBC 1996, c. 338. Also, see *Violation Ticket Administration and Fines Regulation*, BC Reg. 89/97, as amended, Schedule 1 para. 22.

¹⁵³ Had the Legislature intended to only allow “investigators” to take enforcement action under the *GCA*, it would have used wording similar to that in the *Corruption of Foreign Public Officials Act* (S.C. 2001, c. 32) which specifies that only RCMP officers may investigate offences under the legislation (s. 6).

¹⁵⁴ *GCA*, s. 82.

¹⁵⁵ *Ibid.*, s. 85.

¹⁵⁶ *Ross v. British Columbia Lottery Corporation*, 2014 BCSC 320.

307. If warranted, the GM must report the results of investigations, to the Attorney General; and to BCLC, if the investigation is undertaken at the request of BCLC, or if the GM otherwise considers it appropriate to do so.¹⁵⁷
308. The various offences in the *GCA* are enumerated in section 97(2), and penalties are provided for in section 98. These penalties are in addition to any administrative sanctions imposed by the GM.¹⁵⁸ The GM may also exercise restraint, detention and forfeiture powers.¹⁵⁹ None of the offence provisions apply to BCLC and, as a result, GPEB is in the anomalous position of being a regulator without the power to enforce regulations against the most significant entity in B.C.'s gaming environment.
- 308A. A former ADM / GM of GPEB states that the legislative drafter of the 2002 legislation indicated that, because BCLC was an agency of government, it should be treated differently than non-government agencies and that imposing a penalty on a government agency was inappropriate. As we shall see, Ontario has taken a different approach, which appears to work very well. There are also numerous examples of government agencies being subject to penalties by regulators, such as FinTRAC.
309. The *GCA* does, however, require that BCLC, registrants and licensees immediately notify GPEB of any conduct, activity, or incident that may be contrary to the *Criminal Code*, the *GCA* or its regulations.

SPECIAL PROVINCIAL CONSTABLES

310. The B.C. *Police Act*¹⁶⁰ provides that the minister may appoint suitable persons as special provincial constables for a specified term.¹⁶¹ GPEB investigators have all been appointed as special provincial constables. Section 9 of the *Police Act* reads:

“Special provincial constables

9 (1) The minister may appoint persons the minister considers suitable as special provincial constables.

(2) A special provincial constable appointed under subsection (1) is appointed for the term the minister specifies in the appointment.

¹⁵⁷ *GCA*, s. 81(4).

¹⁵⁸ *Ibid.*, s. 99.

¹⁵⁹ *Ibid.*, s. 82.3 and s. 83.

¹⁶⁰ RSBC 1996, c. 367.

¹⁶¹ In practice, these appointments are made by the provincial Director of Police Services. Approximately 25 provincial agencies and Crown Corporations employ Special Provincial Constables, whose duties vary from criminal to regulatory investigations, intelligence gathering and protective services. These roles include as fraud investigators (ICBC, WorkSafeBC, Income Assistance, Childcare and Healthcare); compliance and enforcement Investigations regarding consumer protection, film classification, financial institutions, securities/markets, gaming enforcement, liquor, etc.

(3) Subject to the restrictions specified in the appointment and the regulations, a special provincial constable has the powers, duties and immunities of a provincial constable.”

311. There is a strong public policy rationale for appointing special provincial constables. Ideally a regulatory regime should be self-reliant and not dependant on the vagaries of the shifting law enforcement mandates of federal, provincial or municipal police. Allied to this is the need to properly equip specialists who are tasked with regulatory enforcement. Unfortunately, for reasons discussed later in this Report, the status of a special provincial constable may not suffice for what is required in the casinos.
312. It would be counter-productive to provide persons with the authority to investigate, however require them to end their investigation if it should cross into another statutory regime, including the criminal. The power to arrest, the power to search, and the ability to use force and be protected in doing so, can be critical to investigations. These common law and statutory powers are reflected in section 10(1), which reads:

“Jurisdiction of police constables

10 (1) Subject to the restrictions specified in the appointment and the regulations, a provincial constable, an auxiliary constable, a designated constable or a special provincial constable has

- (a) all of the powers, duties and immunities of a peace officer and constable at common law or under any Act, and
- (b) jurisdiction throughout British Columbia while carrying out those duties and exercising those powers.”

313. Therefore, a special provincial constable has “all of the powers, duties and immunities of a peace officer and constable at common law or under any Act”¹⁶² This is significant for various reasons, including the independence accorded a constable at common law to perform his or her duties. A special provincial constable has jurisdiction throughout British Columbia while carrying out these duties.¹⁶³
314. Section 10(2) adds the caveat that that if a special provincial constable exercises jurisdiction “in a municipality having a municipal police department, he or she must, if possible, notify the municipal police department in advance, but in any case must promptly after exercising jurisdiction notify the municipal police department of the municipality.”¹⁶⁴ This notice requirement is often waived by way of a memorandum of agreement or understanding between forces. Interestingly, it does not apply in RCMP contract jurisdictions, such as Richmond, Burnaby, and Prince George.¹⁶⁵

¹⁶² *Police Act*, SBC 1996, C. 367, s. 10(1).

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*, s. 10(2).

¹⁶⁵ See the definition of “municipal police department” in s. 2 of the *Police Act*.

315. The status of a special provincial constable is a significant adjunct to the powers provided for in the *GCA*. However, the authority of a special provincial constable is circumscribed by any restrictions specified in the appointment.
316. In *R. v. Semeniuk*,¹⁶⁶ the B.C. Court of Appeal considered the status of a special provincial constable, with particular reference to the power to obtain a *Criminal Code* search warrant. In *Semeniuk*, the trial of the accused was complete, however the officer continued to investigate the accused while the case was on appeal, based on new evidence which surfaced after trial.
317. The Court of Appeal reviewed sections 9 and 10 of the *Police Act*, as well as section 487(1) of the *Criminal Code*, which allows a justice to issue a search warrant to “a peace officer or public officer who has been appointed or designated to administer or enforce a federal or provincial law and whose duties include the enforcement of this [*Criminal Code*] Act”. A peace officer is defined in the *Code* to include a police constable, bailiff, constable, etc. Saunders J.A., speaking for the court, found that the special provincial constable in that case was operating within the restricted mandate of his appointment and was therefore a peace officer for purposes of section 487.¹⁶⁷
318. In other words, a special provincial constable may exercise investigative powers under the *Criminal Code*, if they flow from the terms of his or her appointment. In his treatise on the *Legal Aspects of Policing*, Paul Ceyssens writes:¹⁶⁸
- “While the statutory provisions governing special constables in Canadian jurisdictions differ in some respects [from those in England], the better view of the law would seem to be that special constables do hold the office of constable, subject to the restrictions of the special constable appointment.”
319. There is no general authority for a special provincial constable to act as a constable. Instead, they are restricted by the mandate set out in their appointment. Determining the boundaries of the mandate should be clear in most cases, although it may pose interpretative difficulties in some.
320. In the case of GPEB investigators, I am informed that the appointment as a special provincial constable is limited to the *GCA* and, to the extent necessary, the *Criminal Code*. This supplements their authority under the *GCA*. It also allows them to pursue investigative powers contained within the *Criminal Code*, respecting conduct which gives rise to criminal offences. One must assume that an appointment as a special provincial constable was intended to add to an investigator’s powers or protections. Were that not the case, then the appointment would be of no consequence.

¹⁶⁶ 2007 BCCA 399. The special provincial constable in this case was the director of investigations for B.C.’s financial regulatory agency, FICOM.

¹⁶⁷ *Ibid.* at para. 24.

¹⁶⁸ Paul Ceyssens, *Legal Aspects of Policing* (Saltspring Island, B.C., Earls Court, 1994, et seq.) at p. I-57.

321. There is an important nuance, however. The special constable power is adjacent to valid provincial powers. GPEB investigators may only use police powers to the extent that they are required to fulfill their provincial, regulatory powers. A temporary workaround is for the police to ask a special constable for assistance, as in joint RCMP-GPEB teams discussed later.
322. The appointment of GPEB investigators as special provincial constables affords them the ability to utilize the powers and protections of the *Criminal Code* as they investigate gaming offences which transit into the criminal regime. Their authority is restricted by the mandate in their appointment and should only be exercised when there is a clear nexus to a criminal offence. There is an expectation that the police force of jurisdiction will be notified of these instances and given the option of assuming jurisdiction.

CHAPTER 11

THE 'OTHER' REGULATOR - FINTRAC

INTRODUCTION

323. Two years after the amendments to the *Criminal Code* which made laundering a criminal offence, Parliament enacted the first money laundering statute, the *Proceeds of Crime (money laundering) Act*.¹⁶⁹ It required financial institutions to record certain transactions. The legislation expanded greatly in 2000 and again after the tragedy of September 11, 2001. The current statute, the *POCMLTFA*,¹⁷⁰ creates a complex financial reporting regime for Canadian businesses, including casinos.
324. The early years of Canada's proceeds of crime legislation were also early years for public gaming in Canada. Casinos were not viewed as particularly advantageous locations for money laundering, due to the odds which a player faces when gambling. That view changed over the years and casinos are now viewed as extremely vulnerable to the laundering of large sums of cash.
325. Within the gaming sector, the *POCMLTFA* regulates land-based casinos, and internet casino gaming; but not horse racing, bingo and lotteries. Regulations under the *POCMLTFA* define a casino as "a person or entity that is licensed, registered, permitted or otherwise authorized to do business under any of paragraphs 207(1)(a) to (g) of the *Criminal Code* and that conducts its business activities in a permanent establishment."¹⁷¹

FINTRAC

326. Canada's financial intelligence unit is FinTRAC. It was created in 2000 by the *POCMLTFA*, as an independent agency of the federal government to collect information that will assist in the detection, prevention and deterrence of money laundering and financing of terrorism.
327. The *POCMLTFA*, through the vehicle of FinTRAC, requires that reporting entities maintain a compliance regime, which embraces the principles of Know Your Customer (KYC) or Know Your Patron (KYP) by obtaining identification, keeping records; assessing risk; and training. A compliance regime must include a compliance officer, a formal compliance plan, documented risk assessments, written compliance education programs, as well as audits and reviews.

¹⁶⁹ S.C. 1991, c. 26.

¹⁷⁰ S.C. 2001, c. 41, s. 48.

¹⁷¹ *POCMLTF Regs*, SOR/2002-184, Section 1(1).

328. Most importantly, the *POCMLTFA* requires the submission of reports to FinTRAC. These include suspicious transaction reports (STRs) and large cash transaction reports (LCTRs).¹⁷² What constitutes a suspicious transaction is described in subordinate legislation. A large cash transaction is not necessarily suspicious, but simply exceeds a reporting threshold. Among the industries required to report, are casinos.¹⁷³ In addition to the foregoing reports, reporting entities in the casino industry must file Casino Disbursement Reports (CDRs).
329. The process of reporting to FinTRAC differs from province to province due to the unique frameworks for gaming that we find in the provinces. It falls along a continuum in which service providers report direct to FinTRAC; or report to FinTRAC through a portal at the Crown Corporation; or such as B.C., in which reports are sent to the Crown Corporation, which then decides what will be reported to FinTRAC.
330. The number of reports received by FinTRAC is staggering. In 2016, it received over 27 million financial transaction reports across all sectors. With respect to casinos, it received 172,289 casino disbursement reports alone. FinTRAC utilizes sophisticated software to analyze submissions from reporting entities and ultimately disseminates the information in vetted form to designated law enforcement and security agencies.
331. On a national level, FinTRAC's dissemination of intelligence is roughly 70% reactive, or in response to Voluntary Information Reports (VIR) submitted by police, and 30% proactive, in which it disseminates leads on new cases.¹⁷⁴ FinTRAC attempts to align its proactive disclosures with police priorities in different parts of the country. In recent years, these have included terrorist financing, human trafficking, child sexual exploitation and fentanyl. Traditionally, casinos have not been viewed as a priority for law enforcement.
332. It is widely believed that FinTRAC is in the business of 'catching financial criminals'. This is not quite correct. FinTRAC is not a law enforcement body. In fact, law enforcement officers are not permitted to work in its premises due to *Charter* and privacy concerns. It is a regulatory agency of the federal government, tasked with ensuring that specified industries and financial entities report in accordance with the provisions of the *POCMLTFA*.
333. The absence of law enforcement from within FinTRAC has been a problem from the time that the Centre was established. As an outlier among financial intelligence units, FinTRAC has had to develop relationships with law enforcement while not allowing them direct access to its information. In recent years, FinTRAC has made great strides compared to its early years when there was a lack of alignment (or knowledge) of what was important to law enforcement. The law enforcement community is complimentary of FinTRAC's assistance when responding to requests for assistance, noting that its intelligence has contributed to successful investigative results.

¹⁷² *POCMLTFA*, s. 7.

¹⁷³ *Ibid.*, s. 5(k).

¹⁷⁴ This estimate changes to 80/20 per cent in the case of casinos, with less proactive disclosures that are specific to gaming.

334. FinTRAC has a Memorandum of Understanding (MOU) with each provincial regulator; the first was completed with GPEB in 2005. Quite rightly, FinTRAC believes that it and the provincial regulators have a mutual interest in mitigating risks.

CHAPTER 12

POLICE

GAMING ENFORCEMENT

335. Criminal enforcement of gaming laws by police in the Lower Mainland reaches back to the opium dens and illegal gaming houses that existed in Vancouver over a hundred years ago. Although the legal complexion of gaming has changed a great deal over the past century, police enforcement has tended to remain complaint driven and focussed on illegal houses. Any forays into legal gaming since the *Criminal Code* amendments of 1969 tended to involve the activity that occurs on the periphery of gaming establishments, mostly patron driven. This includes impaired driving, assaults, intoxication, loan sharking and, in a few instances, murder.
336. A cynic might argue that the police serve as an agent of legal gaming, by dealing with the unpleasant activity that attaches to casinos and by focussing proactive enforcement on illegal gaming houses, which tend to impact on the bottom line of legal gaming establishments. It cannot be forgotten that gaming has also been viewed in many quarters within the public and the police as a legal vice which is not deserving of the same attention that one would expect in the case of violent crime and property crime. Similar arguments have been made with respect to prostitution and soft drug consumption.

LAW ENFORCEMENT IN BRITISH COLUMBIA

337. Policing in Canada mirrors its three levels of government. There are federal, provincial and municipal police departments.
338. The RCMP is Canada's principal federal police force, sometimes referred to as its national police.
339. Each province may create a provincial police force, however only Ontario and Quebec have their own forces, with the remaining provinces contracting with the RCMP. That has been the situation in B.C. since 1950, when the British Columbia Provincial Police Force was disbanded.
340. In B.C., municipalities have the ability, with the consent of the province, to form their own police force or to contract with the RCMP. In the Lower Mainland, municipalities are roughly split in this respect, with several independent police departments and a number of contract RCMP detachments.

341. The Lower Mainland also contains integrated police units, the best known being the Combined Forces Special Enforcement Unit – BC (CFSEU), and the Integrated Homicide Investigation Team (IHIT). The former is a provincial unit and the latter is an integrated provincial and municipal unit.
342. The five large casinos in B.C. are situated in different municipalities, each with its own municipal police or RCMP detachment. The River Rock is policed by Richmond RCMP. The Grand Villa is policed by Burnaby RCMP. The Hard Rock is policed by Coquitlam RCMP. The Starlight is policed by New Westminster PD. The Parq is policed by Vancouver PD. As a result, there are three police forces of primary jurisdiction and five detachments or departments with casinos within their boundaries.

THE RCMP

343. As Canada's national police force, the RCMP has responsibility for enforcing federal criminal law, such as the *Controlled Drugs and Substances Act* and the criminal provisions of other federal statutes. In British Columbia however, it is also both the provincial police force and a contract municipal police force. The result is that its complement of over 6,000 police officers is engaged on a variety of duties. The Lower Mainland contains the greatest concentration of operational RCMP officers in the country, currently numbering more than 3,000. Most are engaged on contract duties and function, for all intents and purposes, like municipal police officers. The largest RCMP detachments in the country are Surrey, Burnaby and Richmond. However, despite the huge number of RCMP resources, only a small percentage is dedicated to proceeds of crime and money laundering duties.
344. The RCMP's federal enforcement resources were traditionally divided by commodity or enforcement specialty, such that its units included sections dedicated to Drug Enforcement, Commercial Crime, Customs and Excise, Proceeds of Crime, and General Enforcement. The Commercial Crime Sections, regarded as elite white-collar crime sections during the 1970s and 1980s, were further divided into units dedicated to securities, bankruptcy, counterfeit, taxation, enterprise crime, and more. The Proceeds of Crime Sections emerged out of anti-drug profiteering units within the Drug Sections and took on increased profile with passage of the proceeds of crime amendments to the *Criminal Code*. The Enterprise Crime units within Commercial Crime were merged into the Proceeds of Crime sections. The result was that a cadre of specialists were created to deal with proceeds of crime and money laundering.
345. Post-2012, the RCMP realigned its priorities to deal with present and emerging threats, most notably terrorism. A restructure of its federal resources saw the pre-existing specialist units merged into integrated teams, under the umbrella of Federal and Serious Organized Crime (FSOC). This task force approach to organized crime had been adopted in other countries with varying degrees of success.

346. The increased resources focussed on organized crime led to a dramatic decrease in commercial crime and proceeds of crime enforcement. This was particularly so in British Columbia, where greater emphasis was placed on civil forfeiture during these years. It also led to the loss of specialized expertise in these important areas. The added pressure of staffing up the provincial and municipal contracts, further exacerbated the issue. In many respects, the current interest in money laundering in casinos has revitalized this area of enforcement.
347. At present, the RCMP is redeveloping its capacity to deal with commercial fraud and money laundering, however what took only the stroke of a pen to abolish will take many years to redevelop. Some specialized units did survive in the same or a modified form, but these are not of direct relevance to the gaming industry as we know it in B.C.
348. In the absence of federal assistance, dealing with money laundering allegations in the casino industry fell to the RCMP's provincial complement. Where organized crime is involved, CFSEU-BC is the provincial unit with primary investigative responsibility.

CFSEU - BC

349. Since the 1970's, British Columbia has had a combined enforcement unit, composed of members of both the RCMP and municipal police forces. What began as the Combined Law Enforcement Unit evolved into the Organized Crime Agency of B.C. and then into the Combined Forces Special Enforcement Unit, an integrated enforcement model also employed elsewhere in Canada.
350. CFSEU is focussed on organized crime, which generally involves major drug investigations and violent gang activity. It often reaches into the higher echelons of organized crime, such as outlaw biker gangs and Asian organized crime.

PART 5

REPORTS AND MORE REPORTS

CHAPTER 13

FEDERAL REPORTING

FINTRAC REPORTS

351. In addition to a dizzying array of audits and reviews, GSPs are required to prepare and forward reports to BCLC and GPEB with respect to AML and other alleged criminal and regulatory misconduct. In an attempt to explain this overly complex area, I examine the federal requirements in this chapter and provincial requirements in the following chapter. In each case, the statutory requirements contain an overlay of other reports required by BCLC or GPEB policy.
352. The federal *POCMLTFA* requires that the entity with conduct and management of gaming must supply four types of reports to FinTRAC: LCTRs, STRs and attempted STRs, CDRs, and Electronic Funds Transfer Reports (EFTR). These reports are described below.
353. Large Cash Transaction Reports (LCTR) are submitted when reporting entities receive an amount of \$10,000 or more in cash in a single transaction, or two or more transactions in a 24-hour period which total \$10,000, if conducted by or on behalf of the same person.¹⁷⁵ These must be submitted within 15 days but are generally filed much sooner.
354. A Suspicious Transaction Report (STR) must be submitted by reporting entities in the case of completed or attempted transactions if there are reasonable grounds to suspect that the transactions are related to the commission or attempted commission of a money laundering offence or of a terrorist activity finance offence. What constitute 'reasonable grounds to suspect' is determined by the circumstances of the transaction, knowledge of the patron, and normal business practices. There is no threshold amount, which means that an STR must be submitted even if the suspicion relates to a small buy-in. FinTRAC has developed a Guideline which outlines numerous indicators of suspicious transactions in the context of a casino.¹⁷⁶ An STR must be submitted to FinTRAC within 30 days.
355. A Casino Disbursement Report (CDR) is a FinTRAC reporting requirement that is unique to casinos and requires the submission of a report when \$10,000 or more is paid out to a patron in cash or other form of payment, either at one time or over a period of 24 hours. A CDR must be submitted within 15 days of the transaction.
356. An Electronic Funds Transfer Report (EFTR) is required for an incoming or outgoing international EFT in the amount of \$10,000 or more, which results from a patron request. As with an LCTR, it also captures situations in which more than one EFT is transmitted within a

¹⁷⁵ The intent here is to prevent 'structuring'.

¹⁷⁶ FinTRAC, *Guideline 2: Suspicious Transactions*, Ottawa, 2010.

24-hour period for the same patron and meets the threshold. An EFTR must be submitted within five days.

- 357. It should be noted that casinos, like most other entities, are also required to immediately submit Terrorist Property Reports to FinTRAC if they become aware of transactions or proposed transactions involving terrorist property.
- 358. The bulk of reports emanating from a B.C. casino fit within the categories of an LCTR or a CDR. These reports are routinely submitted in batches by BCLC to FinTRAC. International EFTs are less common in B.C. casinos, due to the rules surrounding cash alternatives. STRs are the reports that are of greatest interest.

UNUSUAL / SUSPICIOUS TRANSACTIONS

- 359. BCLC does not permit service providers to complete STRs on its behalf. Instead, GSPs are required to assess transactions as you would for an STR, but instead of creating an STR, the service provider inputs an Unusual Financial Transaction (UFT) into the Incident Report and Risk Management System (iTRAK). The UFT includes the name of the player, the player's ID and a description of what occurred. BCLC uses iTRAK to automate several AML reporting and analytics functions. It also functions as the main repository for all incidents and transactions collected for a player.
- 360. Upon review of the UFT by BCLC, a decision is made on whether to forward it to FinTRAC as an STR, or not. In this manner, BCLC substitutes its judgment for the GSP, even though it is the casino which dealt with the patron. Approximately 90 to 95% of UFTs are turned into STRs and sent to FinTRAC by BCLC. For its part, FinTRAC does not oppose filtering, as it theoretically eliminates receiving STRs that do not meet the test for submission and it may provide additional information based on BCLC's databases.
- 361. As BCLC's AML unit does not normally work on evenings, at night or on weekends, an on-call investigator will monitor iTRAK for UFTs and will take calls from the GSPs during off-hours. One investigator has remote access to iTRAK from his laptop. He can review a large cash buy-in while off duty and contact the GSP with instructions to place the player on conditions, pending a more in-depth review on a workday. Calls generally involve players who are not already in the system or are on particular conditions. A former manager at BCLC indicates that the number of calls received outside business hours was minimal. It is hard to assess if that is good or bad.
- 362. Unusual Financial Transaction is not a term found in the *POCMLTFA*. It appears to be an adaption of the Unusual Transaction Report (UTR) submitted by financial institutions to their central AML units. By extrapolation, the BCLC model is similar to the bank model, in which the 30-day window affords financial institutions a period of time to decide whether to send an STR, oftentimes after review by an AML unit or legal counsel. A succinct

explanation of the difference between a UTR and an STR, in the financial industry is provided by the following excerpt from the Assante Wealth Management website:¹⁷⁷

“What is the difference between a “suspicious transaction” and an “unusual transaction”? The Act defines a “suspicious transaction” as any transaction, including an attempted transaction, where there are “reasonable grounds” to suspect that it relates to money laundering. All suspicious transactions must be filed with FINTRAC. An “unusual transaction” is identical, except that the identification and reporting of such is an internal Assante matter. Upon receipt of an Unusual Transaction Report (UTR), the Compliance Department at Head Office will review the completed UTR and determine if filing the transaction with FINTRAC, as a “suspicious transaction”, is appropriate.”

363. The sober, second thought provided at a financial institution’s head office may have merit in terms of a branch office structure, where STRs are not common by comparison to the volume of transactions. It makes little practical sense in the gaming industry where GSPs are thoroughly familiar with all the indicators of suspicion that they encounter on an almost daily basis.
364. The downside to filtering is that it allows a third party, not present at the time of the transaction, to determine what is or is not suspicious. With trained personnel in the casinos, this should not be necessary. It can also lead to over-filtering and a delay in reporting, particularly if there is an ongoing investigation. In addition, filtering through BCLC is only possible because Canada has a lengthy filing period for STRs.¹⁷⁸
365. The reasons provided by BCLC for undertaking this filtering process are two-fold: it allows BCLC to check for references to the same individual at other B.C. casinos and it allows BCLC to perform open source analytics on the person. The question then becomes, why can GSPs not perform their own open source research? Furthermore, if the same patron is performing large and suspicious buy-ins at other casinos, FinTRAC will likely be in possession of an LCTR from the second casino even before the UFT is submitted by the first casino, regardless of whether or not the second casino submits a UFT.

BCLC’s AML UNIT

366. With a change in leadership in 2014, BCLC developed an AML unit. An Information Sharing Agreement was signed with the RCMP, considered key to keeping gang members out of casinos.

¹⁷⁷ http://www.ci.com/orderform/pdf/applications/utr_1001_e.pdf

¹⁷⁸ The reason for this dates back to the early days of the *POCMLTFA* regime and ‘horse trading’ which occurred at that time with mainstream financial institutions. From a law enforcement perspective, waiting 30 days to learn of a suspicious transaction hardly makes sense, let alone the additional time required for FinTRAC to perform its own analysis of the information.

367. Until April 2015, BCLC's AML unit consisted of four employees: a manager, a specialist and two analysts. In April 2015, the AML Manager became the Director AML and in 2015, a Manager Cash Alternatives position was created, bringing the unit complement to five persons. A restructuring occurred in 2016, resulting in two managers, two analysts and four investigators, with part-time administrative support. The Manager reports to a Director, who also supervises the General Investigations group. This other group includes investigators in the casinos, however their principal focus is not on AML matters. They are cross-trained and work in the areas of lotteries, e-gaming and casinos. BCLC investigators can access the surveillance rooms at the casinos and have dedicated viewing stations where they can review documents and video.
368. When performing due diligence on customers, the AML unit uses four open source databases to build profiles and assess the risk associated with certain players (Lexis-Nexis, FinScan, BC Adverse Media, and World Chek). The unit is hoping to upgrade its FinScan to better search Chinese names, which now produce many false positives. The unit has completed more than 15,000 checks of high risk patrons and 850 "deep dives". In their opinion, there is much more that they could be doing.
369. Members of the unit require certification by the Association of Certified Anti-Money Laundering Specialists (ACAMS) and attend its annual conference in the United States to remain current.

WHO SHOULD REPORT TO FINTRAC?

370. The haphazard structure of gaming in Canada leads to all manner of inconsistency between provinces in terms of reporting to FinTRAC. For its part, FinTRAC prefers as few entities as possible reporting to it in a sector.
371. In June 2007, amendments to the *POCMLTFA* provided that the gaming entity with conduct and manage authority shall be the reporting entity to FinTRAC. Nevertheless, FinTRAC leaves it to the provinces to designate who has conduct and manage authority for this purpose.
372. The President of BCLC notes that there is a clearer definition of the relationship between AGCO, the provincial regulator in Ontario, and FinTRAC than exists between GPEB and FinTRAC. Roles are also much clearer in the United States, where federal and state authorities share regulatory oversight of casinos. He sees the need for GPEB obtaining "clear accountability regarding gaming and AML inside casinos."
373. The Chairman of BCLC's Board of Directors advised that BCLC's role as the reporting entity stems from the early days of FinTRAC, when the regulator was seeking an organization to take on this responsibility. He noted that the logical entity is, in fact, the "operator".
374. The frustration for BCLC is that it gathers and shares information on suspicious behaviour, however is reliant on others to do something with the intelligence that it gathers. As the

Board Chair noted, “we have zero authority” and “rely on others”. When other entities, such as the police have other priorities, BCLC gets blamed. If nobody is taking enforcement action, a small-time loan shark can become a sophisticated, international money launderer. In his view, it is important “to put the first response into the hands of the person who is going to complete the investigation.” He added, “we can’t continue this way”, “we gather – we know – nothing gets done”.

CRIMINAL RESPONSIBILITY

^{374A}. There is another, often ignored, reason why the responsibility for filing STRs must rest with the casino operators. It would be virtually impossible to hold BCLC or a GSP criminally responsible for money laundering under the present bifurcated structure in which the service providers file UFTs and BCLC determines whether they contain information sufficient to constitute a suspicious transaction.

^{374B}. Criminal and civil liability is much clearer in the United States, where federal and state authorities have undertaken investigations of large casino operators, due to their failure to undertake adequate KYC of clients. Joseph Rillotta notes “that merely filing a SAR-C [STR] does not necessarily discharge a gaming company’s legal responsibilities; nor does it necessarily insulate a company from liability arising from a patron’s money laundering activity.” He refers to the spectre of “organizational money laundering” as a very real concern for U.S. casino operators.¹⁷⁹

^{374C}. Rillotta has summarized steps which U.S. casinos ought to take in order to improve their AML compliance and reduce the risk of liability. These include the following:¹⁸⁰

- 1) Compliance departments should pre-clear certain high-risk customer relationships;
- 2) Play needs to be monitored responsibly, and “red flags” need to result in SAR-C filings;
- 3) Casinos should consider re-reviewing SAR-Cs *post*-filing to identify and assess risks in ongoing relationships;
- 4) Casinos should improve internal information-sharing mechanisms;
- 5) Casinos should consider adjusting financial incentives so that staff can internalize and address money laundering risks; and
- 6) To the extent possible, temptations to facilitate money laundering should be removed.

¹⁷⁹ Joseph Rillotta, “Beyond the SAR-C: Best Practices for Gaming Companies to “Know Your Customer” and Avoid Organizational Money Laundering Liability in the Post-Sands Climate”, *supra*. at p. 145.

¹⁸⁰ *Ibid.* at pp. 154-159.

374D. The foregoing best practices require that both responsibility for compliance and accountability reside within the same entity.

RECOMMENDATIONS - *FEDERAL REPORTING*

- R5 That the Service Providers be responsible for completing all necessary reports to FinTRAC, including STRs.
- R6 That discussions with FinTRAC take place with the purpose of designating the Service Providers as direct reports to FinTRAC, failing which that reports from Service Providers be sent in an unaltered form to FinTRAC by BCLC.
- R7 That BCLC provide Corporate STRs if its files contain relevant information not contained within an STR from a Service Provider.
- R8 That Service Providers develop the necessary capacity to assess risk and perform due diligence on suspicious transactions.
- R9 That the service providers copy STRs to BCLC, the regulator (and the DPU), and the RCMP.
- R10 That the Regulator / DPU be provided with access to iTRAK in its offices.

CHAPTER 14

PROVINCIAL REPORTING

PROVINCIAL REPORTS

375. Before the *GCA* came into force in 2002, BCLC and service providers were not required by statute to report suspected offences to the Province. Change was required in order to allow GPEB, the newly minted regulator, to monitor the industry and develop an appropriate enforcement strategy.
376. Section 86(2) is currently the heart of the *GCA*'s compliance regime. It requires that BCLC and the GSPs immediately report to GPEB, any conduct, activity or incident that involves or involved an offence under the *GCA*, or an offence that is relevant to a lottery scheme under the *Criminal Code*.
377. The section reads as follows:
- (2) The lottery corporation, a registrant and a licensee must notify the general manager immediately about any conduct, activity or incident occurring in connection with a lottery scheme or horse racing, if that conduct, activity or incident involves or involved
 - (a) the commission of an offence under a provision of the *Criminal Code* that is relevant to a lottery scheme or horse racing, or
 - (b) the commission of an offence under this Act.
378. The duty to report in section 86(2) is reinforced by section 34 of the *GCR*, which provides in part that one of the conditions of registration of a gaming service provider is that it "immediately report to the general manager any conduct or activity at or near a gaming facility that is or may be contrary to the *Criminal Code*, the *Act* or the regulations". Since 2002, GPEB has received approximately 2,400 reports each year.
- 378A. The quality of section 86(2) reports is a matter to be explored later. A former ADM of GPEB notes that these reports can be the subject of freedom of information access requests, something which both GPEB and the gaming industry resisted until a decision was rendered by B.C.'s Information and Privacy Commissioner. The concern of GPEB and the industry was that the "amount, quality and completeness" of the reports would suffer, as employees completing the reports "feared retaliation from individuals on which they would be reporting."
- 378B. Clearly public access to section 86(2) reports is both desirable and important, if only because the investigative journalists who shone a spotlight on allegations of money laundering in casinos relied on these reports as a basis for their investigations. The issue

therefore is to create an environment within casinos, which does not allow employees to be intimidated. This can only occur if the entire system works in unison – service providers, Crown Corporation, regulators and police.

- 379. Reports which relate to suspicious financial transactions are referred to as Suspicious Currency Transactions (SCT). They are generated from information developed by casino surveillance staff, the same raw data that forms the basis for the UFTs that are loaded into iTRAK and find their way to BCLC.
- 380. As GPEB does not have ready access to iTRAK, it does a reconciliation after the fact to determine if it has received an SCT for every UFT that is sent to BCLC. This duplicitous, time consuming system has led to confusion, over-reporting and suggestions of non-reporting or under reporting.
- 381. In a period of 10.5 months during 2014-15, 9,872 section 86(2) reports were submitted to GPEB, of which only 290 were believed to meet the threshold for reporting; including 94 under the GCA, 153 cheat at play, 16 illegal lottery and 27 loan sharking complaints. Over-reporting wastes resources and prevents GPEB from focusing its investigative energies on those reports which are deserving of investigation.
- 382. After a business review instituted by the GM in 2014, GPEB streamlined its organizational structure as well as the flow of reports reaching its office. By developing a threshold for incoming reports, it substantially reduced their number, thereby allowing investigators to concentrate more time on investigations, rather than on process.

GM / GPEB POLICY DIRECTIVE

- 383. For many years, the GM has provided BCLC and service providers with an interpretation directive, intended to assist with understanding the requirements of section 86(2). Among the reportable items are “conduct, activities or incidents” relating to “Money laundering (including suspicious currency transactions, or suspicious electronic fund transfers).”¹⁸¹
- 384. GPEB developed forms to be used by service providers for section 86(2) reporting. It also receives complaints from third parties concerning suspected illegal activity in gaming establishments.
- 385. The incidents reported pursuant to section 86(2) cover a wide gamut of activity, including the removal of barred or self-excluded patrons, altercations between patrons, theft from patrons or the casino, vehicle damage and theft, intoxicated patrons, suspected or actual illegal drug use or activity by patrons, armed robbery, use of suspected counterfeit bills, cheating, medical emergencies, and much more.

¹⁸¹ <https://www2.gov.bc.ca/assets/gov/sports-recreation-arts-and-culture/gambling/grants/2013-11-25-letter-lg-reporting-wrongdoing.pdf>

386. Some reports remain open pending the results of further inquiries. Others are recorded for information purposes, or simply concluded. Some are shared with law enforcement agencies, if it is believed they may assist with criminal investigations. However, it is unusual for a criminal or regulatory charge to result directly from a section 86(2) report. The reports are often grouped together for intelligence purposes. Some reports contain a good deal of information about an incident, but most do not.
387. The GM's directive also imposes an expectation on GPEB that it will 'immediately' deal with reports and instructs service providers to not disclose the reports which they have made.

COMPARING FEDERAL AND PROVINCIAL REPORTING REQUIREMENTS

388. The federal STR reporting requirement in the *POCMLTFA* reads as follows:¹⁸²

"Transactions if reasonable grounds to suspect

7. Subject to section 10.1, every person or entity referred to in section 5 shall report to the Centre, in the prescribed form and manner, every financial transaction that occurs or that is attempted in the course of their activities and in respect of which there are reasonable grounds to suspect that

- (a) the transaction is related to the commission or the attempted commission of a money laundering offence; or
- (b) the transaction is related to the commission or the attempted commission of a terrorist activity financing offence."

389. There are close similarities to the provincial section 86(2) reporting requirement, which for ease of comparison, reads as follows:

"(2) The lottery corporation, a registrant and a licensee must notify the general manager immediately about any conduct, activity or incident occurring in connection with a lottery scheme or horse racing, if that conduct, activity or incident involves or involved

- (a) the commission of an offence under a provision of the *Criminal Code* that is relevant to a lottery scheme or horse racing, or
- (b) the commission of an offence under this Act."

390. At the risk of oversimplification, the essential difference between the reporting requirements in these sections is that section 7 uses the term, "in respect of which there are reasonable grounds to suspect", while section 86(2) uses the term, "involves or involved". Although section 7 makes explicit mention of 'reasonable grounds', section 86(2) also requires use of an objective standard of reasonableness, likely reasonable grounds to

¹⁸² S.C. 2000, C. 17, S. 7, as amended.

suspect. We can therefore assume that most STRs will also give rise to section 86(2) reporting.

391. There is an interesting difference between the sections, however, and it is not without distinction. Section 7 contains no reference to the 'when' of reporting, while section 86(2) refers to "immediately" reporting. Interestingly, FinTRAC guidelines provide that LCTR reporting must occur within 15 days¹⁸³ and STR reporting must occur within 30 days.¹⁸⁴ Therefore, a section 86(2) report is required much sooner than an STR.
392. In summary, reports must be filed with both the federal and provincial regulators if a suspicious financial transaction occurs. A prime example would be evidence of money laundering, discovered during a person's buy-in at a casino. This would constitute a suspicious transaction under the *POCMLTFA* and a criminal offence which is relevant to a lottery scheme and reportable to GPEB under section 86(2).
393. For its part, GPEB has no obligations under the *POCMLTFA*. This is not a unique situation. There are many examples of entities being regulated by multiple agencies. An example would be a meat packing plant, which has environmental, food safety, employment, and other reporting requirements. A similar situation can be found in the casino industry in the United States, which has reporting requirements to federal, state and local authorities.
394. One must also be cognizant of the fact that FinTRAC is a specialist body for anti-money laundering and is mandated to perform analysis of the data received, with dissemination where it would be advantageous to law enforcement. GPEB is not a specialist anti-laundering body and any money laundering investigations would likely be referred to law enforcement.
395. Furthermore, the ability of GPEB investigators to conduct such investigations is constrained by the nature of their special provincial constable status, which would only apply if the activity is incidental to their primary duties under the *GCA*.
396. It should also be noted that the reporting requirements under the *POCMLTFA* and the *GCA* differ in material ways, making it likely that many of the reports submitted to FinTRAC will not qualify for reporting under section 86(2). The *POCMLTFA* requires the reporting of both suspicious transactions and all transactions over a certain threshold, most of which will have no illegality attached to them. LCTRs, CDRs and EFTs are three examples. These types of reports do not qualify for reporting under section 86(2), unless there are other circumstances which move them over the reporting threshold.

¹⁸³ <http://www.fintrac-canafe.gc.ca/publications/guide/Guide7A/lctr-eng.asp#s3-2> .

¹⁸⁴ <http://www.fintrac-canafe.gc.ca/publications/guide/Guide2/2-eng.asp#s4> .

RECOMMENDATIONS - *PROVINCIAL REPORTING*

- R11 That UFT and SCT reports be eliminated.
- R12 That a Transaction Analysis Team be developed to review all STRs and that the team be composed of a representative of the Regulator / DPU, JIGIT, and BCLC.
- R13 That the Transaction Analysis Team meet on at least a weekly basis to review all STRs and develop strategies to deal with each.

PART 6

A DECADE OF DIRTY MONEY

CHAPTER 15

‘VICTORIA, WE HAVE A PROBLEM’

THE RCMP ENTER AND EXIT

397. Contemporaneous with the Province merging its gaming offices and statutes into a tighter governance framework divorced of politics; concern was growing within the Investigations Division of GAIO concerning illegal activities within casino gaming, as well as with illegal gaming offsite. It was noted that police priorities resulted in these issues “being addressed only in a sporadic fashion.” There was also “growing concern that organized crime was expanding its range of activity into illegal gaming.”¹⁸⁵
398. As a result, with passage of the GCA in 2002 and the establishment of GPEB, the Province’s Police Services Division and GPEB entered into discussions with the RCMP, aimed at creating a specialized police unit dedicated to investigating illegal gaming. BCLC was identified by the Solicitor General as a funder.
399. In March 2004, an MOU was signed between the RCMP and GPEB which created the Integrated Illegal Gaming Enforcement Team (IIGET). It was to continue for a five-year period, beginning on April 1, 2003, with a mandate to “maintain the integrity of public gaming in British Columbia by enhancing the level of enforcement specifically targeting illegal gaming.” To accomplish this objective, IIGET proposed three objectives: education and partnership, intelligence gathering, and enforcement.
400. The cost of the unit was based on the 70/30 funding formula which existed at the time under the RCMP’s provincial policing contract, meaning that 70 per cent of the cost was underwritten by the Province, represented by BCLC, and the balance by the federal government.
401. IIGET was operational by late 2004. Its scope included illegal lotteries, common gaming houses, VLTs, animal fights, bookmaking, and internet gaming. The team obtained a two-week course on illegal gaming from the Ontario Provincial Police (OPP). A request for dedicated Crown support was denied by the Ministry of Attorney General due to resource limitations.
402. These were heady days for integration within the RCMP, as it leveraged many of its programs through integration with other police forces and with regulators. On a national level, integrated market enforcement, counterfeit, border security and international corruption teams, among others, were developed. Within the Lower Mainland, a similar

¹⁸⁵ Catherine Tait Consulting, “Effectiveness Review of the Integrated Illegal Gaming Enforcement Team”, January 14, 2008 at p. 1.

push included IHIT, as well as integrated teams for forensic identification, collision reconstruction, traffic enforcement, and emergency response.

403. IIGET was composed of 12 RCMP member positions and one administrative support clerk. It was co-located with GPEB's Investigation Division throughout B.C. The team functionally reported to a Consultative Board, chaired by B.C.'s Director of Police Services, with representatives from GPEB, the RCMP, the BC Association of Chiefs of Police, and BCLC. To ensure police independence, BCLC was permitted one member on the Board who was to be a limited-voting member.
404. IIGET was expected to concentrate on VLTs and common gaming houses during its first 18 months of operation. These were considered mid-level targets that would give its members the necessary experience to later take on higher level targets. The prevalence of VLTs had exploded in B.C. with police estimates of 3,000 to 4,000 in use. Operators were setting their own win – loss settings. Removing these machines was considered a top gaming priority.
405. During 2005, several mid-level illegal gaming operations were investigated by IIGET. Four common gaming houses were “taken down”. One loan shark was arrested outside a casino. Despite a low number of arrests, IIGET was swamped with reports of illegal activity. GPEB assisted IIGET and opened 400 case files.
406. During 2006, IIGET focussed on one high level investigation, eventually turned over to a U.S. law enforcement agency. That year was a low point in the staffing of the team and a move was made to merge the members of the Burnaby and Victoria units. The Consultative Board instructed IIGET to refocus on mid-level targets, which it did in 2007.
407. At that time, the Investigation Division of GPEB noticed an increase in the number of section 86 reports being received from GSPs regarding suspicious cash entering Lower Mainland casinos. Likewise, the dollar amounts of suspicious cash were increasing. Until then GPEB had been bulk filing money laundering reports with those of loan sharks.
408. Also in 2007, a review was conducted of IIGET's first two full years of operation.¹⁸⁶ It concluded that IIGET had demonstrated an ability to tackle mid-level targets but not high-level investigations. The draft report noted that:

“the tension between the desire to take on high level targets and impact on resources available for mid-level investigations remains a central issue; the RCMP wishes to increase the size of the IIGET team to address both levels, yet the Board does not have the information it needs to make informed decisions regarding expansion.”¹⁸⁷

409. The report recommended a one-year extension of IIGET, to March 31, 2009. In the interim, it recommended that the team limit itself to mid and low-level targets and improve its

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.* at p. ii.

reporting to the Board regarding “the extent of backlogged cases, its investigation activity and enforcement outcomes.” It recommended that a comprehensive business plan for the future of IIGET be developed, containing an analysis of the extent of illegal gaming in B.C. and what could be accomplished at different resource levels.¹⁸⁸

410. The presence of a BCLC official on the Board had bothered some at GPEB, who believed that the discussion of police cases should not occur except within law enforcement circles, due to the requirement that the police remain independent of influence. BCLC saw its presence on the Board as valuable, as it could bar persons from casinos who were the subject of police action.
411. The review recommended that BCLC no longer be a signatory to the MOU or have a seat on the Consultative Board. Instead, “Treasury Board [should] earmark within the CRF [Consolidated Revenue Fund] an amount equal to the support provided by BC Lottery Corporation to fund IIGET.” In turn, BCLC would increase its payment to the province “by an equivalent amount”.¹⁸⁹
412. Although it was given an additional year, government was not satisfied that IIGET was providing value for money. On March 31, 2009 it was disbanded, thereby ending direct, focused police involvement in gaming within B.C. Although the team had made inroads into illegal gaming, the prevailing view in government was that the results did not justify the expenditure. From this point forward, police involvement within casinos occurred, either through calls for service to the police force of jurisdiction, or by the RCMP’s proceeds of crime unit, discussed later.
413. To this day, there is debate about the effectiveness of IIGET. Some have complained that it failed to achieve its objectives. Others point to resourcing problems. Some members complained that they did not receive sufficient training in this specialized area. The fact that IIGET did not bring in partners was a reason given more recently by the RCMP. The absence of Vancouver Police members was seen as an impediment due to the number of illegal gaming complaints, which originated in that city.
414. The view within government was that IIGET never became an RCMP priority. Certainly, resourcing was a challenge. Six of the RCMP positions were co-located with GPEB at its Burnaby office, while the others were dispersed elsewhere in the Province. The full complement of 12 members only existed for three months out of three years. IIGET had four different leaders and one in an acting position during its short tenure. Only two members remained with the team for the first four years and there were long term vacancies in some offices.

¹⁸⁸ *Ibid.*

¹⁸⁹ *Ibid.*

May 24 – ‘Suspected loan sharks operating around BC casinos, documents say’¹⁹⁶

419. One story featured an interview with Inspector Mike Ryan of the Organized Crime Agency of B.C. (OCA).¹⁹⁷ Included in the story was the following comment:

“Documents obtained by CBC News using a freedom of information request showed B.C. casino workers routinely observed dozens of suspicious transactions and large cash transaction each year, but only a fraction are reported to the federal agency that tracks money laundering.

The B.C. Lottery Corporation, which runs the casinos with a variety of private contractors, is supposed to report all possible money laundering to a federal agency, but it has one of the lowest reporting records in the country.

In 2006, Ontario casinos reported possible cases worth \$15.5 million, while in B.C.’s casinos, only \$60,000 in suspicious transactions were reported.”

420. In 2008, the principal cash generator for organized crime was the marihuana grow industry. In his interview with the CBC, Inspector Ryan commented:

“Criminals target a range of businesses that handle large amounts of cash in order to hide their profits, including casinos, used-car dealers and banks... A casino is no different than any other cash-based business or industry... Being a venue where you can go in and exchange cash, there is a potential that casinos can be used in money laundering”.

421. With the restructuring of the legal gaming industry, heavy investment and growth of casinos, there was a noticeable decline in offsite, illegal gaming. GPEB and IIGET efforts to deal with the illegal market likely assisted in this decline. Also, by 2007, betting limits in the casinos had been raised to \$45,000 a hand from \$5,000 only three years earlier, making legal casinos more attractive to high limit gamblers.
422. However, the shift to legal gaming also increased its attraction to organized crime. The Investigation Division within GPEB, as well as the RCMP’s Proceeds of Crime Section were among the first to recognize this change.
423. As if to emphasize this point, in 2008 an RCMP officer who had previously been a member of IIGET learned of a patron attempting to make a Saturday night buy-in with \$216,000 in \$20 bills, at the River Rock. He took the initiative to attend at the casino and seize the

¹⁹⁶ <http://www.cbc.ca/news/canada/british-columbia/suspected-loan-sharks-operating-around-b-c-casinos-documents-say-1.695303>

¹⁹⁷ OCA was the forerunner of CFSEU-BC. Inspector Ryan, now deceased, was a recognized expert on money laundering, who gave expert evidence at the first *in rem* forfeiture case under Part XII.2 of the *Criminal Code*.

money. The seizure appears to have been consensual, but it created waves in government as questions were asked why the RCMP was seizing funds in a legal gaming site.

424. *This paragraph intentionally left blank.*

425. The number of SCT files received by GPEB totalled 59 in 2007, increased to 213 in 2008, and levelled at 211 in 2009.

BCLC IS FINED BY FINTRAC

426. In 2008, FinTRAC conducted an examination of the quality of BCLC's reporting to the federal agency. Findings included under and over reporting of reports. BCLC disagreed, noting computer issues at both ends. A tug of war ensued between the agencies.

427. FinTRAC conducted another compliance examination late in 2009, resulting in an Administrative Monetary Penalty (AMP) of \$670,000 being assessed against BCLC. According to FinTRAC, BCLC had been reporting incorrectly for years.

428. After the penalty was leaked to the media in July 2010, BCLC's President at the time confirmed that the corporation had corrected its reporting issues and was now in compliance with FinTRAC rules. The government and BCLC were of the view that the errors and omissions were administrative in nature and did not reflect a money laundering problem. The responsible minister advised as follows:¹⁹⁸

"[I've] not had at any time contacts from our people in the enforcement side saying there is a specifically high ratio of issues around organized crime in B.C.'s gaming sector".

429. BCLC appealed the Notice of Violation to the Director, who confirmed the original decision. BCLC appealed.

430. While BCLC bickered with FinTRAC, the issues on the gaming floor continued. In a detailed March 15, 2010 report, GPEB's Lower Mainland Director of Casino Investigations described a review of loan sharking in casinos and commented:¹⁹⁹

"Experience has shown that BCLC has a very high tolerance with LCT patrons that engage in continual chip passing and suspicious cash transactions relative to gaming facilities".

431. On April 14, 2010, he wrote to BCLC's Manager of Casino Security and Surveillance, expressing concern over both loan sharking and chip passing in casinos. He noted that a review of LCTRs had surfaced many individuals involved in "chip passing, money exchanging

¹⁹⁸ Chad Skelton, "We can't fight casino money laundering: RCMP report", *Vancouver Sun*, August 12, 2010.

¹⁹⁹ GPEB, "Review of Chip Passing / Suspicious Cash Transactions and Loan Sharking in Lower Mainland Casinos", Mar. 15, 2010 at p. 7.

and loan sharking activities". A deep dive was conducted into four of these "chronic violators". GPEB asked how BCLC would ensure that the integrity of gaming was protected.²⁰⁰

432. On May 4, 2010, BCLC responded by committing to deter and prohibit loan sharking through various internal strategies including barring people.²⁰¹
433. A GPEB investigator reported that in September 2010, a patron entered the Starlight casino with \$3.1 million, of which \$2.6 million was in \$20 denominations, bundled in bricks of \$10,000, wrapped with an elastic band at either end and carried in inexpensive plastic bags. The same patron made numerous other buy-ins, always with used currency. Sometimes he left the casino and returned minutes later with another bag of cash. He was known to associate with individuals who had previously been involved in loan sharking.²⁰²
434. On November 24, 2010, GPEB wrote a letter to BCLC expressing concern over the September 2010 buy-in. Despite having filed an STR on the transaction, BCLC responded that the patron's buy-in patterns "does not meet the criteria that would indicate he is actively laundering money in British Columbia casinos."²⁰³
435. The patron later admitted to RCMP investigators that he had received the money from loan sharks.²⁰⁴
436. The Starlight was not alone. GPEB's Investigation Division noted that during 2010, a group of visiting businessmen bought in with \$1.4 million in small denominations over a one-week period at the River Rock casino.
437. In August 2010, the report on illegal gaming which had been prepared for IIGET's Consultative Board in January 2009, was released in response to an ATIP request. The media cited the fact that "organized crime is prevalent in casinos at several levels" and the following:²⁰⁵

"Since 2003, FINTRAC... has sent several disclosure reports to the RCMP on suspicious transactions involving casinos throughout Canada, with amounts totalling over \$40 million.... Anecdotally, police managers have suggested that, because of other priorities and a lack of resources, at this time, nothing is being done to investigate these situations."

²⁰⁰ GPEB letter, Apr. 14, 2010.

²⁰¹ BCLC letter, May 4, 2010.

²⁰² GPEB Report, "Money Laundering in BC casinos – 2007 - Present", Nov. 19, 2012 at p. 3.

²⁰³ *Ibid.*, GPEB Report and BCLC letter of Dec. 24, 2010.

²⁰⁴ *Ibid.*, GPEB Report at p. 4.

²⁰⁵ *Ibid.*

438. The RCMP was asked to respond to the article. A spokesperson advised that “E” Division’s Integrated Proceeds of Crime unit had no recollection of anyone being charged with laundering at a B.C. casino. Sgt. Dave Gray added:

“If we had more resources then we could perhaps set broader priorities or conduct more investigations”.

439. By the end of 2010, 295 SCT files had been received by GPEB, a 500 per cent increase from 2007.

CBC EXPOSE (2011)

440. On January 4, 2011, the CBC’s Eric Rankin revisited his earlier casino story, reporting that “[M]illions of dollars flowed through two B.C. casinos in the spring and summer of 2010 in what RCMP believes may have been a sophisticated scheme to launder money from the drug trade.”²⁰⁶ Included in the story was the following:

“In one instance in May, a man entered the Starlight Casino in New Westminster carrying chips worth \$1.2 million and immediately had casino staff convert the chips to cash. And after stuffing the money into a suitcase, the man said he was about to catch a plane and was concerned about questions from airport security about such a large amount of currency. He requested and was given a letter from the staff confirming the money was a casino payout”.

441. The irony pointed out by the media was that despite providing the letter of comfort to the patron, the casino filed a UFT report to BCLC.²⁰⁷
442. In an incident a few days later, a patron entered the River Rock with \$460,000 in \$20 bills and purchased chips. The casino reported that “none of [the man’s] actions are suspicious.” The CBC reported that over the next three months, a combined total of \$8 million was received by the River Rock and the Starlight. This sum resulted in 90 LCTRs, or approximately one per day.²⁰⁸
443. In preparation for that story, the CBC again approached the RCMP for comment. At the time, Inspector Barry Baxter, a veteran commercial crime investigator, was the officer in charge of Vancouver Proceeds of Crime Section. He was designated as the spokesperson. In preparation for the interview with CBC, Baxter was provided with questions by the CBC. He prepared responses, which were approved by the RCMP’s communications office.
444. Baxter’s unit had been receiving copies of SCTs for several years and he had discussed allegations of money laundering with both the Executive Director and the Senior Director of

²⁰⁶ Eric Rankin, et al., “‘Dirty money’ suspected in B.C. casino deals” - <http://www.cbc.ca/news/canada/british-columbia/dirty-money-suspected-in-b-c-casino-deals-1.1070135>

²⁰⁷ *Ibid.*

²⁰⁸ *Ibid.*

Investigations at GPEB. He had also seen video of stacks of \$20 bills being delivered to the cash cage at casinos. In addition, he was also aware that large cash buy-ins were taking place by women who described themselves as 'housewife'.

445. The story that aired included the following comment from Insp. Baxter:

"We're suspicious that it's dirty money... The common person would say this stinks, there's no doubt about it... The casino industry in general was targeted during that time period for what may well be some very sophisticated money-laundering activities by organized crime."

446. In response to the story, a spokesperson for River Rock observed that the summer had been unusually busy at the casino, "We had a lot of influx of tourism from Southeast Asia, from Mainland China." He also noted that it was not unusual for gamblers to walk into a casino with bags of \$20 bills, "[A] lot of that money is people who have businesses here, who are taking the money out of their business and they're coming in and they're gambling."²⁰⁹

447. FinTRAC files supported the fact that it had been busy at Lower Mainland casinos. While the dollar value of STRs filed with the federal agency from other provinces had remained the same or declined in the past year, from B.C. they had tripled.²¹⁰

448. After the story aired, the Minister responsible for gaming objected to Inspector Baxter's comments and told the media that he had spoken with officials, who agreed that the position expressed by Baxter was wrong. Inspector Baxter was cautioned within the RCMP regarding his comments. To his credit and that of his staff, they continued to monitor the situation in casinos, however Baxter's remarks would be the last public comment by an RCMP officer on any matter related to B.C. casinos, for a number of years.

449. I interviewed the former Minister, who advised that after the media story aired, he decided to find out for himself if there was money laundering in casinos. He initiated a review and assigned the task to Rob Kroeker, then head of the Province's Civil Forfeiture office.

KROEKER REPORT

450. Within a short period of time, Mr. Kroeker delivered his report, entitled, "Summary Review – Anti-Money Laundering Measures at BC Gaming Facilities" (Kroeker Report). It included recommendations for BCLC, GPEB and two long-term recommendations for the Province.

451. Kroeker's recommendations included "that BCLC accept law enforcement's professional opinion that this activity is money laundering". It also recommended that strategies be developed to reduce the use of cash in casinos, through the adoption of cash alternatives. These included debit and credit cards, cheques, and electronic funds transfers. Also recommended was the creation of an intelligence unit at BCLC, and training on STRs. The

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*

report concluded that “standard and appropriate AML strategies” were being employed at B.C. casinos.

452. On August 24, 2011, the Solicitor General released the Kroeker Report, with a press statement entitled, “Province Strengthening Anti-Money Laundering at Casinos”.²¹¹ According to the Minister, the review “confirms that BCLC has strong AML practices in place and that GPEB has the expertise to successfully meet its responsibilities as the regulator of gaming in B.C.” The Minister announced an action plan in which BCLC would implement recommendations for cash alternatives. GPEB recognized the “opportunity for improvement to better integrating various regulatory functions” and had created a cross-divisional working group to ensure, among other things, that its divisions “lie on a compliance continuum” and ensure that its “structure, including reporting relationships, supports this integrated approach.” It would also create “a cross-agency task force to investigate and gather intelligence on suspicious activities and transactions”.²¹²
453. The Kroeker Report is important because it was the first attempt to address the money laundering situation in casinos on an industry-wide basis.
454. The Recommendations made to BCLC were as follows [my highlights]:
1. “BCLC, in consultation with GPEB, should revise its buy-in / cash-out policy to allow for *cash-outs to be paid by cheque*, where cash-out cheques clearly and unequivocally indicate that the funds are *not from gaming winnings*.”
 2. “BCLC should enhance training and corporate policy to help ensure gaming staff do not draw conclusions about the ultimate origin of funds based solely on the identification of a patron and his or her pattern of play. *Training and business practices* should result in gaming staff having a clear understanding that the duty to diligently scrutinize all buy-ins for suspicious transactions applies whether or not a patron is considered to be known to BCLC or the facility operator.”
 3. “*BCLC holds the view that gaming losses on the part of a patron provide evidence that the patron is not involved in money laundering* or other related criminal activity. This interpretation of money laundering is not consistent with that of law enforcement or regulatory authorities. *BCLC should better align its corporate view and staff training on what constitutes money laundering* with that of enforcement agencies and the provisions of the relevant statutes.”
 4. “Gaming is almost entirely a cash business in B.C. This presents opportunities for organized crime. Transition from cash transactions to electronic funds transfer would strengthen the anti-money laundering regime. BCLC, in consultation with GPEB, should take the steps necessary to *develop electronic funds transfer*

²¹¹ <https://www2.gov.bc.ca/gov/content/sports-culture/gambling-fundraising/news-updates/2011-08-24>

²¹² GPEB, “Action Plan to Review of Anti-Money Laundering Measures at BC Gaming Facilities”, Aug. 22, 2011.

systems that maximize service delivery, create marketing opportunities, and are compliant with anti-money laundering requirements.”

455. The Recommendations made to GPEB were as follows:

1. “Adopting the perspective that **registration, audit and enforcement / investigations lie on a compliance continuum** and making sure the Branch structure, including reporting relationships, supports this integrated approach.”
2. “Developing an **annual unified registration, audit and investigations plan** that sets out and co-ordinates compliance objectives and priorities for each year.”
3. “**Formally involving the police agencies of jurisdiction**, including those with specific anti-money laundering and organized crime mandates, in annual enforcement objective and priority planning.”
4. “**Establishing more formal contacts and relationships** with governance and enforcement agencies and associations in jurisdictions with large, long-standing gaming industries.”

456. The Long-Term Recommendations to both entities were as follows:

1. “Engaging an independent firm with expertise in establishing electronic funds transfer processes and procedures to assist with the **creation of an electronic funds transfer system** that delivers a high degree of service to patrons, is marketable, and is fully compliant with anti-money laundering standards found in the financial sector. This firm should also be utilized to assist with ensuring the structure and conduct of future anti-money laundering reviews not only measure conformity with anti-money laundering legislation and regulations, but also help BCLC and GPEB to go beyond regulatory compliance to meet financial sector best practices.”
2. “**Creating a cross-agency task force to investigate and gather intelligence** on suspicious activities and transactions at B.C. gaming facilities. The task force would report out on the types and magnitude of any criminal activity if found occurring in relation to gaming facilities in B.C. This information would help guide any additional actions that may be required.”

COMMENT

457. It is not possible to summarize a decade of compliance and enforcement in a few pages. Certain themes are important however. From the time that the province reorganized gaming at the turn of this century, illegal gaming was rampant in British Columbia; including illegal VLTs, common gaming houses, bookmaking, and much more. Loan sharking was recognized although illegal activity within casinos seems not to have been a priority. Money laundering was viewed as a subset of loan sharking.

458. The first modern foray of police into B.C. gaming led to a number of important lessons. IIGET was focussed on illegal gaming, which was interpreted to mean gaming outside casinos. Problems that it faced included difficulties with appropriate targeting, a failure to maintain adequate resource levels, and insufficient specialized training.
459. There was also a recognition that funding from the proceeds of gaming had to be managed in such a way that BCLC was neither a direct funder or privy to confidential police reports. IIGET's focus was on the proliferation of illegal gaming outside legal establishments. By focussing there, the team was also providing a service to the bottom line at BCLC by targeting its competition, pushing the patrons of illegal gaming toward legal gaming options.
460. The involvement of organized crime in gaming was well documented and loan sharking was a known problem. It had already claimed victims. The decade also saw GPEB begin to raise red flags with respect to suspicious cash in casinos, while BCLC and FinTRAC tangled over reporting to the federal body, an issue that would continue for many years and is discussed later in this Report.
461. The Kroeker Report is important because it clearly stated that BCLC must change its long-held view that losing money at gaming was not an effective method of laundering. In fact, losing might just be the cost of doing business. BCLC was also told to better align its corporate view and staff training on what constitutes money laundering.

CHAPTER 16

A FAILED STRATEGY

THE RESPONSE TO THE KROEKER REPORT

462. Both BCLC and GPEB accepted the recommendations in the Kroeker Report and agreed on the following overarching strategy statement to frame their response:

“The gaming industry will prevent money laundering in gaming by moving from a cash-based industry as quickly as possible and scrutinizing the remaining cash for appropriate action. This shift will respect or enhance our responsible gaming practices and the health of the industry.”

463. The strategy involved three phases with defined timeframes. The description of the phases changed over time, however in general terms they were as follows:²¹³

Phase 1 – Cash Alternatives (Service Provider Intervention)

Develop and implement cash alternatives, to obtain funds inside the facilities, for gaming, effective April 1, 2012

Phase 2 – Operator Intervention (BCLC)

Operator intervention to more actively engage the use of the cash alternatives by patrons, effective May 1, 2013

Phase 3 – Regulatory Intervention (GPEB)

Direct regulatory action as part of the administrative process. If required GPEB will respond to the remaining suspicious currency inflows, effective Dec. 31, 2013.²¹⁴

464. The intent of moving to cash alternatives was to allow patrons to transfer funds from financial institutions to casinos, ending the need for cash, and to allow GSPs to rely on the due diligence performed by the sending financial institution. In other words, if the money came from a bank, it must be ok.

465. Both BCLC and GPEB created working groups to develop solutions. BCLC formed an industry working group, which included itself, GPEB and GSPs. The GPEB working group was internal

²¹³ GPEB, Anti-Money Laundering in BC Gaming – Measuring Performance Progress, May 29, 2013, at p. 14.

²¹⁴ At some point, this changed to an emphasis on regulator assessment, which involved conducting a study and determination of other needs for intervention such as customer due diligence (CDD) of cash entering gaming facilities.

to the Branch and referred to as the GPEB Anti-Money Laundering Cross-Divisional Working Group (AML x-dwg).

466. On October 14, 2011, an AML x-dwg Innovation Workshop was held, at which there was agreement on five overarching strategic themes; including policy / directives, compliance / interdiction / enforcement / process, financial, technology, and communication. Sub-groups developed what were referred to as “actionable proposals”.
467. Policy / directives proposals included capping the “amount of small denomination bills for casino buy-in by a single patron”, not allowing chips to enter or leave a casino, preventing chips from being passed within a casino, and providing for the “mandatory use of EFT, or non-cash, buy-in under specified circumstances.”
468. Compliance / interdiction / enforcement / process proposals included enforcement of existing regulations (including the exchange of chips, banning persons who act in a suspicious manner, full disclosure LCTRs, and loan sharking). A zero-tolerance climate was to be established for non-compliance, including penalties; on-site enforcement interviews respecting LCTRs and pro-active interdiction; and creating an inter-divisional monitoring / working group in line with the Kroeker Report.
469. Financial proposals included on site cash machines, the extension of credit and direct EFT. Technology proposals included player identification and cash cards, as well as radio-frequency identification (RFID) chips. Communication proposals included education and engagement with partners and stake holders in collaborative enforcement, utilizing best practices.
470. Despite some promising proposals, both BCLC and GPEB placed their greatest emphasis on developing cash alternatives, with copious correspondence between them. In addition, they both worked on some of the ‘softer’ recommendations from the Kroeker Report. BCLC undertook training, corporate sensitization, and an independent assessment of its AML/ATF program. GPEB employees travelled to Las Vegas to research BCLC’s new Gaming Management System (GMS), which was expected to “provide technology assistance in developing solutions to several of the issues identified”. It also researched the Nevada gaming industry’s credit practices and cash handling requirements.
471. Work on the long-term, wire transfer recommendation took place. GPEB met with Global Cash Access and BCLC was in discussions with TrustCash, a money transfer facilitator. In addition, the cross-agency task force recommendation was the subject of preliminary discussions between the GM, the RCMP Proceeds of Crime Section and FinTRAC.
472. It was clear from the beginning, however, that cash alternatives were the primary takeaway from the Kroeker Report. When progress reports were provided on the Strategy, they always emphasized progress in this area.

PHASES 1 AND 2

473. Phase 1 of the Strategy involved the development of cash alternatives, while Phase 2 involved the promotion of those strategies with gamblers.
474. In fiscal 2011-12, “a baseline” of two cash alternative options was implemented, effective on April 1, 2012. In fact, the baseline options, ATMs within casinos and Patron Gaming Fund Accounts (PGFA), already existed.
475. A target of three new options was the goal for fiscal 2012-13. They included enhancements to the PGFA, the use of debit cards at cash cages for transactions exceeding ATM limits, and cheque hold. Customer convenience cheques were to be permitted for amounts up to \$8,000 per cheque, once a week per patron.

THE SITUATION WORSENS

476. While GPEB’s policy staff in Victoria and BCLC’s headquarters staff worked on cash alternatives, certain individuals in both organizations grew skeptical. They could see no discernable change on the gaming floor. A BCLC investigator noted that the River Rock VIP room was “full of facilitators”. Some members of senior management within River Rock appeared to have developed friendships with these players. According to the investigator, nobody was looking beneath the surface. At one point, River Rock reportedly stopped filing STRs in amounts below \$50,000 (discussed later in this Report). It was also alleged that buy-in sheets were not being analyzed to determine if there were third party buy-ins.
477. In the investigator’s opinion, the matter reached a head in 2012 when the River Rock accepted \$100,000 in \$20 bills from a patron, who used \$3,000 in chips from his pocket to play, and then cashed out. The investigator referred to this as “Refining 101”. When the patron returned, the investigator live monitored the individual in the River Rock Salon “essentially doing the same thing as per the day before (refining), this time with another \$100K in \$20 bills. Therefore he had been paid out \$100K in \$100 bills the previous day and returned with another \$100K in \$20’s.” The investigator “directed the casino to stop his play and pay him back his \$20’s” A casino official “told [him] not to interfere or direct his staff.” After “much heated discussion the end result was we ended the play session, and returned his \$20’s.” The investigator sensed that high limit gamblers, referred to as ‘whales’, were untouchable. The investigator interviewed the patron a day or two later. He admitted collecting cash outside a local mall from an ‘unknown’ source that he telephoned. The money was to be paid back in the form of \$100 bills.
478. The investigator further advised that no transaction was refused by BCLC before 2015. A senior official within the Corporation told him in 2012 that his job was “not to investigate money laundering”. He pointed out that nobody was investigating money laundering, despite copies of STRs being provided to GPEB and to the RCMP. In his view, nobody showed any interest in the issue.

479. Similar sentiments echoed within GPEB's Investigation Division in Burnaby. A memo from the Investigation Division noted that the AML strategy "was solely based around reporting, not reduction or elimination." It added that it "has not slowed the flow of suspicious cash into the Lower Mainland casinos."²¹⁵

480. In a forwarding note, a Senior Director wrote:²¹⁶

"There is also absolutely no question that all or at least most of the reported suspicious currency taken into these casinos at least for the most part is the Proceeds of Crime. That is underlined by the RCMP IPOC Section.... Not only are the number of reports increasing dramatically but the volume of cash is rising exponentially at a significant rate. It also appears that the clientele bringing in this money, changes and varies with the amount of time and number of times in the year that some of the persons are visiting or working in Canada vs their regular home locations in Asia."

481. The note concluded by observing that the "integrity of gaming continues to be brought into question".²¹⁷

482. While BCLC and GPEB developed cash alternatives and responded to the various recommendations in the Kroeker Report, the situation in the casinos worsened.

483. GPEB determined that the amount of suspicious cash which entered casinos between August 31, 2010 and September 1, 2011 was \$39.5 million, represented by 543 cases. River Rock topped the list with 213 files and \$21.7 million, followed by Starlight with 140 files and \$13.5 million, and Grand Villa with 103 files and \$2.8 million.²¹⁸

484. Almost as alarming was the fact that during the first nine months of 2012, 79 different patrons bought in with over \$100,000 on at least one occasion. Furthermore, the vast majority of all suspicious cash buy-ins was in \$20 denominations.²¹⁹

485. GPEB undertook a file review at the River Rock on SCTs submitted by the casino for a five-week period between January 13 and February 17, 2012. Eighty-five reports were received from the casino, for a total of over \$8 million. The report concluded in part:²²⁰

"The patrons involved in bringing these large amounts of suspicious cash into Casinos in British Columbia continues to be almost exclusively male persons of Asian descent. The game of choice continues to be baccarat. There are also several documented incidents where these patrons lose their bankroll and leave the casino,

²¹⁵ GPEB, "Money Laundering in BC casinos – 2007-Present", Nov. 19, 2012, at pp. 4 and 7.

²¹⁶ *Ibid.* at p. 7.

²¹⁷ *Ibid.* at p. 8.

²¹⁸ *Ibid.* at pp. 2 and 3.

²¹⁹ *Ibid.* at p. 5.

²²⁰ GPEB, "Suspicious Cash Transactions / Money Laundering - File Review - River Rock Casino", Feb. 22, 2012.

only to return a short while later (sometime [sic] within minutes) with another bag of cash, primarily in \$20 denominations and bundled in \$10,000 bricks held together by two elastic bands. As previously reported on and certainly the shared opinions of Police personnel involved in Proceeds of Crime investigations, these activities are highly indicative of involvement with loan sharks.

It is believed that Casino Service Providers including the River Rock Casino are in fact being diligent and forthright in expediently reporting Suspicious Currency Transactions and other matters of wrongdoing via Section 86 reports.”

485A. In his Forwarding Note, the Senior Director of Investigations for GPEB added that the River Rock was not alone accounting for 40 per cent of SCT reports, representing 50 per cent of the suspicious monies. The Executive Director of Investigations added the following:²²¹

“It is logical to conclude that without intervention it will continue to increase. It should be noted and reiterated that from my standpoint the large amounts of cash are reasonably expected to be organized crime profits that are primarily being supplied to Asian gamblers through loan sharks. The various methods of repayment of these loans can be speculated but are unknown at this time. Another significant area of concern is that some of these gamblers have used or had access to PGFund accounts and those accounts were only used on brief occasions or not used at all.”

486. The need for urgent action was re-enforced when the 2011 year end tally for SCTs was obtained by GPEB. A total of 676 SCTs were reported, double the previous year and more than a 1,000 per cent increase in four years.

CBC EXPOSE (2012)

487. On February 22, 2012, after a year long struggle, the CBC obtained documents from 2009/10 which revealed that “three casinos were upbraided for not properly checking the backgrounds of patrons bringing in large amounts of cash and for improper documentation of potential money laundering incidents.”²²² It noted that a GPEB audit of the Grand Villa revealed that of 27 LCTRs in one month, nine contained “insufficient detail”. In some cases, the patrons identified themselves as “self-employed” or “business owner”, noting that this violated the *POCMLTFA*. GPEB reported that the GSPs must “obtain the patron’s principle [sic] business or occupation prior to [accepting their money]. It is not sufficient for the patron to provide vague information.”

²²¹ *Ibid.*

²²² “B.C. casinos rapped for not checking patrons’ backgrounds” at <http://www.cbc.ca/news/canada/british-columbia/b-c-casinos-rapped-for-not-checking-patrons-backgrounds-1.1250841>

488. BCLC's Director of Operation Compliance reportedly advised the CBC that the "requirement is for us to gather [the information], not verify it, and as long as we meet that requirement, we've done our job in the anti-money laundering".²²³
489. On April 1, 2012, BCLC introduced its new cash alternative strategies; including enhancements to the PGF account, the use of debit at cash cages, convenience cheques, and cheque hold / markers.
490. On August 29, 2012, BCLC provided GPEB with an overview of the success of its new cash alternatives. By August 27th, a total of \$31,197,365 cash had been removed from casinos through these strategies.
491. Despite the early optimism, a review of SCTs from January 1 to September 30, 2012 revealed 794 files with a total dollar amount of \$63.9 million, of which 70 per cent, or \$44.1 million was in the form of \$20 bills.²²⁴
492. On November 19, 2012, in a forwarding note to a report, GPEB's Executive Director of Investigations wrote as follows:²²⁵
- "It is obviously clear to me that the majority of this cash [the 44.1 million] is provided to gamblers through loan sharks whom have likely links to organized crime. It is therefore a simple leap to have reasonable grounds to believe that those funds are the proceeds of crime. That is why suspicious currency transactions are being diligently reported. I again ask the question and give the answer "who has \$200,000.00 in \$20 dollar bills wrapped in elastic bands in \$10,000.00 bundles"?
493. Almost as alarming was the blunt statement in the report that the "police are not currently in a position to initiate investigations into money laundering within Lower Mainland casinos."²²⁶
494. By 2012 year end, a total of 1,173 SCT files, totalling \$88.7 million, with 68 per cent in \$20 denominations, had been reported. These numbers outstripped the most pessimistic estimates.²²⁷

²²³ *Ibid.*

²²⁴ GPEB, "Money Laundering in BC casinos – 2007-Present", *supra* at p. 5.

²²⁵ *Ibid.* at p. 8.

²²⁶ *Ibid.* at p. 7.

²²⁷ AML stats, Jan. 21, 2014.

CHAPTER 17

A FLOOD OF MONEY AND FIRINGS

INTRODUCTION

495. The AML strategy caused a schism within GPEB, as headquarters staff pursued the strategy with its emphasis on cash alternatives while some members of the Investigation Division in Burnaby did not believe that the exponential rise in SCT files could be stopped by the strategy.

496. In March 2013, some observers at BCLC and GPEB posited that the influx of cash into casinos resulted from bulk shipments of Canadian cash leaving China. This rather specious theory did not explain why such quantities of Canadian cash were in China in the first place.²²⁸

497. The Executive Director of Investigations at GPEB discounted the theory in an e-mail to GPEB's lead on the AML strategy. The Executive Director offered an alternate explanation. He was precisely correct, a fact that was not recognized until at least two years later. In part, the e-mail read:²²⁹

"What I am suggesting is a possibility is that the gambler receives the cash money from loan sharks, who receives the money from what I believe is criminal sources, the gambler loses the cash money gambling at the Casino and ultimately repays his debt in the foreign jurisdiction. This happens in Hong Kong and Macau and has been happening for some time."

498. At this point, despite the best efforts of both BCLC and GPEB, it should have been apparent that the strategies developed in response to the Kroeker Report were not able to deal with the magnitude of the problem. This was alluded to in the first progress report on the rollout of the AML strategy, from May 2013:²³⁰

"Even with the progress that has been made, through alternative cash initiatives, there have been increased levels of suspicious currency transactions during the same time period. Although increased reporting diligence has to be considered in the explanation of this trend, suspicious currency is entering at an increased level and the perception of undesirable funds is increasing."

²²⁸ GPEB e-mail, Mar. 6, 2013.

²²⁹ *Ibid.*

²³⁰ GPEB, "Anti-Money Laundering in BC Gaming – Measuring Performance Progress", May 29, 2013, p. 1.

499. The report stated that suspicious buy-ins with stacks of \$20 bills were increasing, and at levels up to \$500,000. The report stated:²³¹

“This goes beyond being explained by the increased diligence of recognizing and reporting SCT’s. Loan sharks were strongly deterred and continue to be deterred from entering and operating at casino premises in the province. However there is evidence that they continue to operate using creative ways of providing gaming patrons with cash, from outside of gaming premises.”

500. It is interesting to note that the focus continued to be on the loan sharks, which may explain why both BCLC and GPEB headquarters thought that cash alternatives would stem the flow of suspicious cash. In other words, if a high roller needed additional money, he could obtain funds through legitimate means, rather than from a loan shark. It failed to consider that there may be a financial or other incentive to use money from a loan shark, or that there was something even more sinister taking place.

501. In fact, loan sharking was yesterday’s model and the focus by 2014 should have been on the cash. Organized crime had moved to a double-edge model, whereby the cash being provided to gamblers was, in fact, the proceeds of crime and the high limit gamblers were in many cases, pawns in a much larger drama.

502. There was a hope that this distinction would be recognized, as the same report refers to the AML Strategy entering its second phase with these words:²³²

“...develop the analysis and investigation that will determine the necessary customer and source of funds information to understand the situation with respect to legitimate cash, potential money laundering and the potential use of proceeds of crime in BC gaming facilities. While this is being done we will continue to respond with prevention efforts to deal with this risk.”

503. Also in 2013, betting limits at River Rock were raised to \$90,000, followed in 2014 by a rise to \$100,000. The increase came at a time when wealthy immigrants from Mainland China were discovering Vancouver and all it had to offer. They used their money to purchase real estate, luxury cars, other luxury goods, and to gamble.

504. A former ADM / GM of GPEB notes that “once GPEB was established and the initial reaction to the dissolution of [the former] agencies was overcome, GPEB generally became a cohesive and focused agency.” He notes, however, “that the investigation group always seemed to act in a standalone manner, as if it was superior to the rest of GPEB.” Furthermore, according to the official, “the investigations and compliance functions caused the most friction with BCLC and service providers”, due to their “different mandates with distinct, sometimes ‘competing’ responsibilities and accountabilities.”

²³¹ *Ibid*, p. 10.

²³² *Ibid*., p. 11.

CTV EXPOSE (2014)

505. In April 2014, CTV Vancouver reporter Mi-Jung Lee reported on “rampant” money laundering in BC casinos.²³³ The report included comments from a former casino employee and from retired RCMP Superintendent Garry Clement.²³⁴
506. Shortly after the CTV expose, a GPEB Senior Director noted that in the fiscal year ending March 31, 2014, more than \$118 million in SCTs was reported in B.C. casinos, with 76% of that amount being in \$20 denominations. He added that the increases are part of a “continuum” reflected by a “steady and significant rise [since 2009] and is not slowing down in any way, regardless of any measures that have been implemented to curtail SCT money coming into casinos in B.C.”²³⁵
507. The number of SCT files received by GPEB totalled 295 in 2010, jumping to 676 in 2011, and to 1175 in 2012, levelling at 1,212 in 2013. Approximately 75 per cent of the cash was in \$20 denominations in both 2012 and 2013.²³⁶
508. During 2013 and 2014, the Executive Director and the Senior Director of Investigations at GPEB had all but stopped dealing with GCGC and BCLC, because of their differences over the handling of suspicious money. The GPEB investigators maintained their position that proceeds of crime was being pumped through the casino, used for gambling and then laundered. On the other hand, BCLC maintained that it was not possible to prove that specific funds came from a predicate criminal offence. BCLC also argued that the bundling of small denomination bills was not necessarily an indicator that money was the proceeds of crime, as there could be other explanations. The cash continued to flow into the casinos.

“RELEASED WITHOUT CAUSE”

509. In April 2014, a new GM requested an organizational review of GPEB. It was conducted by the Corporate Services Division within the Ministry of Finance and completed on September 18, 2014, with a fulsome report being delivered. The briefing notes to the Minister regarding this review indicate that its purpose was to “Support the ongoing success of GPEB...” and to “Determine how GPEB programs and services can best be aligned, integrated and delivered to ensure the integrity of gaming.” The Minister was apparently not advised in writing of the ongoing problems within GPEB.
510. The Investigations Division was one of the GPEB units criticized in the report, noted for its combative approach to intra-office relations and with partners. The Division was viewed as an island to itself in Burnaby, and its leaders were considered argumentative and disruptive.

²³³ “Money laundering rampant in casinos” - <https://www.ctvnews.ca/video?clipId=322712>

²³⁴ At one point, Clement headed the RCMP’s national Proceeds of Crime unit, was formerly its Liaison Officer in Hong Kong, and a frequent expert witness in Canadian courts. We interviewed Supt. Clement for this Report.

²³⁵ GPEB e-mail, Apr. 17, 2014.

²³⁶ In 2012, \$20 bills accounted for \$60.3 million and in 2013, \$72 million out of \$88.7 million and \$101.0 million, respectively.

The relationship with BCLC was “so adversarial it has resulted in dysfunction in several levels within the division and BCLC.” The organization review recommended a review of “this division’s priorities, leadership practices, quality of files, and organizational culture.”

- 511. I have had the benefit of reading the review and speaking with its author. The review was in depth and examined the gamut of organizational issues. Included in the many interviews conducted, were interviews of senior executives at BCLC. These interviews were conducted using non-disclosure agreements, which prevented the interviewees from discussing their interviews. The BCLC executives who were interviewed were critical of the Investigations Division at GPEB.
- 512. The report was never provided to the persons who were criticized within it, nor were they afforded an opportunity to respond to the comments made about them. An interesting aside is the fact that the Investigations Division had high engagement and unit scores and was the recipient of Ministerial workplace awards.
- 513. The Executive Director of Investigations and the Senior Director of GPEB Investigations Division were called into an early morning meeting with the GM and an HR specialist and dismissed without cause, given a severance cheque and directed to leave. Both had been with GPEB for over a decade, after long and distinguished policing careers. Three other employees, including the person leading the money laundering strategy, were assigned to other departments.
- 514. Although the stated aims of the organizational review and the subsequent reorganization of GPEB were unrelated to the AML strategy, the effect was clear. The person leading the strategy, and its two most vocal opponents, were gone.

CBC EXPOSE (2014)

- 515. On October 16, 2014, the CBC reported that “a rush of suspicious money totalling almost \$27 million flowed through two B.C. casinos this spring. Most of the mystery money that came in from mid-March to mid-June arrived in bundles of \$20 bills – a common currency used to buy street drugs.”²³⁷
- 516. The CBC referenced \$2.5 million in SCTs at the Starlight and \$24 million at the River Rock. It noted that in “some cases, people arrived with shopping bags and suitcases packed full of bills in \$20 and \$50 denominations.” One person brought in \$800,000 in \$20 bills. Another appeared one day with \$1.1 million in cash. The CBC noted the growth in SCTs since its story in 2011.

²³⁷ Eric Rankin, et al., “River Rock, Starlight casinos saw \$27M in suspicious transactions this spring” – <http://www.cbc.ca/news/canada/british-columbia/river-rock-starlight-casinos-saw-27m-in-suspicious-transactions-this-spring-1.2802281>

517. In response to the CBC story, the Ministry of Finance issued a press statement. It noted that suspicious activity is referred to the police of jurisdiction²³⁸ and the decision to further investigate “lies with the police”. The press release referred to the cash alternatives that had been implemented since 2011 and that there “has been significant progress in providing traceable cash alternatives.”
518. In theory, this was correct. In reality, no police were investigating, or tracing money and the cash was still rolling in.

2015 – 2016

519. In April 2015, the Ministerial Mandate Letter to BCLC for 2015/16 was issued. It referenced the money laundering issue and the continued search for solutions as well as the continuing move toward cash alternatives. It included the following:²³⁹

“BCLC will use information provided by law enforcement to create actions and solutions to prevent money laundering in BC gaming facilities. GPEB will develop anti-money laundering standards, to which BCLC will respond. Additionally, BCLC will identify and implement strategies to increase the use of cash alternatives and measure and demonstrates this progress.”

520. In response to this mandate, BCLC indicated that it “met regularly with Law Enforcement and GPEB to discuss anti-money laundering trends including mitigating suspicious cash”. It also noted that it had adopted anti-money laundering software used by the banking industry to detect suspicious persons and transactions (discussed later in this Report). BCLC made anti-money laundering training mandatory for employees, and an Information Sharing Agreement with law enforcement allowed it to proactively ban persons with known links to criminal organizations.²⁴⁰
521. BCLC and GPEB sponsored an AML Summit on June 4, 2015, which included RCMP representatives. At the summit, GPEB summarized the work in Phases 1 and 2, by noting that several cash alternatives, including enhancements to the PGFA, debit at the cash cage, casino cheques, internet transfers, and hold cheques, had been developed and implemented; while other cash alternatives were being researched.
522. GPEB noted that Phase 3 was underway. A report on customer due diligence in the financial industry had been obtained in September 2014 from Malysch & Associates, intended to inform next steps in the AML strategy. The study concluded that the practice at financial institutions is to conduct source of funds due diligence with customers when large cash transactions are outside the norm or suspicious. Customer due diligence, including

²³⁸ This is not quite correct, as reports are submitted to the RCMP and not to the local municipal department or detachment, which is the police force of jurisdiction.

²³⁹ <http://corporate.bclc.com/content/dam/bclc/corporate/documents/bclc-2015-2016-annual-report.pdf> at p. 69.

²⁴⁰ *Ibid.* at pp. 69-70. See also the “Information Sharing Agreement” between BCLC and the RCMP “E” Division, Mar. 6, 2014, as amended July 14, 2016.

interviews, is conducted by trained, high level managers. A customer can be asked to complete source of funds declaration documents and investigations can occur based on the information provided. Institutions will “sever relationships with customers that cannot adequately explain the legitimate source of cash.”

523. It does not appear as if either BCLC or GPEB acted on the Malysh & Associates advice that financial institutions sever relationships with customers who are unable to explain the source of their funds. There is voluminous correspondence respecting the AML Strategy, most of which deals with cash alternatives. The GMs responsible for GPEB during the currency of the strategy note that implementation of the regulator intervention component of Phase 3 was an important feature of this final phase and various options were being considered. BCLC did begin interviewing customers with large cash buy-ins, although GPEB did not, except in relation to specific investigative files.

CHAPTER 18

THE RCMP RETURNS

INTRODUCTION

524. In the absence of a dedicated police unit targeting criminal activity at casinos, BCLC, GPEB and the GSPs could only call their municipal police force of jurisdiction or attempt to persuade specialized police units that there were benefits to working on cases arising in the casinos.
525. BCLC remained interested in stamping out illegal gaming, which seemed always to be an irritant in Richmond, where the River Rock is situated. The profits from legal casino gaming tend to decrease when illegal gaming establishments are present in a community. BCLC became aware of advertisements in Chinese newspapers for casino employees to work in 'illegal casinos'. Word also reached BCLC that these illegal casinos were enticing customers by offering double the limits available on legal casino tables and by offering to repay a percentage of losses.
526. Between November 2012 and September 2015, the VP of Compliance for GCGC met three times a year with the Officer in Charge of Richmond Detachment, to discuss matters of common interest; including calls for service, money laundering and illegal gaming. Some matters were handled by the Detachment and others were referred to specialized units, although there seems not to have been any investigative uptake by these units.
527. Prior to being disbanded in 2013, the RCMP's Integrated Proceeds of Crime Section (IPOC) was the logical first response unit for allegations of money laundering. A unit within IPOC, referred to as C-22, was tasked with reviewing copies of STRs from financial institutions and with enforcement that stemmed from violations of the *POCMLTFA*. The GPEB investigator assigned to River Rock during the period recalls providing the C-22 team with a tour of the casino. According to him, they showed palpable interest in what was occurring, until one day they ended contact, presumably because of the disbandment of IPOC.
528. After the restructure of white collar crime in the RCMP, the IPOC unit became a lonely place, populated by the officer in charge and two other persons, who were tasked with closing the unit and then moving over to the new FSOC. During this time, the head of compliance for GCGC also recalls meeting with the remaining staff.

SEEKING RCMP ASSISTANCE

529. By late 2014, BCLC became concerned over the influence of organized crime in the casinos. Its Vice-President Compliance attempted to interest the RCMP in what was occurring. He reached out to various agencies, including CFSEU-BC, Richmond Detachment and FSOC.

According to BCLC's AML unit, we "had to sell ourselves to [RCMP] units". They "got lucky" with FSOC through a personal connection between the Director of the AML unit and a senior RCMP officer.

530. On Feb. 12, 2015, members of FSOC met with BCLC officials at the BCLC offices in Vancouver. BCLC made a formal request for assistance regarding cash drops at casinos by an individual believed to be associated to organized crime. Material from iTRAK was provided to the RCMP as well as copies of STRs, which had previously been forwarded through normal channels. Thereafter, BCLC followed up periodically with the RCMP. Little information was forthcoming. There is no indication that GPEB was invited or even aware of the meeting.
531. In April or May 2015, FSOC asked BCLC to develop a Power Point presentation to justify police involvement, by explaining the social impacts of money laundering.
532. On June 4, 2015, BCLC, GPEB, FinTRAC, CRA, CBSA, and RCMP officials met together at BCLC's Vancouver offices for a workshop, entitled "Exploring Common Ground, Building Solutions". This has been referred to as the "Money Laundering Summit". The rhetorical question asked of participants was, is there a problem? The general consensus - yes. BCLC investigators assured the police that after conducting two to three weeks of surveillance on suspected money launderers, the police would be able to locate the "money house".
533. The RCMP appears to have taken up this challenge. On July 22, 2015, an FSOC officer advised a BCLC investigator that they had found "Pandora's Box" the previous evening. The RCMP officer added that some of the money may be going offshore to fund terrorism.²⁴¹ The BCLC investigator immediately notified senior managers at BCLC. The investigator also notified GPEB.²⁴²
534. Once the police became engaged, BCLC investigators provided support in what BCLC termed a "great relationship". In addition, the River Rock provided "enormous" support when requested by the police, often on short notice.
535. Curiously, the regulator seems not to have been involved in this effort until notified by BCLC. According to BCLC investigators, GPEB was "the biggest part of the problem". Clearly the relationship between the investigative arms of the two entities had deteriorated, but the Executive Director of the new Compliance Division at GPEB made it his mission to remedy the situation.

²⁴¹ The RCMP advised me that they have no evidence of terrorist funds passing through B.C. casinos.

²⁴² On August 31, 2016, at an international conference of investigators, using Power Point, the officer in charge of the RCMP's E-Pirate investigation briefed participants on the ongoing investigation.

NOBODY SAID NO

- 535A. After the re-organization of GPEB, the Executive Director also took up the cause of attempting to persuade government that the problem with dirty cash was increasing at an alarming rate. Upon hearing from the BCLC investigator that the RCMP had discovered a 'whale' of a cash house with connections to the casinos, he asked his investigators to verify the amount of suspect cash entering the River Rock. One investigator had turned to a simple solution, by creating an Excel spreadsheet which outlined the number of \$20 bills accepted at River Rock. The document showed that approximately \$13.5 million in \$20 bills was accepted during July 2015 alone.
- 535B. The information used to create the spreadsheet originated from reports submitted by River Rock. Furthermore, River Rock's security and surveillance teams determined that large amounts of unsourced cash were being dropped off at, or near, the casino, generally late at night, and being presented in the casino by high limit customers. River Rock advised GPEB. With the Excel spreadsheet in its back pocket, management at GPEB persuaded senior officials within the Ministry of Finance to provide "specific direction" to BCLC to enhance source of funds due diligence, create a special joint policing initiative (see Chapter 19), and commission a study by a 'tier one' accounting firm with respect to the apparent money laundering. The River Rock was selected, due to its high volume of cash buy-ins (see Chapter 20).
- 535C. BCLC points out that its sourced cash condition initiative began in April 2015 and was implemented in September 2015, however it also notes that "cash was refused prior to the initiation of this program." This apparently meant moving gamblers from cash to cash alternatives. There would be an initial refusal by the GSP, pending an interview by a BCLC investigator, and then a move of the individual to cash alternatives. Without doubt, the move to cash conditions reduced the volume of cash entering casinos, but it did not end the practice of laundering. The list of persons placed on cash conditions grew over time as more suspicious patrons appeared and, or buy-ins occurred. BCLC sent numerous directives, e-mails and letters to the GSPs on the various procedural and, or policy changes regarding source of cash, source of wealth, a 'students and housewives' project, and the cash conditions list; as well as with respect to specific patrons.
- 535D. GPEB indicates that it provided "direction" to BCLC in a July 14, 2016 letter to, "not accept funds where the source of funds cannot be determined or verified". It also indicated that BCLC "could include a source of funds questionnaire and a threshold amount over which BCLC would require service providers to refuse to accept unsourced funds, or a maximum number of instances where unsourced funds would be accepted from a patron before refusal". I have reviewed this letter. What is referred to as a direction, in fact reads as follows: "BCLC should contemplate not accepting funds where the source of funds cannot be determined or verified, within a risk-based framework."
536. Despite the police investigation, the cash kept coming into the casinos. With no clear direction from BCLC or GPEB to stop accepting huge amounts of unsourced cash, the head

of compliance for GCGC decided to end it himself. Frustrated with nothing happening despite years of reporting, a direction was issued in 2016 to employees, as follows:

- (a) "As per... if we see any drop offs conducted by known "Loan Sharks" or associates driving the... etc. the buy in is to be refused. If we discover this as the buy in is taking place at the Cage just inform them that the buy in is to be refused.
- (b) I don't see this as being an issue. If you ever have questions please feel free to contact me."

537. I became aware of this directive when speaking with cage and compliance personnel at River Rock. I followed up by asking for a copy of the directive and speaking with the individual who gave the direction. He confirmed that it was written of his own volition and was not because of police, regulator or BCLC direction.

538. While FSOC's investigation was gaining steam, a separate initiative was also underway.

CHAPTER 19

JOINT INTEGRATED GAMING INVESTIGATION TEAM

ORIGINS

539. During 2015, it became apparent to most observers that the absence of a police presence to deal with organized crime and money laundering at casinos, and the emergence of large illegal casinos was presenting public safety issues that required a law enforcement response. The FSOC investigation into a money service business had already been connected to high limit gamblers at the nearby River Rock casino, and intelligence suggested a greater response was required.
540. Discussions between Police Services Division, GPEB, BCLC and RCMP officials led to an agreement to create a specialized unit to deal with organized crime and money laundering in casinos. The RCMP expressed the view that both legal and illegal gaming required police attention, as there will be an offsetting from one to the other in response to enforcement action.
541. It was agreed that the new unit, referred to as the Joint Integrated Gaming Investigation Team (JIGIT) would fall under the umbrella of CFSEU-BC and be co-located with other organized crime and anti-gang police units.
542. The rationale for the team was based on GPEB having “identified an increase in illegal gambling activities and the possible legitimization of the proceeds of crime through B.C.’s provincial gaming facilities.” The GPEB intelligence was “supported by information and intelligence from police [which] suggests that organized crime may be “laundering” money in both provincial gaming facilities and through illegal gambling means”.²⁴³
543. JIGIT was to “provide a dedicated, coordinated, multi-jurisdictional investigative and enforcement response to unlawful activities within B.C. gaming facilities (with an emphasis on anti-money laundering strategies) and illegal gambling in B.C. (with an emphasis on organized crime).”²⁴⁴
544. JIGIT has three key strategic objectives plus an education function for the public and other police. The key objectives are (1) “targeting and disruption of organized crime and gang involvement in illegal gaming”, (2) “criminal investigation of illegal gambling activities”, and

²⁴³ GPEB letter, Feb. 7, 2017.

²⁴⁴ *Ibid.*

(3) “prevention of criminal attempts to legalize the proceeds of crime through gaming facilities.”²⁴⁵

545. JIGIT consists of two operational teams consisting of 22 RCMP personnel plus five GPEB investigators.²⁴⁶ One team was stood up in fiscal 2016/17 and the other in fiscal 2017/18. The GPEB investigators function as subject matter experts, utilizing their special constable status.
546. As a result of decisions from the Supreme Court of Canada and from B.C.’s superior courts, care was taken to ensure that JIGIT’s criminal mandate was not compromised by the presence of regulators on its team.²⁴⁷ MOUs seek to address this issue.
547. The first JIGIT team is a project team. It spearheaded the E-National file, widely reported in the media, supplemented by additional resources due to the size of that project. The second team is primarily focussed on illegal gaming and is complaint driven.
548. JIGIT was created for a five-year period, from April 1, 2016 to March 31, 2021. A review is to be conducted in year four to determine if the team should continue beyond five years.
549. Governance of JIGIT is the responsibility of the existing CFSEU-BC Board of Governance. The Ministry of Public Safety is the lead Ministry and the RCMP is the lead agency responsible for JIGIT.
550. On April 11, 2016, the Minister of Finance, the Minister of Public Safety and Solicitor General (PSSG), and the Chief Officer of CFSEU publicly announced its formation.

FUNDING

551. In March 2016, the Minister of Finance directed BCLC to pay 70% of the cost for JIGIT, with the balance to be paid by the federal government under the terms of the Provincial Policing Agreement. This was the same formula used a decade earlier for IIGET.
552. JIGIT’s budget is ring-fenced to avoid dispersion, with the provincial (BCLC) share capped at \$3 million per year.
553. Although BCLC was directed to pay the provincial portion of JIGIT’s budget, it was not considered appropriate for it to have any involvement in JIGIT’s operations. A set of MOUs was signed, which has the net result of moving funds from BCLC to GPEB and from GPEB to the RCMP, by delegation from PSSG.

²⁴⁵ *Ibid.*

²⁴⁶ Due to CFSEU being a joint forces operation between the RCMP and municipal police, the RCMP component of JIGIT can include one or more municipal police officers.

²⁴⁷ See *R. v. Jarvis*, [2002] SCR 757.

BCLC

554. During the lead up and currency of both IIGET and JIGIT, BCLC has argued for increased enforcement of illegal gaming and has, in large part, justified expending its resources on this basis. BCLC candidly admits that its rationale for enforcement action against illegal gaming encompasses both “legal and business reasons”.
555. BCLC does not second investigators to JIGIT and is not provided with progress reports. This exclusion and lack of accountability to BCLC, has bothered some at the Crown corporation, who believe that its role as the funder should be recognized. Shortly after well publicized arrests in the E-National file and pursuant to its information sharing agreement with the RCMP, BCLC requested the names of those arrested. Their identities had not been released publicly due to the ongoing investigation. BCLC’s intention was to ban the individuals from casinos. When the RCMP refused, BCLC complained, without success.
556. Nevertheless, according to BCLC investigators, they have a good relationship with JIGIT. BCLC has passed intelligence to JIGIT, including interviews of sanctioned players. Some of this intelligence was provided in response to requests, while other intelligence, including with respect to loan sharking and underground casinos, was sent in a proactive fashion.

JIGIT & LEGAL GAMING

557. For many years, the RCMP, like other police forces, has used an intelligence-led model at the federal and provincial levels, to prioritize its resources on the most important targets. During its strategic planning, JIGIT officers visited with the OPP and asked what worked and what did not work in Ontario casinos. The OPP emphasized targeting the facilitators of high level organized crime. JIGIT followed this advice and aimed high.
558. JIGIT’s E-National file is reportedly the largest casino-centric money laundering file in Canadian history. Its focus is on a target that was identified by the RCMP’s threat matrix. It is hoped that this targeting will also have the greatest impact on organized crime in casinos.
559. In a June 13, 2017 media conference, A/Comm’r. Kevin Hackett, the Chief Officer of CFSEU, and Len Meilleur, Executive Director of GPEB’s Compliance Division, announced nine arrests. The press statement included the following:²⁴⁸

“In May of 2016, the investigation determined that a criminal organization allegedly operating illegal gaming houses, was also facilitating money laundering for drug traffickers, loan sharking, kidnappings, and extortions within the hierarchy of this organized crime group, with links nationally and internationally, including mainland China.

²⁴⁸ CFSEU-BC, “Multiple Arrests Stemming from a Nearly Year Long CFSEU-BC JIGIT Investigation into Organized Crime”, June 13, 2017 - <http://www.cfseu.bc.ca/multiple-arrests-stemming-from-a-nearly-year-long-cfseu-bc-jigit-investigation-into-organized-crime/>

The investigation also revealed several schemes related to the collection and transferring of large amounts of money within and for the criminal organization.

During the investigation, it was apparent that there were multiple roles filled by different people which enabled or facilitated the organization in laundering large amounts of money through casinos.

A search of six residences resulted in the seizure of large amounts of cash and bank drafts, drug paraphernalia, suitcases, cell phones, computers and other related material. Also seized were a number of luxury vehicles, including one with a sophisticated hidden compartment.

As a result of this complex, multi-faceted investigation, nine people have now been arrested, with more arrests still pending as the investigation continues. JIGIT investigators have been interacting with the Provincial Special Prosecutions Branch.”

560. The RCMP values the five GPEB resources on JIGIT and credits the team’s integrated nature for its early success.

JIGIT & ILLEGAL GAMING

561. According to the RCMP, it “has an awareness of and is actively investigating identified organized crime threats related to casinos and illegal gaming houses throughout the Lower Mainland. The number of underground establishments fluctuates as new ones enter the market and existing ones close or re-locate to avoid detection. Illegal gambling dens are proving to be highly profitable, and their insulated nature allows them to be relatively low-risk criminal investments [gaol sentences are not normal]. Accessibility is restricted [to] persons inextricably linked to or a part of tightly-knit organized crime cells and controlled by invitation only, which creates significant enforcement challenges. Reporting indicates enforcement, when it does take place, has limited impact and suggests there is capacity for expansion.”²⁴⁹
562. The RCMP adds that “JIGIT is drafting a plan to engage with and assist municipalities to better leverage and conduct inspections of residences suspected to house illegal businesses, including gaming houses, and enforce bylaws.”²⁵⁰
563. The RCMP notes that mainstream casinos are more attractive to money launderers than illegal gaming establishments because illegal gaming houses discourage the use of cash, which can form a constituent element of the common gaming house offence.

²⁴⁹ RCMP Briefing Note, Jan. 30, 2018.

²⁵⁰ *Ibid.*

TRANSACTION ANALYSIS TEAM

564. In conjunction with the JIGIT initiative, an inter-agency team was developed to examine transaction reports. The origin of the Transaction Analysis Team dates back to a February 2017 initiative of the Executive Director of Compliance at GPEB, which resulted in a formal proposal during the following month. In late 2017, BCLC joined in the initiative and the team was renamed the Gaming Intelligence Group (GIG). In January 2018, JIGIT convened the first meeting of the tripartite team. I have been advised that it meets at least once a month. At present, it is dealing with “information sharing, flow of information and, protection of privacy” issues, rather than substantive intelligence analysis.

PROSECUTION

565. The RCMP commented on the importance of having specialist prosecutors in the federal and provincial prosecution services, who are familiar with money laundering and casinos. Without this expert knowledge, charge approval and trial preparation become more difficult. The absence of dedicated Crown had been an issue for IIGET.

COMMENT

566. The essential difference between JIGIT and its predecessor, is that IIGET’s sole focus was on illegal gaming outside casinos and was not focussed on activities within casinos.
567. The creation of JIGIT was applauded in many circles and continues to be appreciated by service providers, GPEB and BCLC. The funding model has its critics, who argue that BCLC should not be in the business of funding public policing, although the current arrangement appears to avoid the pitfalls of the IIGET funding model.
568. It is never easy for a new police unit to decide what cases to tackle. As we saw with the demise of IIGET, targeting and a lack of dedicated resources were serious drawbacks. JIGIT’s focus has been to target high and it appears to have been successful. The problem it will face in the near future is lengthy pre-trial disclosure and trial preparation which will likely consume one of the teams. The fact that it has a second team which can deal with illegal gaming and complaints will hopefully balance this resource drain, however targeting high and taking on a mega file will restrict the ability of JIGIT to take on additional money laundering investigations until E-National is well on its way in the courts.
569. In addition to enforcement, dealing with the environmental factors which create a demand for illegal gaming may prove fruitful. If a mainstream, legal casino is not offering the services desired by gamblers, they will seek other opportunities. That would seem to be what has occurred. By legal casinos increasing their menu of services, illegal gaming can be reduced.
570. One important factor is the availability of realistic cash alternatives, such as credit and international wire transfers for high limit gamblers. This seems to have been recognized by

BCLC, which notes that the large, illegal establishments which emerged in Richmond, offered services that it could not. Examples given were the ability to sign a chit for \$1 million with pay back in China, higher betting limits, and returning 10% of losses. Although none of these may be a realistic alternative in a mainstream casino, there are certainly changes that can be made to enhance the player experience. Andre Wilsenach, Executive Director of the International Center for Gaming Regulation in Las Vegas, observes that “illegal gaming is a symptom of a problem in your regulated environment”.

RECOMMENDATIONS - JOINT INTEGRATED GAMING INVESTIGATION TEAM

- R14 That JIGIT be provided continuing support with respect to its investigative mandates.
- R15 That the Province consider transitioning JIGIT to a permanent, fenced funding model within the RCMP’s provincial budget.

CHAPTER 20

“CASE CLOSED”²⁵¹

571. For years, both internally and with each other, BCLC and GPEB debated the source of the mounds of cash that were entering casinos in the Lower Mainland; primarily the River Rock and to a lesser extent, Starlight and others. Both BCLC and GPEB knew that refining was occurring but the source of funds was the subject of debate.
572. Until approximately 2014, various alternate hypotheses were offered to explain the quantity of cash entering Lower Mainland casinos. The first was that criminals don't use casinos to launder money, because gambling is a losing proposition and, if they did gamble, and lost, the dirty money was indirectly being returned to government. Then came a theory that the cash originated with wealthy Chinese citizens spiriting it out of China. This even led to border checks to see if Canadian cash or other currency was arriving, destined for casinos. Another hypothesis, based on the proof required for a criminal prosecution, argued that there was no link between the cash and a predicate offence, such as drug trafficking.
573. There was an element of truth to each hypothesis, except that nobody had pieced the puzzle together, other than GPEB's Investigation Division, years earlier. With the re-entry of police in the gaming environment, through both FSOC and JIGIT, it did not take long to obtain an answer. I asked the following question of the RCMP in “E” Division and received the following answer:

Question:

574. *Critical to my review is the issue of source of funds and source of wealth with respect to large quantities of cash received at casinos. Does the RCMP have any evidence of the predicate offences which give rise to this money?*

Answer:²⁵² [my emphasis]

- “Evidence gathered pursuant to two (2) significant investigations **identified several predicate offences which resulted in large amounts of cash received at casinos.**²⁵³
- Illicit drug trafficking organizations are known to have delivered the cash proceeds of their sales to an **illegal, unlicensed Money Service Business**

²⁵¹ With thanks to Gosho Aoyama.

²⁵² RCMP Briefing Note, Jan. 30, 2018.

²⁵³ “Techniques include surveillance,... informant debriefings, agents and undercover operations, and civilian and police witness accounts, [as] well as technical forensics.”

(MSB)²⁵⁴ in Richmond. Cash suspected to have been derived from other criminal offences (loan sharking, extortion, fraud, and the operation of bawdy houses) was also deposited in the MSB. Once deposited, **bulk cash was repackaged and provided to both local and Chinese nationals for the purpose of gambling at casinos** in the Lower Mainland as well as illegal underground gambling dens.

- Technical forensics identified the MSB facilitated significant global money movement and laundering. **The MSB fronted cash to gamblers who then reimbursed the funds through offshore accounts, which was then used to finance illicit drug and precursor chemical purchases, drug importation, distribution and trafficking.**
- MSB staff provided a range of financial services to their customers, including instructions on methods to layer money, repatriate funds back to Canada, acquire reverse and fraudulent loans, and conduct real estate transactions.
- The MSB also provided cash to currency exchanges. Customers wire transferred money to the currency exchange and were paid out with the “dirty” MSB money.
- A substantial number of individual couriers were identified delivering cash to the MSB. Of them:
 - 30% were known members of organized crime groups involved in the illicit drug economy and operating primarily in the Lower Mainland;
 - 50% had criminal histories and were associated to criminals / criminal activities;
 - some of these couriers delivered cash on behalf of criminal organizations operating outside the Province of British Columbia;
 - several persons did not have criminal backgrounds and were found to be repaying their gambling debt by fulfilling chores for crime groups.
- **Criminal entities are known to use legal and illegal gambling venue to launder the proceeds of crime, entertain high-value assets related to organized crime, recruit influential patrons, orchestrate junket operations and solicit favour and influence those deemed corruptible. Illegal MSB’s and grey-market businesses²⁵⁵ offer cash services, as well as access to narcotics, prostitution, and illegal gaming which enables criminal entities to gain favour, and later leverage, with client. Applying this leverage opens up extortion and loan sharking opportunities.”**

575. Two charts, provided by the RCMP, depict the foregoing scenario.

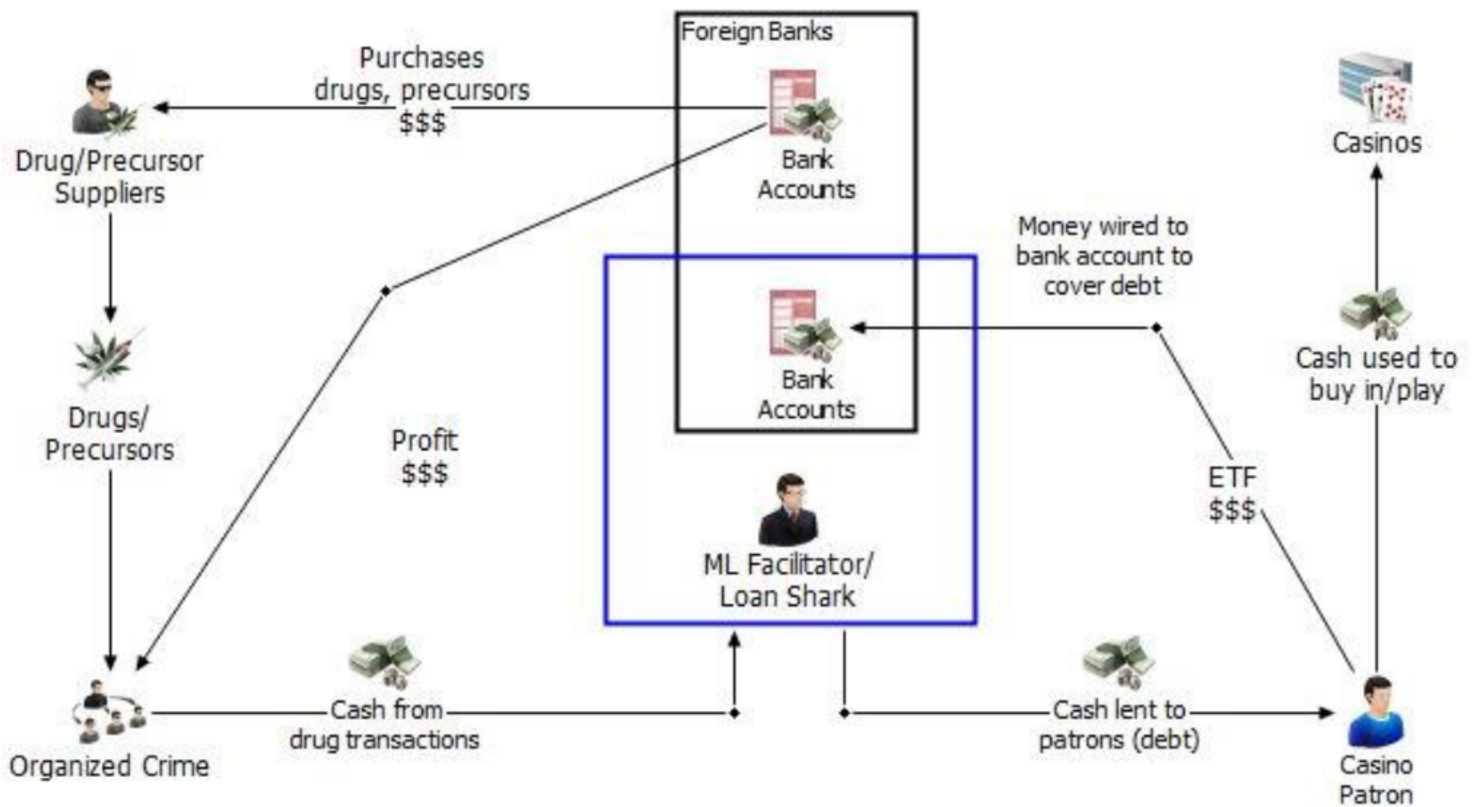
²⁵⁴ “The MSB acts as a portal to deposit bulk proceeds of [crime], as well as receive large, off-shore electronic fund transfers, neither of which are reported through existing regulatory processes.”

²⁵⁵ “In this context, the grey market involves an illicit activity (black market) operating under the auspices of a legitimate (white market) business and often used to increase the profit margins, reduce costs, undermine the constraints set out to regulate the flow of goods and services and, most importantly, mask the true nature of the commodity which generates the business revenue. Grey market business activities present significant challenges for traditional evidentiary-based investigations.”

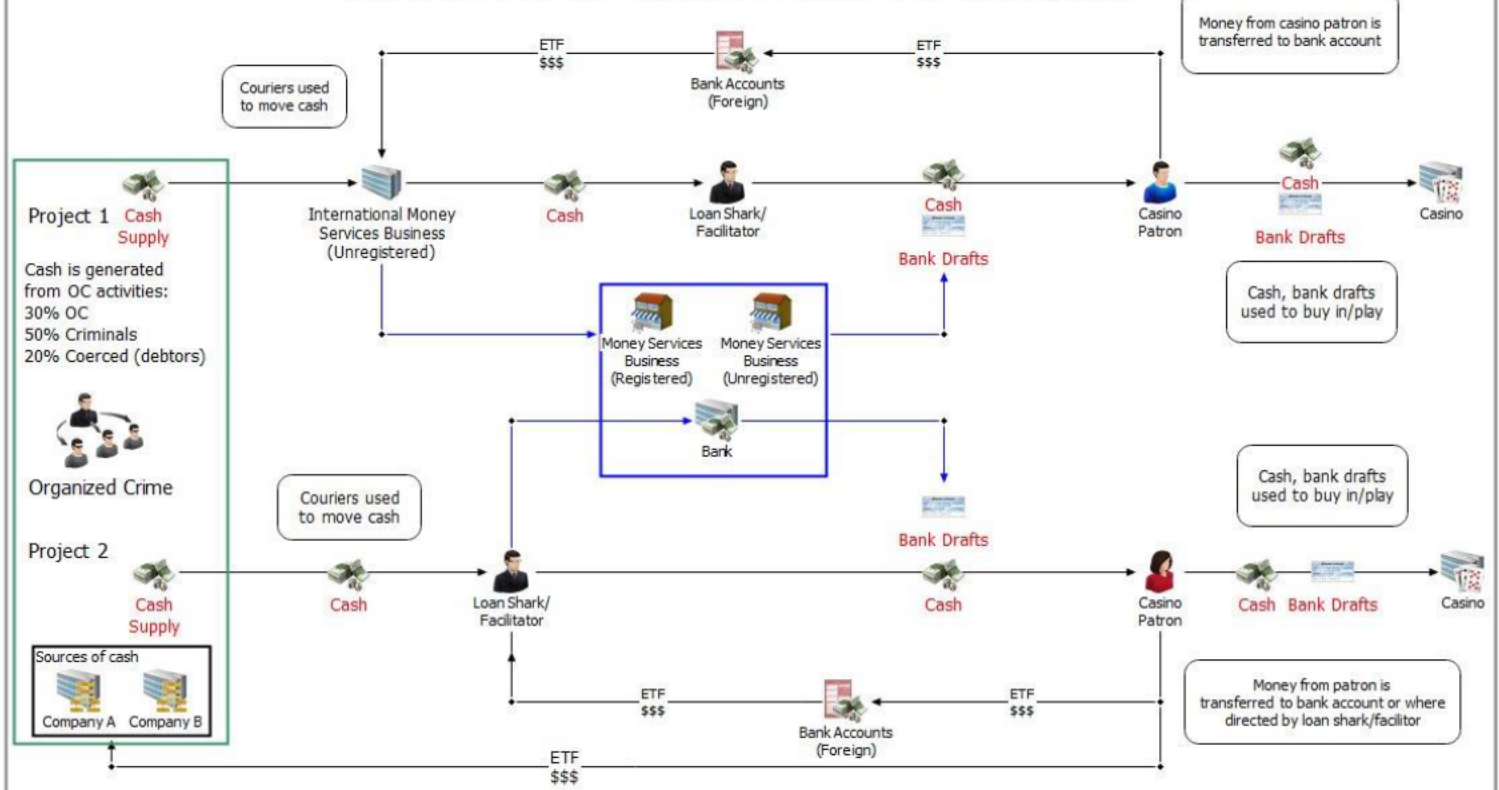
COMMENT

576. In summary, the RCMP make it abundantly clear that large quantities of cash which entered Lower Mainland casinos were the proceeds of organized crime and were laundered by high limit patrons; some witting, others not. What is most troubling is the degree of sophistication demonstrated by criminal syndicates which worked for many years in unison, across continents, to target B.C. casinos.
577. The RCMP analysis is consistent with the 'Vancouver Model', in which high limit gamblers obtained money at a discount from an intermediary, which they then used to gamble in legal casinos. Any winnings and residual chips were cashed out or placed in patron gaming accounts. Their debt to the intermediary was repaid in China through underground bankers.

OVERVIEW OF MONEY LAUNDERING IN BRITISH COLUMBIA'S LOWER MAINLAND CASINOS



EXAMPLES OF CASH FLOW TO CASINOS



CHAPTER 21

MNP REPORT

THE STUDY

578. As noted in Chapter 18, with an Excel spreadsheet in their back pocket, management at GPEB was able to persuade senior officials within the Ministry of Finance to, among other things, contract with a tier one accounting firm to conduct a study respecting the apparent money laundering occurring at casinos. The River Rock was selected for that study, due to its high volume of cash buy-ins.
579. A directed request for proposals was made to certain entities and MNP LLP²⁵⁶ was chosen to conduct the review. MNP completed its field work on January 22, 2016 and a report was delivered on July 26, 2016. Data used in the study dated from September 1, 2013 to August 31, 2015.
580. From the beginning, BCLC expressed displeasure with the initiative. It objected to not being afforded input into the terms of reference. It complained about MNP's objectivity. It complained that the reviewers were not ACAMS qualified.
581. BCLC insisted that MNP review BCLC data on site, as it was concerned with retention and security of data. MNP refused, saying it intended to forward data to its Calgary HQ for processing.
582. A flurry of e-mails followed between BCLC and GPEB, some of which were quite acrimonious. MNP felt stonewalled by the process. BCLC later argued that MNP's approach produced data quality errors.
583. BCLC's displeasure led it to complain to the Privacy Commissioner. A joint meeting was held between BCLC, GPEB and the Privacy Commissioner who, after hearing the parties, informally advised them that GPEB had the ability to commission the report, however its contents must be accurate.
584. BCLC notes that the MNP report began as an audit but evolved into a review, allegedly because MNP had performed work for one of the GSPs and was therefore unable to perform normal audit functions for fear that it did not have sufficient independence.
585. GPEB disagrees, noting that the engagement was not an audit, but "an analysis of cash and cash alternative handling, an analysis of customer due diligence frameworks, an assessment of BCLC's customer due diligence practices, and recommendations to improve same." MNP

²⁵⁶ https://www2.gov.bc.ca/assets/gov/sports-recreation-arts-and-culture/gambling/gambling-in-bc/reports/mnp_report-redacted.pdf

flagged a potential conflict before entering into the engagement, however it was deemed by both GPEB and MNP to be “sufficiently distant in time, scope, and subject matter” and therefore ethically acceptable.

586. The Ministry of Finance, to which both BCLC and GPEB reported, asked that a joint response be prepared to the findings in the report. That did not occur, and the report was not released to the public, apparently at the behest of senior officials at the Ministry. The rationale given for not releasing the report was a fear that certain of its contents might provide organized crime with insights into the frailties of the system, which could then be exploited.
587. The MNP report was eventually made the subject of an FOI request, however was released publicly in September 2017 by the AGBC, prior to that request being actioned. To this day, disagreements continue between BCLC and GPEB over the report and its findings.
588. Despite the issues above, the MNP report was ground breaking as it confirmed in vivid detail what had been occurring at River Rock. Although some argue that a Lower Mainland-wide approach would have been of greater utility, the River Rock was unquestionably the casino where the largest quantity of cash buy-ins was taking place.
589. It must be recognized that River Rock staff provided the bulk of the information which forms the basis for the MNP report. The casino had been submitting reports to BCLC and GPEB for over a decade.
590. After the public release of the MNP report, media coverage intensified, and questions were asked about the ability of B.C.’s gaming industry to prevent being subverted by organized crime and used for the express purpose of laundering the proceeds of crime.

MNP RECOMMENDATIONS

591. The MNP report contains many findings and recommendations directed to BCLC, GPEB and the GSPs. The report did not, however, recommend an overhaul of the structure of gaming or of AML responsibilities. It gave both BCLC and GCGC a passing grade for their existing compliance programs.²⁵⁷ In addition, it acknowledged the quality of equipment and experience of the surveillance staff at River Rock.²⁵⁸
592. Below, I highlight a few of the MNP findings and recommendations which have a bearing on overarching themes in this Review. Others are referenced in the chapters which follow.

BALANCING REVENUE AND RISK

593. Recommendation 4.1 adopted the prevailing view of many that it is acceptable to balance revenue generation with risk mitigation, stating “Regulatory regimes for gaming typically

²⁵⁷ MNP Report, 4.6

²⁵⁸ *Ibid.*, 5.23

seek to balance revenue generation with risk mitigation.” In other words, a balance is struck between the pursuit of profits and the risks (criminal and other) which the industry faces.

594. As indicated earlier in this report, I disagree that issues of risk, certainly serious ones that impact on public safety, should be balanced with revenue generation. This may be acceptable in other industries where the risks simply involve financial expenditures. It is not acceptable in an industry which is susceptible to criminal risks, such as loan sharking and money laundering. These risks must be attacked with the same commitment that we confront crime in society generally. A police officer does not balance the importance of arresting a person who commits a domestic assault with the cost to the criminal justice system of processing a charge. In the same fashion, casinos must not balance their commitment to risk mitigation by virtue of the cost for appropriate security and surveillance.

UNSOURCED CASH

595. In Recommendation 4.2, MNP advised that:

“GPEB should consider implementing a policy requirement that Service Providers refuse unsourced cash deposits exceeding an established dollar threshold or to refuse frequent unsourced cash deposits exceeding an established threshold and time period until the source of the cash can be determined and validated.”

596. This recommendation reappears as part of other findings and recommendations in the MNP report.²⁵⁹ It is very important because it touches upon both unsourced funds, discussed below, and saying no, discussed under the next heading.
597. BCLC objected to Recommendation 4.2, noting that “A directive issued under the provincial *Gaming Control Act* to BCLC or service providers requiring a prescriptive compliance approach in the form recommended here may give rise to a direct conflict of laws as between federal [*POCMLTFA* and *FinTRAC*] and provincial requirements”. There was also a concern that it could lead to confusion for service providers.
598. I am not persuaded by BCLC’s position. It is doubtful that federal requirements would expect a service provider to accept unsourced cash, if there is a concern respecting its provenance. That is the very point of the *POCMLTFA* and any provincial enhancement to reporting requirements aids the goal of the federal legislation, rather than detracts from it. We must also recall that gaming falls within the jurisdiction of the provincial government, which creates its structure and process.
599. The first Interim Recommendation which I made built on this recommendation by MNP, requiring the completion of a source of funds declaration for buy-ins which exceed \$10,000.

²⁵⁹ *Ibid.*, 5.35 and 5.52.

The corollary to this requirement is, of course, that a failure to provide a satisfactory declaration means that a buy-in must be refused.

SAYING NO

600. In Recommendation 5.74, MNP states: “the only way to verify funds is to obtain documentation for the withdrawal of cash from a financial institution (bank) or entity covered under the POCMLTFA such as a MSB.”
601. In response to the MNP recommendation, BCLC indicated that its “policy already exists directing Service Providers to stop and refuse transactions where a customer does not provided [sic] required identification.” This response does not address the recommendation. It also conflicts with MNP’s findings, as noted in Finding 5.76:

“In other industries, such as banking, securities dealers and MSBs, internal policies and procedures are developed based on the entity’s risk-based approach to determine when transactions should be rejected. Through review of policies and procedures at GPEB, BCLC and the Service Provider, it was noted that there has [sic] been no directives made to reject funds where the source of the cash cannot be determined and verified.”

- 601A. See also the discussion above in Chapter 18.

CASH LIMITS

602. A few of the MNP recommendations advocate placing limits on cash at buy-in. For example, in recommendation 4.2 (see above), MNP wrote, “GPEB should consider implementing a policy requirement that Service Providers refuse unsourced cash deposits exceeding an established dollar threshold”.
603. There do not appear to be any objective criteria with which to determine an upper cash limit. This is not surprising, as there are many legitimate reasons why people possess large amounts of cash.
604. As noted above, my first Interim Recommendation dealt with the issue of source of funds. The intention of that Recommendation was to require service providers to not simply check boxes, but to make diligent enquiries on the source of funds and, or wealth of a patron. Cash limits become irrelevant if source of funds can be satisfactorily determined.
605. My enquiries in Ontario, Nevada and with international gaming experts indicate that limits on cash buy-ins do not exist in most gaming venues. The emphasis is almost always on effective due diligence and the determination of source of funds and, or wealth.

WHO SHOULD LEAD?

606. Recommendation 4.14 states:

“Given the Service Provider’s inherent motivation to maximize revenue, it should not be expected to lead compliance and risk management efforts within the gaming industry. BCLC should provide further guidance as the manager and responsible entity for AML regulatory obligations to enhance and enforce appropriate KYP measures.”

607. In support of this recommendation, MNP notes that at River Rock, KYP “is a task-driven compliance activity rather than a risk management activity”. That finding is correct, although I disagree with the recommendation. As noted earlier in this Report, service providers had adopted a checkbox approach to large cash buy-ins. This approach developed precisely because service providers were not made responsible for risk mitigation. BCLC assumed that role and established criteria for reporting, assigned investigators to interview patrons, and provided little feedback to the service providers on the interviews, other than issuing instructions on how to deal with certain patrons or categories of patrons.
608. Currently, risk is placed on the shoulders of BCLC and not the service providers. Were it in reverse, the GSPs would have primary responsibility for KYP and due diligence, with no place to turn except inward. Today, all roads lead to BCLC.

PART 7

PROBLEMS

CHAPTER 22

A TESTY RELATIONSHIP

609. An industry insider familiar with B.C.'s casinos since the earliest days, remarked that there have been divisive rivalries within the bureaucracy of gaming in government, "since Day One". The result is that finger pointing is common.
610. Relationships between BCLC and GPEB are at best, strained; and at worst, broken. The issues tend to be most pronounced at the management level and within the compliance and enforcement areas. This is not new and has been ongoing for a decade. It is also not universal, as many people in both organizations work well together, but it is a general observation which was repeated in dozens of interviews.
611. The culture of distrust between the organizations was mentioned by many interviewees, some being former police officers who had previously policed with their counterparts at the other entity. After being hired, these individuals assumed that there would be a good working relationship, based upon their previous knowledge of each other. Within a few months, they were typically asking, what's wrong with this picture?
612. Descriptors of the relationship provided by BCLC personnel included; a "poisoned attitude", a "toxic attitude", a "critical breakdown", "absolute mistrust by GPEB", "bad taste to it", "[BCLC] viewed as the enemy", and "GPEB pointing the finger at BCLC".
613. The attitudes are fuelled by a belief among some at BCLC that their work product is superior to that of GPEB. It was mentioned that "GPEB relies ninety per cent on [BCLC] investigators and [GSP] surveillance reports." The surveillance reports provide the raw details of names and licence plates, while the BCLC investigators "put pieces together really well".
614. According to BCLC investigators, their "STR is a complete, complex report" with "so much information" that it can "tie everything together". They are of the view that money laundering is not part of GPEB's mandate and, in any event, it does not have the capability to handle this work. Instead, they suggest that GPEB's forte is gaming policy, registration and audit. When a criminal file arises in a casino, GPEB is viewed as simply a conduit to the police force of jurisdiction. It was noted that GPEB rarely lays charges.
615. Members of the AML unit at BCLC noted that STRs are copied to the RCMP, FinTRAC and GPEB. They have "no idea how GPEB selects files for investigation". It produces reports based on a "cut and paste of our files". They note that GPEB investigators often do not even meet with BCLC investigators on a common file. Instead, GPEB will pick-up files or video from the GSP and not request BCLC input. BCLC often learns that GPEB was in a casino from the GSP. It was noted that GPEB often expresses concern about specific patrons or staff but provides no details. One investigator described the situation as "tragic".

616. It was not much different at GPEB, where the overriding emotion is frustration at not having a clear statutory mandate to deal with money laundering, for being treated as the 'poor cousin' of BCLC, being wrapped within the constraints of government, and not having the independence to operate as a true regulator. GPEB is constantly being reminded by BCLC that it does not have conduct and manage responsibility and was frustrated by the reporting structure that existed for many years within the Ministry of Finance.
617. Despite witnessing the unprecedented rise of suspicious cash at Lower Mainland casinos, GPEB investigators did not believe that they had the legal authority to begin interviewing customers. BCLC, on the other hand, believed that it did and began interviewing high limit customers. This move alone served to propel BCLC into the role of a pseudo-regulator, as it began imposing conditions on players and taking a lead in this area. GPEB was sidelined even further.
618. GPEB investigators face many obstacles. They do not have on-site or office access to the iTRAK system which contains all GSP reports and the BCLC investigative summaries. GPEB is allowed access to two iTRAK computers at the BCLC offices in Burnaby, which is a relatively unworkable arrangement considering the logistics of driving to BCLC's offices simply to use a computer. A former casino executive described GPEB "always [being] pushed to the side", with "no instant access to information".
- 618A. Apparently, the issue of access to iTRAK arises not out of mean spiritedness on the part of BCLC, but advice received by it that privacy legislation precludes sharing with GPEB, except with respect to specific investigations. The inability of the regulator to access such a critical data source is a serious impediment and must be rectified.
619. There has also been conflict in terms of who should be dealing with the police. Can BCLC investigators deal directly with the RCMP or must they go through GPEB? As the regulator, and possessed of special constable status, GPEB investigators feel that they should be the conduit to the police. On the other hand, BCLC feels free to deal directly with police, as it is committed to dealing with illegal activity.
620. It has been pointed out that BCLC and GPEB could have dealt better with the cash 'crisis' if they were better co-ordinated. There has been a long-standing confusion of roles in terms of game validation, audit, cash alternatives, AML compliance, and enforcement. The question that begs an answer is, what are their respective roles?
621. Onlookers in the internecine warfare between BCLC and GPEB are the GSPs. They religiously fill out the forms required by both entities, are audited regularly, and remain relatively neutral and mute to what they witness. In the words of the BCGIA's Executive Director, the "GPEB and BCLC fighting is difficult for the third leg of the stool". He added that the industry does not want a "patsy regulator". It wants to be able to pick-up the phone, call the regulator and have a meaningful conversation. That is not possible today, due largely to GPEB's lack of role certainty, and having been marginalized.

622. The BCGIA adds that the “industry craves role clarity with GPEB and BCLC. It is their number one wish.” At present, the two entities “spend mental energy crapping on each other”. BCGIA is not alone in making this request. Senior management at BCLC has also asked for a clarity of roles. Who has investigative powers and who can perform audits? GPEB senior management is equally frustrated.

COMMENT

623. The breakdown of relations between BCLC and GPEB on AML and enforcement matters, is not strictly a people issue. It is a structural issue, caused partly by an unwieldy statute which has not kept up with the growth of the industry, and partly by a power imbalance. This has led to a breakdown of relations and a basic lack of trust between the two entities.
624. All parties seek clarity of roles and the industry wants a strong regulator.

CHAPTER 23

BCLC GOES UNDERCOVER

MONEY LAUNDERING INVESTIGATIONS

625. BCLC is not a law enforcement agency and is neither authorized nor permitted by legislation to conduct criminal investigations into money laundering. Its obligation is one of reporting. This is consistent with other reporting entities, such as banks, insurance companies, and credit unions. BCLC may, however, undertake investigative efforts, including due diligence investigations, to determine whether money laundering is occurring in its facilities. However, it can only do so with the limited tools at its disposal.
626. GPEB differs from BCLC to the extent that GPEB investigators are special provincial constables and are entitled to investigate criminal matters if they arise out of a gaming offence. As discussed earlier, this ability is potentially broad, however has been circumscribed by the nature of special provincial constable appointments and by practice. GPEB investigators have also been provided with precious little training on how to perform as a regulator or as a criminal investigator, causing most to rely on their previous law enforcement experience.
627. As a result, both BCLC and GPEB suffer from a significant disability when it comes to dealing with money laundering. Other than saying 'no' and barring a person from returning to a facility, there is little that either can do with the valuable intelligence which they possess concerning money laundering. It is essential that law enforcement be engaged in a meaningful way.

THE POWER TO INVESTIGATE GENERALLY

628. The police do not have a monopoly on the conduct of investigations. Private citizens routinely investigate matters. Corporate security officers are a prime example. Once alerted to the fraudulent use of a credit card in a retail outlet, a bank's corporate security unit will commence an immediate investigation, which may include notifying the cardholder, checking for other uses of the same card, analyzing transactions at the retail store, and possibly notifying the police. Corporate security units also spend considerable amounts of time dealing with internal theft, fraud, and security. Oftentimes this requires undertaking proactive security measures.
629. In a similar fashion, a store detective in a pharmacy who witnesses a person placing cosmetics in his or her jacket pocket and exiting the store without paying, can make a citizen's arrest outside the store and notify police. Prior to the arrival of the police, the store detective will record what occurred; obtain statements from witnesses; and, if possible, a confession from the suspect; retain any evidence; and draft a Report to Crown Counsel.

What these individuals cannot do is exercise any powers reserved for police officers. Their arrest and search powers are limited to those of a citizen.²⁶⁰

630. BCLC is given statutory authority to undertake video surveillance²⁶¹ and also to both remove and to ban persons from entering a gaming facility.²⁶² A service provider is required to remove persons if the provider has reasonable grounds to believe that a person is unlawfully on the premises, is there for an unlawful purpose, or is contravening the law.²⁶³ The use of force is authorized where necessary.²⁶⁴
631. In addition to conducting its own investigations, section 81(4)(b) provides that GPEB may undertake an investigation at the request of BCLC. In addition, the General Manager at GPEB can make a variety of orders under section 83(1) regarding a licensee, eligible organization, GSP or gaming worker.²⁶⁵
632. BCLC staff can also undertake investigative activities, including proactive measures, in furtherance of corporate duties and responsibilities. As with any corporation, BCLC must not confuse its internal operations with criminal or regulatory investigations, which fall outside its purview.²⁶⁶

THE AML UNIT GOES UNDERCOVER

633. BCLC's AML unit has involved itself in undercover operations. One such operation was a form of ethics / value testing at MSBs in the core financial district of Richmond.²⁶⁷ The genesis of the operation was information obtained by BCLC from patron interviews, which indicated that clients could obtain better interest rates at some Richmond MSBs by accepting small denomination bills during money exchange transactions. BCLC decided to test this information as part of its Enhanced Due Diligence, AML program. The intent appears to have been an attempt to determine if local MSBs were dispensing the proceeds of crime, in the form of \$20 bills, to customers.
634. A BCLC employee entered various MSBs, on the pretext of having a family member who wished to wire money from China to Canada. The employee made a record of the responses

²⁶⁰ See sections 34, 35 and 494 of the *Criminal Code*. The *Code* does not differentiate between a citizen making an arrest while working for a corporation, or in his or her personal capacity. Obviously, a corporation cannot make an arrest as it is an artificial creation, but that does not remove the right which its employees have to make an arrest as civilians. In the eyes of the law, a store detective making a shoplifting arrest and a citizen preventing an impaired driver from continuing in care or control of a vehicle are treated in a similar fashion.

²⁶¹ *GCA*, s. 85.

²⁶² *Ibid.*, s. 92.

²⁶³ *Ibid.*, s. 91.

²⁶⁴ *Ibid.*, s. 93(2).

²⁶⁵ *Ibid.*, s. 83(1)(a).

²⁶⁶ BCLC employees are also exempted from having to register under the *Security Services Act*, SBC 2007, c. 30, s. by virtue of section 2(1) of the *Security Services Regulation*, BC Reg. 2007/2008.

²⁶⁷ BCLC, "Money Exchange Project", undated.

obtained to various questions. Among the MSBs targeted was one of Canada's largest foreign exchange companies.

635. A 'cover' employee accompanied the undercover operator, "driving, navigating, taking notes, and provided safety back-up." The summary report of the operation notes that the "team dressed in plain clothing with all BCLC logos and branding hidden." The results were of little use, although the concluding report was critical of some business practices that they witnessed.
636. The RCMP became aware of the operation. It cautioned BCLC that performing an undercover scenario in these circumstances, which may appear relatively innocent, can have unforeseen consequences. Without training in undercover operations, there is always a danger of discovery, leading to concern for an operator's personal safety. Without deconfliction, BCLC could also be interfering with an ongoing police investigation.
637. The question which begs to be asked is, why BCLC was performing virtue testing of currency exchanges? It is unclear how this effort fits within the mandate of BCLC to provide gaming for British Columbians. The manager who authorized the operation advised that "a very small group of players attended at the River Rock with cash accompanied by receipts from local MSB's and "it was decided that further due diligence was required. He authorized two employees to attend the MSBs in order to determine if the businesses were "real and operational", if they "gave out cash denominations consistent with what the players" had advised; and if possible, to "confirm if the receipts "were legitimate". He asserts that it was not intended to be anything more than "a low key fact gathering investigation". Furthermore, he provided copies of the concluding report to both GPEB and JIGIT.

637A. I accept that the intention was good, however it is difficult to understand why BCLC investigators were not prepared to identify themselves to the MSBs and simply ask the questions of concern. The report does not mirror the rationale provided by the manager, which suggests that there may have been a misunderstanding between the manager and the employees. The manager opined that if BCLC had not verified, "a new source of funds... and the MSB was found to be fake and the receipts themselves fake, the media and regulators would have had a field day". Of course, this is exactly what occurred with the RCMP's discovery in 2015 of an illegal MSB, which had funnelled cash to casino patrons.

ILLEGAL CASINOS

638. BCLC also gathered intelligence on illegal casinos in Richmond. The information was turned over to the police, in the hope of closing the illegal facility.²⁶⁸
639. GCGC was also concerned with illegal gaming believed to be occurring in Richmond. As the result of open source computer research, it was able to obtain photographs of the interior of what was believed to be an illegal casino, and data related to the premises. It also had

²⁶⁸ RCMP / BCLC e-mails, Feb. 1, 2016.

unconfirmed information of its own dealers being present in the illegal casino. It reported this information to the Richmond RCMP and requested an investigation, noting a threat to public safety, reputational damage to licenced gambling, and diminished revenues to government.

COUNSELLING CUSTOMERS

640. On November 27, 2015, BCLC's AML unit sent a memo to the head of compliance at GCGC, noting that BCLC had previously supplied a list of 16 individuals, all known patrons of the River Rock, who had been flagged by BCLC "due to suspicious behaviour involving Casino financial transactions." In accordance with policy, GCGC was asked "to conduct an education session" with 14 of the players.²⁶⁹

641. The purpose of the education sessions was to notify the patrons that their buy-ins were being monitored and that their source of funds was of concern because of:

"1.) The packaging and volume of the cash is inconsistent with what would be provided by a recognized Financial Institution

2) The volume of cash is inconsistent with what is to be expected, given their occupations.

Under federal legislation large amounts of cash are the least anonymous financial instrument". [my emphasis]

642. I confess that I had to read the last sentence a few times before appreciating what it was describing. In the normal course of business, cash is the **most** anonymous of instruments, not the least, because it is the currency of the nation and not identifiable to an individual. That however fails to appreciate that cash is in fact the **least** anonymous financial instrument under the *POCMLTFA*. In fact, the entire reporting regime in that statute is predicated on obtaining copious detail from customers who present large and, or suspicious amounts of cash. The statement is, in fact, correct.

643. In other words, the letter was asking GCGC to tell patrons that they were displaying typical indicia of money laundering and 'educate' them on a more appropriate method of moving their wealth. The letter continued:²⁷⁰

"The Patron should be encouraged to avoid buying in with large volumes of cash and utilize the cash alternative options available to them ideally using the Patron Gaming Fund Account.

²⁶⁹ BCLC memo, Nov. 27, 2015.

²⁷⁰ *Ibid.*

The patron should be advised that they need to change their buy in behavior and the patron will continue to be monitored.

If there is no change in buy in behavior by December 28, 2015 BCLC may place conditions on the patron prohibiting any buy in's with un-sourced cash and un-sourced chips and will request a patron interview with a BCLC investigator.

Any obvious escalation in suspicious behavior prior to December 28, 2015 as a result of this direction will likely result in further action taken by BCLC including conditions being placed on play and or suspending playing privileges."

644. The net effect of the letter was to direct GCGC to alert 14 persons to their suspicious behaviour and provide those persons with a better option for bringing money into the casino.
645. We do know that there was a move, spearheaded by BCLC, to move players who they had placed on "cash conditions", from cash buy-ins to PGF accounts. These accounts were mainly populated by bank drafts. Many were closed out shortly after they were opened. At that point, the money in the account was provided to the gambler in the form of a return of funds cheque.
646. On the second page of the letter, the writer notes: **"Nothing is required to be documented in iTRAK at this time to avoid any potential embarrassment to the player or visibility outside of limited personnel."** The result is the absence of a paper trail in iTRAK of the education session.²⁷¹
- 646A. In response to the foregoing, BCLC comments that, "There were already comprehensive records entered into iTrak on each of these players including full particulars on their identity, date of birth address [sic], residence, occupations as well as documentation on the concerning transactions including suspicious transaction reports. In addition, the letter quoted and list were retained and formed part of BCLC's records in relation to these players and their transactions."²⁷²
- 646B. All of the above is no doubt correct, however it does not mitigate the fact that the instructions provided to the service provider do not form part of iTrak. It is highly unlikely that any external investigator would marry the records contained in iTrak with the letter in BCLC's corporate filing system.
- 646C. The author of the letter provided additional background. He indicated that the move to cash conditions and to source of funds / source of wealth interviews was new to the gaming industry and therefore in 2015, "banning a small group of players from using unsourced cash was very significant." Over time, more and more patrons were placed on the

²⁷¹ *Ibid.* iTRAK is an incident-management system which acts as the main repository for all incidents and transactions collected for a player.

²⁷² BCLC letter, Apr. 18, 2018.

'conditions list', "because they were involved in suspicious buy-ins, not because of confirmed criminal associations." The majority of the players on the list "had no real idea where the cash was coming from." This led to realization by BCLC "that cash facilitation was far more widespread than many believed."

646D. With no evidence of criminality, "cash banning" these patrons was considered to be the best course of action. The author notes that "it was a calculated decision to involve the GSP because it still provided them an opportunity to keep the player's business if in fact the player had access to legitimate funds. Encouraging players to use bank drafts and PGF play was definitely part of the overall AM strategy to eliminate dirty money."

COMMENT

647. The long absence of the police from the gaming scene caused great angst and the undercover operations were likely intended, in part, to bring attention to the illegality that was believed to be occurring near the River Rock.

648. To the credit of BCLC, GCGC and Richmond RCMP, the issue of illegal casinos was pursued by way of an investigation.

649. The letter of instruction to GCGC leaves BCLC vulnerable to accusations that it was prepared to continue dealing with customers who displayed behaviours which resembled those of money launderers.

RECOMMENDATION - BCLC GOES UNDERCOVER

R16 That BCLC not engage in further undercover operations, except in conjunction with the Regulator and, or the police.

CHAPTER 24

A FEDERAL FINE

BCLC IS FINED BY FINTRAC

650. As an adjunct to its primary role, FinTRAC is also responsible for regulating and auditing reporting entities. During 2016, it conducted 14 casino compliance examinations across the country. It can issue notices of violation and impose fines, referred to as Administrative Monetary Penalties (AMP), on non-compliant institutions. FinTRAC attempts to develop a culture of compliance within the industries that it regulates, hopefully without the need for penalties.
651. Earlier in this Review, it was mentioned that BCLC was the subject of the largest penalty ever levied in the casino industry. That incident coloured its relationship with the federal regulator for many years.
652. Originally, FinTRAC filings were all manual. BCLC staff would examine each LCTR and forward them manually to FinTRAC. Later, a conversion took place to electronic filing utilizing the iTRAK system, including batch filing.
653. In 2008, FinTRAC conducted an examination of the quality of BCLC's reporting to the federal agency. It identified instances of under and over reporting. BCLC disagreed with some of the findings and noted various transmission snafus.
654. FinTRAC conducted another compliance examination between November 30 and December 9, 2009, in which reports were examined for the period from January 1 to October 15, 2009. In January 2010, its audit report was delivered to BCLC, identifying deficiencies in BCLC's reporting, including late filings and non-filings. FinTRAC concluded that BCLC continued to be "offside on many of the same [issues] and new ones".
655. BCLC replied, stating that it had addressed each category of violation. A meeting was held between officials from both bodies, after which FinTRAC concluded that BCLC's responses were not satisfactory, plus they could discern "no behavioural change" at the Crown Corporation.
656. BCLC became the first provincial gaming corporation to be sanctioned by FinTRAC. On June 15, 2010, FinTRAC issued a Notice of Violation alleging that BCLC was non-compliant with the *POCMLTFA* because of filing delays, inadequate information and other deficiencies identified in more than 1,285 reports. According to FinTRAC, BCLC's systems had been reporting incorrectly for years. The difficulties were exacerbated when Casino Disbursement Reports were added to the list of reportable items on September 29, 2009. The penalty was fixed at \$670,000.

657. After notice of the violation and penalty were leaked to the media in July 2010, the Vancouver Sun reported that BCLC's President at the time confirmed that the Corporation had corrected its reporting issues, "and that most of its problems were related to late filing of reports because of technical glitches and human error."²⁷³
658. BCLC requested reconsideration of the Notice of Violation. In a decision on October 1, 2010, the Director of FinTRAC confirmed the violation and penalty.
659. Despite confirmation by BCLC that the Corporation had corrected the various issues, in October 2010 it appealed the Director's decision to the Federal Court of Canada. There the case remained for the next six years. Various applications were made during those years, however there were also long pauses in the litigation.

OPPOSING VIEWS

660. According to BCLC, FinTRAC software was dated and the batches were not making it to the FinTRAC server as expected. The rejection of batches of 50 reports due to errors in one or more of the individual reports, resulted in a need for reformatting and resubmission of all the reports. Software rewrites were required to deal with individual exceptions and to send custom batches. Also, a three-month reporting window was apparently out of sync between the two bodies.
661. BCLC concluded that the non-filing was really an IT problem, due in large part to servers not talking to each other and inconsistent filing protocols. According to BCLC, FinTRAC would not acknowledge that the problem was with its server. A member of the AML unit added that "Fintrac was not responsive to developing relationships or providing advice on improving reporting."
- 661A. During the same years encompassed by the FinTRAC penalty, as well as before and after, GPEB was also monitoring BCLC's compliance with FinTRAC requirements. This role arose from GPEB's MOU with FinTRAC for the mutual sharing of audit information. It regularly identified numerous areas of non-compliance and provided its reports to both BCLC, which was generally non-responsive, and to FinTRAC. Internally, GPEB expressed concern that there was also over filtering by BCLC of UFTs being reported to FinTRAC as STRs.²⁷⁴
662. While the Federal Court case lingered, FinTRAC continued to monitor BCLC's ongoing efforts to improve its systems and align itself with FinTRAC reporting requirements. In a 2016 examination, FinTRAC gave BCLC top grades in terms of legislative compliance and reporting, noting that it had corrected all deficiencies.
663. Meanwhile, FinTRAC was running into problems with its regulatory decision-making. Challenges of penalties that it imposed on real estate firms in Ontario reached the Federal

²⁷³ Kim Bolan and Jonathan Fowlie, "BCLC the only provincial gambling body to be fined", at <https://globalnews.ca/news/93891/bclc-the-only-provincial-gambling-body-to-be-fined/>.

²⁷⁴ GPEB Estimates Briefing Note 2011/12, Apr. 29, 2011 and GPEB e-mail, May 27, 2008.

Court.²⁷⁵ The Court determined that FinTRAC was not using objective criteria to determine the quantum of a sanction, resulting in fines which could not be rationalized in terms of the degree of harm that had resulted from non-compliance. This lack of procedural fairness resulted in the fines being quashed and the cases being referred back to FinTRAC's Director for a redetermination of the appropriate penalty, using objective criteria.

664. I spoke with senior management at FinTRAC, who confirmed that the agency's emphasis is on changing a reporting entity's behaviour, thereby ensuring future compliance. FinTRAC reviewed the BCLC case and determined that there had been a recognition by BCLC that the violations had occurred, change had taken place, the faults were corrected, and this had been confirmed by an examination. FinTRAC was also aware that the BCLC appeal in the Federal Court would be impacted by the Ontario cases mentioned above, particularly the need for an objective standard by which to determine the quantum of a penalty. As a result, the penalty was withdrawn, and the case concluded. FinTRAC maintains that a violation did take place.

WHAT \$50,000 THRESHOLD?

665. Another instance of non-reporting, directly related to the influx of millions of dollars at the River Rock, occurred in more recent years.
666. As we have seen, the *POCMLTFA* requires that all suspicious or attempted suspicious transactions be reported, regardless of amount. For example, a suspicious \$1,000 buy-in falls into the same category as a suspicious \$100,000 buy-in. As we also know, the GSPs complete UFTs when they encounter suspicious circumstances and send those to BCLC, which then decides whether to complete an STR or not.
667. What seems clear is that for a period of time during the huge cash influx at River Rock, the casino stopped filing UFTs for suspicious buy-ins under \$50,000. By River Rock not completing these UFTs, BCLC did not receive the information it requires to create STRs for submission to FinTRAC. The result was an apparent violation of the *POCMLTFA* and its regulations.
668. The completion and filing of LCTRs does not appear to have been affected by the change in UFT reporting. In other words, LCTRs were still sent by River Rock to BCLC for large buy-ins of \$10,000 or more. As a result, FinTRAC would know that an individual had made a large cash buy-in, and in what amount, but would have no reason to believe that the circumstances were suspicious. It would also have no knowledge of suspicious buy-ins under \$10,000, because they are below the reporting threshold for LCTRs.

²⁷⁵ See *Kabul Farms Inc. v. R.* (2015) FC 628.

669. This reporting anomaly was mentioned by numerous interviewees, none of whom appear to have a complete understanding of what occurred. Fingers were pointed in various directions.

670. The MNP reviewers appear to have encountered the same anomaly. In its report, MNP states:²⁷⁶

“During our interviews with the Service Provider, BCLC, and GPEB, there was ongoing reference to a historical undocumented threshold of \$50,000 which was the trigger value to consider a transaction suspicious at the Service Provider location. The issue of the threshold preceded this report.... BCLC has undertaken a review of LCTR transactions to determine if STR transactions had been overlooked. BCLC made a self-disclosure to FinTRAC regarding the issue in December 2015.”

671. Later in the report, the MNP reviewers state:²⁷⁷

“The BCLC investigators assigned to gaming facilities are currently reviewing 10-15% of LCTRs to determine if STR reports should be filed. The method of review does not appear to be effective as it did not identify the existence of the ongoing practice of only reporting transactions above an undocumented \$50,000 threshold.”

672. So how did this happen? The issue for this Review is to understand what this anomaly means in terms of compliance generally and the commitment of the various entities to abiding by the *POCMLTFA*.

673. According to GCGC, GPEB approached the River Rock and asked the casino to report every cash buy-in involving batches of \$20 bills, as if they were all suspicious transactions. The River Rock objected, noting that many transactions involving \$20 bills are not necessarily suspicious. According to GCGC, a saw off was agreed upon, whereby the casino would report every transaction involving more than \$50,000 in cash as suspicious. Over time, staff assumed that this was the reporting threshold for suspicious transactions and stopped reporting many (or most) suspicious transactions below \$50,000.

674. I spoke with the GPEB official who allegedly had the conversation with GCGC. He categorically denies ever agreeing to a threshold. If anything, he was arguing for the opposite – greater reporting than required under the legislation. It was also his recollection that at least one BCLC employee was aware that River Rock was using a \$50,000 threshold.

675. When senior management at BCLC became aware of the non-reporting, it notified FinTRAC and attempted to explain the situation. According to BCLC, the non-reporting was discovered in November 2015 during a review of LCTRs for which there should also have been UFTs filed. When queried, River Rock advised that “[T]hey were not required to screen any cash buy-ins under 50K as suspicious; and [T]hat any large buy-ins in larger

²⁷⁶ MNP Report, 5.33.

²⁷⁷ *Ibid.*, 5.48

denominations such as \$50 or \$100 bills were not regarded as suspicious if the patron had a documented source of wealth, or was historically a high limit player.”²⁷⁸

676. An attempt was made by BCLC and River Rock to remedy the situation by creating reports for the missing UFTs. Fortunately, the fact that LCTRs had been filed by the service provider on transactions of \$10,000 or more, and in what amount, assisted in this task. The BCLC investigation came full circle when it discovered a September 2011 e-mail exchange between a manager in its Corporate Security office and another BCLC employee, in which the manager “indicates awareness of a \$50,000 threshold at RRCR.”
677. It is difficult indeed to understand what occurred, how long it was taking place, why BCLC employees knew about it in 2011, and why no action was taken until years later.
678. In any event, BCLC self-reported in 2015 and FinTRAC agreed not to take enforcement action.²⁷⁹

COMMENT

679. It is difficult to rationalize why BCLC maintained a legal challenge to its 2010 fine for six years. The challenge incurred considerable expense to the public, due to federal counsel exchanging blows with BCLC lawyers. In the end, the result was a draw, with no winners. BCLC did, however, avoid paying a fine.
680. Creating an arbitrary \$50,000 threshold for UFT / STR reporting appears to violate the *POCMLTFA* and its regulations. The fact that it occurred is not in dispute. Why and how it occurred is. On one level, it is a symptom of a casino being overwhelmed by cash. On another level, it is a case of BCLC not being able to maintain the necessary oversight of what was occurring as cash flooded into the River Rock. FinTRAC appears to have forgiven both BCLC and the service provider. The fact that LCTRs were filed by River Rock, likely played a role in FinTRAC’s decision.

²⁷⁸ BCLC, “BCLC Voluntary Self Declaration of Non-Compliance”, Jan. 2016.

²⁷⁹ *Ibid.*

CHAPTER 25

SOFTWARE DEBACLE

INTRODUCTION

681. On February 9, 2018, the *Vancouver Sun* reported that BCLC's new AML software system is not functioning. In response to the Postmedia article, the Attorney-General's Ministry advised that: "Upon request from the Attorney-General, Dr. Peter German is investigating Statistical Analysis Software as part of his independent and thorough review of British Columbia's anti-money-laundering policies and practices in relation to B.C. casinos."²⁸⁰
682. In line with this expanded mandate, we met with three Vice-Presidents of BCLC as well as a number of technical specialists at a meeting regarding the SAS system. BCLC provided a briefing note in advance. We took the opportunity to ask several questions which were intended to probe the acquisition, development and implementation of SAS.
683. I also contacted Corporate Counsel for SAS and asked to speak with an appropriate representative in order to obtain the company's response to the media story and the version of events that we received from BCLC. In short order, SAS provided a memo detailing the project and offered to meet to answer any questions. I was satisfied that the response from SAS was fulsome and interviews were not required. At my request, SAS agreed that I could append its memo to this Report, which I have done as an Appendix.

THE STORY

684. The Sam Cooper article in the *Vancouver Sun* began with the following:

"In the middle of a money-laundering crisis, B.C. Lottery Corp. analysts are stuck manually digging for data on risky gamblers and large transactions because of problems with a new \$7.3-million anti-money-laundering software system, Postmedia News has learned."

WHAT IS SAS?

685. SAS (pronounced "sass"), is an acronym derived from "statistical analysis system". It is both the name of a company and of its software tool. SAS is a global company, founded in 1976 and headquartered in North Carolina. SAS works in a cross-sector of industries; from pharmaceutical companies and banks to academic and government entities. The SAS software is known for its ability to run across platforms, using multivendor architecture.

²⁸⁰ See <http://vancouversun.com/news/local-news/bclc-staff-unable-to-properly-use-7-million-anti-money-laundering-software-program>

The company currently works in 149 countries and has installed its software in 83,000 business, government and university sites, including 96 of the top 100 companies on the 2017 Fortune Global 500. It has a worldwide workforce exceeding 14,000, with over 300 employees in Canada. Its 2017 revenue was US\$3.24 billion.²⁸¹

686. In the banking industry, SAS software provides visual and predictive analytics, data mining and machine learning, forecasting and econometrics, mathematical optimization, and simulation and exit analytics. Its success in this and other sectors resulted in it moving into the casino sector where it provides various services; including data management, in which it will “[I]ntegrate, cleanse and enrich patron data from every imaginable source”. It also uses social media and other data sources, as a source of “inbound intelligence and outbound communication.” It can also perform patron segmentation, which is described as grouping “patrons by their past activities, and predict their likely future behaviors.”²⁸²

WHY ACQUIRE SAS AML?

687. *POCMLTFA* regulations changed in February 2013, requiring reporting entities, including BCLC, to apply enhanced Customer Due Diligence (CDD) requirements on its patrons, effective February 2014. The new regulations required monitoring “high risk” persons and taking enhanced measures to mitigate risk when dealing with these individuals. Due to the number of transaction reports being generated by the GSPs, BCLC saw the need for a better tool to detect anomalies among casino patrons. It canvassed other jurisdictions but found nothing to close the gap that it believed existed between its current state and the expectations of the new requirements.
688. BCLC had also grown weary of its existing iTRAK system due to an inability to provide the sophisticated analytics that it required to effectively carry out its AML work. It was hoping to retire iTRAK in favour of a case management tool which could detect, identify and document suspect transactions. In other words, it was seeking a one stop solution to function as the principal analytic tool in the AML unit. As a by-product, manual reviews would be reduced.
689. BCLC reached out to financial institutions, in search of the perfect system. It was informed that SAS AML was in use at various banks. This turned out to be fortuitous because BCLC was already using SAS Business Intelligence (BI) software. It hoped to mirror the success that banks were having with their SAS AML software. At the same time, SAS was promoting its AML capability to the casino industry. There was no competitive procurement process. Instead, the contract was sole-sourced, although it appears that BCLC did issue an RFP in 2012 for a similar product.
690. BCLC’s existing SAS BI tool provides enterprise-wide business analytics. It has five key capabilities: data management; pattern and trend detection; correlation; forecasting; and

²⁸¹ https://www.sas.com/en_us/home.html

²⁸² *Ibid.*

predictive. Banks apparently custom build their AML functionality on top of the BI foundation. BCLC hoped that the SAS AML tool could mine BCLC's GMS for the raw data that it requires to perform analytics, thereby producing an 'end to end' solution.

691. BCLC candidly admits that it was attempting to pattern itself after financial institutions. On its face, this makes sense. We see it elsewhere in BCLC's approach to AML. For example, the system of turning UFTs into STRs is very much a mainstream bank method of dealing with suspicious transactions; in which the decision about what is suspicious is not made at the 'coal face', but is made by specialists and, or lawyers before being endorsed by the organization and sent forward to FinTRAC.
692. BCLC was also concerned that because of the sheer volume of transactions in B.C. casinos, it would find itself in breach of the new enhanced monitoring requirements if it did not streamline and upgrade its processes. As it was already fighting FinTRAC in the courts, a further alleged breach would not be helpful. BCLC felt the need to "up our game" and find a tool to provide ongoing monitoring of approximately 900 patrons in the low /medium and high-risk categories.
693. BCLC noted that in most areas of AML compliance, it exceeds requirements. It also suggested that its current systems are superior to those in use in Ontario, where Excel spreadsheets are apparently used for ongoing monitoring of transactions. According to BCLC, Ontario is proceeding to an RFP for an automated solution.
694. Comparisons are always dangerous, as Ontario has not witnessed the same infusion of illegal cash into its casinos. Furthermore, a cynic might suggest that an Excel spreadsheet is a cost-effective tool. It was, in fact, an Excel spreadsheet prepared by a GPEB investigator in July 2015 that led to government's recognition of a cash problem at the River Rock.
695. BCLC also hoped to ramp up its AML unit with additional human resources once it had a well-functioning analytical tool. The combined result would be a more robust AML system. I grapple with the need to reduce manual processes using a new analytics tool and yet increase human resources, but as we shall see, that issue is not relevant at this point.
696. BCLC admits that this was an untried solution in the Canadian gaming context. According to an Information Note, "BCLC was the first in the gambling industry to engage SAS for AML services."²⁸³

THE BCLC VERSION

697. I was advised by BCLC that in March 2014, BCLC and SAS entered into a contract with a total cost of \$7.4 million. That sum was divided into \$3 million for server and software licensing costs, and the balance for labour and professional services. I was advised by BCLC that SAS underestimated the degree of difficulty for the project but did stay within budget.

²⁸³ BCLC, Information Note – "Statistical Analysis System (SAS) Software Update", Feb. 15, 2018.

698. A confounding issue for SAS appears to have been the fact that casinos must also report cash disbursements, which is not the case in the banking sector. The CDRs track money leaving a casino and are important when determining whether a gambler is using new money or re-using funds already played, referred to as churn.²⁸⁴
699. As reported in the *Vancouver Sun*, we confirmed with BCLC that the CDR function in the SAS AML tool did not produce the quality of analysis that is required, causing the project to stall. Furthermore, when performing ongoing monitoring of 17,000 patrons using Finscan²⁸⁵ and open source checks, the absence of a middle name field in SAS drove false positives “through the roof”. To remedy the situation, SAS had to custom develop an add on.
700. BCLC advised that SAS apparently had “no experience” with this problem and found themselves “over their heads”. An observer of the situation noted that the SAS project resembled a “plane taxiing up and down the runway”.
701. BCLC advise that the problems with the SAS AML product were not evident until the end of the project. It surfaced during quality analysis of the CDR component. Reporting was taking longer than expected. Although BCLC initially thought that the reports being generated were correct, that was not the case.
702. Due to the problems, BCLC fell behind in its STR reporting and did not wish to risk being non-compliant under the *POCMLTFA*. It lost confidence in the SAS AML product. With continuing false positives, it scaled back and “shut down the cost”, recognizing that obtaining “complete functionality [would take] too long”.
703. The non-functioning software came in under budget by \$100,000, at \$7.3 million, which SAS was paid. Despite this, analysts at our meeting advised that only one alert function is currently working. According to BCLC’s Information Note, the following is the state of SAS AML as of February 2018:²⁸⁶

“SAS AML delivered nine automated alerts, two of which BCLC currently uses. The others are not currently in use for various functionality reasons and because more recent changes to AML controls made some alerts no longer useful.... SAS remains a powerful analytics tool and BCLC will process with leveraging the analytics capabilities of the software to further its AML program.”

704. I don’t know what this means. Two (or one, as we were told) alerts out of nine are working, however BCLC will continue working with the system? That appears to be the case as the

²⁸⁴ In the context of a casino, churn refers to the total amount of money that a gambler wagers. If her original stake is \$100, and she loses \$5 in the first game then she has dropped \$5. However, she will wager the remaining \$95, making her churn now \$195. The drop or gross gaming revenue to the casino (its take) is \$5 at this point. If she gambles long enough, the gambler’s churn will increase until the dealer’s edge has wiped out her original stake and she has no money left. The drop to the casino is then \$100.

²⁸⁵ The compliance brand of Innovative Systems, Inc.

²⁸⁶ BCLC, Information Note – “Statistical Analysis System (SAS) Software Update”, Feb. 15, 2018, p. 2.

Information Note outlines a plan to move forward with SAS. BCLC has prioritized four other SAS AML capabilities over the next 12-24 months.²⁸⁷ There is no indication who will pay to create this capability.

705. Fortunately for BCLC, all was not lost in terms of dealing with the enhanced AML requirements imposed by FinTRAC. In the interim, the developers of iTRAK produced enhancements which greatly improved the analytics of its current and long-standing AML product and allowed BCLC to continue using that software, which it describes as a stable tool.

THE SAS VERSION

706. The SAS version of what occurred is dramatically different from than that of BCLC.
707. According to SAS, the parties entered into two contracts in March 2014, not one. The first was for software, for which the fee was \$2,993,355 for a five (5) year term. There is no reference to the licence being time limited in the BCLC correspondence.
708. The second contract was for “the installation and configuration of the software in a development environment.... BCLC was to lead the Project. SAS was to act in a supporting role.” In other words, BCLC was leading the development of the new solution and SAS was supporting. That was neither my understanding from our meeting nor is it in the Information Note.
709. The second contract provided that “SAS services were provided on a time and material basis. The work effort was estimated at \$1,285,200.” This contradicts the information provided by BCLC that the labour and professional services component of the contract was approximately \$4.4 million. Assuming that the SAS figures are correct, I asked BCLC to clarify what accounted for the remaining \$2.5 million.
710. I was informed by BCLC that the numbers provided by SAS are in fact, correct. The BCLC business case and budget reflected the total internal (BCLC) and external (SAS) cost of the project, or \$7.4 million. The remaining \$2.5 million represents costs to BCLC “for items such as hardware (servers, etc.), additional contractors and allocation of internal labour costs”. The internal labour costs totaled approximately \$300,000 and were an “internal allocation to track overall investment” and not additional costs (presumably, full time employees of BCLC seconded to the project).
- 710A. In response to this Report, BCLC advised that the actual total cost of the project was \$7,294,756, of which \$4,560,723 was paid to SAS. The final payment was made on May 19, 2016. BCLC advises that it “has not and will not incur further expense with respect to the SAS AML project.” BCLC also provided a detailed project cost breakdown.

²⁸⁷ *Ibid.*

711. Whether the contract came in under budget is a question of semantics. There were numerous project changes, consisting of one additional Statement of Work and approximately 20 written Change Requests executed by the parties. This resulted in additional fees of \$600,000 to SAS. The company also provided “[S]ignificant additional work” at no charge. I assume that there must have been an ‘internal reallocation’ from the BCLC portion of the project costs, to cover the additional work performed by SAS, in order to remain within the overall budget.
712. SAS is clear that “the software was not proven in the casino industry” and this “presented risk from a technical, budget and timing perspective.” SAS candidly admits that many challenges arose during the Project, for which responsibility has yet to be assessed. Contrary to the advice received from BCLC, the CDR issue was one of many, as follows:
- “Misalignment on the degree to which SAS AML could integrate with the existing iTrak system
 - Data quality issues
 - Underestimation of the customization effort required to develop FINTRAC reports, especially casino disbursement reports (CDR)
 - Poor scope management, especially relating to system requirements and design changes
 - Resourcing challenges
 - Questionable testing methodology and processes that may not have adequately included system end users”
713. As the Project evolved, the parties agreed to remove certain “important items” on the basis that they were “out of scope”. This included certain scenarios, including a ‘24-hour scenario’, data quality issues, and FinTRAC reporting. In other words, the one stop solution will not be able to report to FinTRAC. Also, the data quality issues (now apparently removed from the scope of the contract) “impacted the reliability of the cases and alerts”.
714. According to SAS, “the reduced scope SAS AML software moved into final testing” in late 2016 and early 2017. SAS adds that “It was accepted by BCLC and the Project was closed.” I was not advised by BCLC that the project was closed. In fact, I understood that BCLC was actively pursuing solutions, in line with its Information Note.
715. The *Vancouver Sun* article appears to have concerned SAS. They contacted BCLC and not the reverse. The penultimate and the final paragraph of SAS’s correspondence read as follows:
- “Until the recent publication of an article in the Vancouver Sun, SAS personnel believed SAS AML was meeting BCLC immediate needs. The batch jobs have been

running and producing alerts with no known issues. FINTRAC reporting was thought to be under consideration for a later date. Various SAS representatives contacted BCLC for status checks in 2017, with either no response or no indication of issues. Nevertheless it appears that end user adoption and approval has been unacceptably poor.

SAS has since contacted and met with BCLC personnel in an effort to understand current concerns and to explore options for improvement. The work is on-going.”

COMMENT

716. SAS is a very credible, high tech company. It had no issue with providing a summary of what occurred. It candidly admits to the problems and does not suggest that it is without any responsibility.
717. The BCLC position and explanation leads to more questions than answers. One contract or two? A time limited license requiring ongoing costs? Who was the lead? Did BCLC realize that this was a developmental (risk) venture? What accounts for the discrepancies in the explanation of contract costs? Has the system been shut down or is more money being expended? If so, is there a plan?
718. I was particularly disappointed that what seemed clear from the material provided by BCLC and from speaking with a number of its officials, turned out to be incorrect. Furthermore, that incorrect information was already in the public domain, as a result of the Vancouver Sun stories, and had not been corrected.
719. The SAS fiasco is reflective of a pattern that we see elsewhere:
1. BCLC attempts to be the gold standard and is not afraid to spend money to achieve the goal of being the best at what it does, including AML compliance;
 2. BCLC has great confidence in its abilities and systems and was happy to build on the existing SAS BI system, without proceeding with an RFP;
 3. the flood of cash arriving in B.C. casinos placed great pressure on BCLC to monitor an excessive number of high risk patrons; and
 4. lingering in the background were the ongoing court proceedings involving the AMP imposed by FinTRAC in 2010, which had caused angst at BCLC and increased the pressure on everybody concerned to not allow such a situation to reoccur.
720. What remains unclear is why BCLC did not work with other provincial ‘conduct and manage’ agencies and with FinTRAC, to arrive at a satisfactory monitoring solution when the new enhanced requirements came into effect.

721. The result in terms of AML has been more dramatic. The inability of the new system to deliver as BCLC had hoped means that BCLC must rely on its existing systems and manual intervention to monitor patrons. The situation has been partly ameliorated by the rollout of a new module for iTRAK.

WHAT CAN BE DONE NOW?

722. The old adage, 'don't throw good money after bad' applies in this case. BCLC should expend no further public money on the SAS AML project.
723. Any attempt by government and Crown agencies to develop hardware and software solutions must always be approached with great caution, as development of new solutions is typically fraught with challenges. The problems faced by the federal pay system are a prime example. There are many applications available in the private sector which must be explored before pursuing the development route. The art of the possible must always be juxtaposed with the realities of data integrity. RFPs exist for a reason.

RECOMMENDATION - *SOFTWARE DEBACLE*

- R17 That no further expense be incurred by BCLC with respect to the SAS AML software system.

CHAPTER 26

VERY IMPORTANT PATRONS

INTRODUCTION

724. VIP gamblers are high value customers to a casino. For some of them, money seems not to be a concern. They are prepared to gamble and lose tens, or hundreds of thousands of dollars, on the chance of winning a jackpot, or simply for the entertainment value.
725. VIP gaming is an important part of any large casino and is a strong revenue generator. Providing high limit gamblers with an increased level of hospitality is a business decision for the GSP. In some ways it is akin to the difference between first class seating and economy seating in an aircraft.
726. It is instructive to note that regulators around the world have struggled with proper oversight of VIP gamblers. For example, the casinos of Macau have often been the target of criticism for the operation of their VIP facilities.²⁸⁸

VIP FACILITIES

727. Visiting a VIP room or floor is not a life changing experience. The card tables, the dealers, the cash cage, the security, and the surveillance, are all present. If anything, the atmosphere is more subdued, the décor is in keeping with the tastes of the clientele, and greater amenities are available. Most importantly, access to the floor is restricted.
728. The VIP experience involves catering to the reasonable and sometimes the extravagant whims of wealthy gamblers who expect a level of service that is simply not available on the regular gaming floor. This may involve valet parking, private dining, a quiet gaming venue, and staff who ensure that they are happy gamblers.
729. Several years ago, the River Rock recognized that it had become a popular destination for Asian gamblers, some with almost unlimited funds. To better serve, maintain and build this clientele, GCGC developed its high limit facility on the second floor of the casino. It is carefully designed and well appointed with lounges and dining rooms and has its own cash cage and discreet security. There is video surveillance throughout.
730. Gateway and Paragon have also developed VIP facilities to cater to an elite high limit clientele. Parq hopes to become an international destination for visitors who, in addition to gambling, can enjoy the marquee hotels, fine food and other amenities that the venue

²⁸⁸ Kerry E. Kleiman, "Keeping Casinos Clean: The Problem with Dirty Money and International Differences in Anti-Money Laundering Regulations for Casinos", unpub. paper, William S. Boyd School of Law, at pp. 7-12.

provides. Parq has given considerable attention and spent a lot of money on the design and development of its VIP gaming areas.

731. Gateway emphasizes its connection to the community and its various business lines – hotel, restaurant, theatre and casinos. It has attempted to stabilize its VIP play by increasing activity on the main gaming floor. Gateway explains that VIP play can be volatile. For example, Gateway does not allow betting to the maximum amounts allowed by BCLC. The reason given, “we are into gaming, not gambling”.

VIP HOSTS

732. The staff who assist the VIP gamblers are referred to as hosts. At River Rock, they are salaried employees whose income is by no means extravagant. They do not receive bonuses, other than if they are eligible to share in a casino tip pool or bonus plan. They are also not permitted to accept gifts from clients.
733. In the past, VIP hosts from River Rock visited clients in China. This practice was ended approximately three years ago. I was informed that GCGC no longer engages in player recruitment abroad and never dealt with junket operators.
734. GCGC advised that managers have met with each VIP host and told them that they must operate in accordance with the law and policy. If they run into problems with a client, they are to notify a supervisor or security.
735. I had the opportunity to speak with senior officers of the BCGEU, which represents gaming employees at the large GCGC and Gateway casinos in the Lower Mainland. The bargaining unit at the River Rock was certified on December 23, 2015. Its first contract was completed on September 25, 2017. BCGEU has heard rumours of union members facing issues in the VIP gaming area at the River Rock. The officials emphasized the importance of employees being treated with respect and that their roles be clearly defined.
736. An example of the foregoing could be a gambler who makes unwanted comments or acts inappropriately toward a host or staff member. There must be a means by which the employee can be assured that his or her personal space is respected in the face of a wealthy patron who is being catered to by the casino.
737. The MNP review touches upon the issue of VIP hosts, in the following words:²⁸⁹

“RRCR employs VIP hosts who report to the manager of Marketing. VIP hosts are responsible for managing the client experience, which includes managing the amounts of complimentary items and services given to players (commonly referred to as player comps), and providing custom gaming experiences with the intention of maximizing patron play. VIP hosts have the most significant interaction and knowledge of the VIPs and ability to flag instances of receipt and use of unsourced

²⁸⁹ MNP Report, 5.4.

cash for suspicious transaction reporting. Due to the reporting structure, we would expect that the VIP Hosts have a primary responsibility for revenue generation rather than regulatory compliance or a social responsibility to reduce illicit cash flow. Consideration should be given to cross functional reporting lines to the Director, Table Games for a consistent approach to compliance across all table game points of access susceptible to the acceptance of unsourced cash.”

738. In one case, a VIP host allegedly arranged a buy-in of \$200,000 in \$100 bills for a person who was representing a high limit player, banned from the casino for inappropriate behaviour. Apparently, the intent of the buy-in was to obtain chips in advance of a visit from China by four friends of the banned player. The host allegedly facilitated the purchase and provided a River Rock bag to assist the third party transport the chips out of the casino.
- 738A. GCGC’s surveillance team at River Rock observed the transaction, and reported it to BCLC as a UFT. This was done because the patron left the casino with no play, which is a strong indicator of a possible third-party transaction. Thereafter, BCLC and GCGC initiated a review that resulted in a section 86 report being submitted to GPEB. The chips were also returned to the casino by the player, as a result of the casino’s intervention.
739. A third party buy-in violates the *POCMLTFA*, subordinate regulations and GCGC policy, because there is no opportunity for the casino to undertake due diligence and Know Your Patron procedures on a person who is not present. The ultimate recipients of the chips could enter the casino with their pre-purchased chips and gamble at will, unknown and unreported.
740. I agree with MNP that VIP Hosts are uniquely situated to observe inappropriate buy-ins, chip transfers, and a multiplicity of other behaviour. They must have AML training and be required to report conduct which violates legislation or policy. VIP Hosts must not, however, handle money or chips. In the same manner that a concierge manages the guest experience at a hotel and the front desk manages the room finances, the hosting and the money must be kept separate. The host-customer relationship must have clear boundaries.

COMMENT

741. Every enterprise has a culture unique to itself; whether a small office, a large business, or an industrial plant. Casinos do as well. This is generally a very good thing. There have been problems however with the culture in River Rock’s VIP area, in which AML may have taken second place to revenue generation. The close association of River Rock employees with patrons, over a period of years, placed the casino in a situation where boundaries also became fuzzy. These boundaries must be made abundantly clear and enforced.
742. I am satisfied from my many interviews that the current Vice-President, Corporate Security and Compliance for GCGC is a reputable individual. He has been a fixture in the industry for many years and was very forthcoming with me. I am also aware that he was possibly the first person, of all the entities and people involved in the cash influx, to say no to loan

sharks. I also met and spoke with the Chief Operating Officer at GCGC on a number of occasions. I also respect his professionalism and the assurances that he provided to me.

743. What occurred at River Rock during the past number of years was exceptional and represented a structural breakdown in the face of a huge influx of cash. Many lessons were learned by BCLC, GPEB and the GSP. No doubt, other reports will come to light in the days ahead. I do believe that with increased responsibility being placed on the shoulders of GSPs, combined with a strong regulator and a dedicated police presence, the errors of the past will not be repeated.

RECOMMENDATIONS - *VERY IMPORTANT PATRONS*

- R18 That BCLC ensure that VIP hosts do not handle cash or chips.
- R19 That persons working in VIP rooms be provided with an independent avenue to report incidents of inappropriate conduct by patrons.

CHAPTER 27

CASH ALTERNATIVES AND CASH LIMITS

INTRODUCTION

744. Cash alternatives are not a panacea. They reduce the gross amount of cash in a casino, however there is no guarantee that they reduce the quantity of dirty money which enters. Cash alternatives can also be subverted by organized criminals. If patrons are, by their actions and buy-in, considered suspicious they should not be 'educated' and encouraged to move to cash alternatives. It is akin to dangling a carrot. The only behaviour that will change is the method of bringing dirty money into a casino.
745. Officials in Ontario posited that some cash alternatives may actually exacerbate the problem of dirty money, if they are not carefully crafted and accompanied by appropriate due diligence. In the B.C. context, PGF accounts and bank drafts are examples of vulnerable cash alternatives. The importance of being mindful of vulnerabilities is important when developing and implementing alternatives.
746. In B.C., service providers do not determine what cash alternatives they can make available to patrons. Until July 2016, that decision was made by GPEB. Now BCLC is the final authority, although GPEB asks to review and comment on new proposals. As we have seen, years were spent with proposals being moved between BCLC and GPEB. Cash alternatives also featured prominently in the Anti-Money Laundering Strategy which followed the delivery of the Kroeker Report.
747. The overarching philosophy of the B.C. model for cash alternatives is prescriptive, which fails to allow for innovation and rational decision making for a vibrant and growing business. In the words of one GSP, the system is "stuck".
748. To better understand the present issue regarding cash alternatives, it is helpful to review what is currently accepted in B.C. casinos for buy-ins and payouts.

CURRENCY

749. Cash kiosks or ATMs located in proximity to the gaming floor, are available for debit withdrawals and cash advances. They have been in use for many years and allow a patron to access his or her bank and credit card accounts.
750. Since April 1, 2012, debit card machines have been located at the cash cage for transactions which exceed ATM limits. There are limits on both debit transactions and credit card cash advances.

751. Casino chips are an alternate form of currency. In B.C. they are owned by BCLC and emblazoned with the name of individual casinos. They are casino-specific and will only be honoured at the named casino. Patrons who have retained chips in their possession can use those chips when they return to the same casino where they were purchased. Chips are discussed in greater detail in the following chapter.

CASH ALTERNATIVES

752. The Cash Alternatives available in B.C. casinos include the following:

1. Bank Drafts

753. Bank drafts can be deposited to a Player Gaming Account. These drafts typically originate at the patron's bank or other financial institution and are addressed to the customer or to the casino. The information contained on a bank draft is limited. Currently casinos request a copy of the receipt for the bank draft transaction and the account number of the patron if the patron's name is not on the bank draft. A reasonable measures form is completed.

2. Casino Cheques

754. Buy-in with cheques from Canadian casinos, on a first party basis, is acceptable.

3. Hold Cheque Account

755. As a convenience to high limit patrons, GSPs may accept a negotiable financial instrument such as a personal cheque, and hold it uncashed as security, while the patron gambles. When the patron has finished gambling, there is a settling of accounts, whereby the cheque may be cashed and there is a top off if there has been a net loss, or the casino will pay out any net winnings.
756. There has been negligible interest in hold cheques, due in part to the onerous application process which includes credit checks with Central Credit and Equifax, verification of funds, and the need for personal cheques. Essentially, the casino is doing a mini-background check, much as it would if it were able to offer credit. Due to the time involved, patrons opt for bank drafts.
757. It must also be recognized that many patrons from Mainland China are quite unfamiliar and somewhat untrusting of cheques for personal transactions. In the past decade, China essentially jumped from a cash-based banking system to an electronic banking environment, bypassing the cheque which was a staple of Western banking.

4. Patron Gaming Fund Account

758. Introduced in December 2009, the PGFA is unique to British Columbia. It is seen as the principal cash alternative for casino patrons. It allows them to deposit funds into an account, later to be withdrawn for gaming, re-deposited for subsequent play or returned to

the patron. It also allows patrons to transfer funds electronically from an approved deposit-taking institution to the PGFA.

759. The original intent of PGFAs was the safety of patrons who previously had to carry cash. It relies on the sending institution having already completed the required AML due diligence. During its first two years of operation, restrictions dissuaded patrons from using the accounts.
760. Gradually between 2011 and 2015, approval was obtained to populate PGFAs from a variety of sources. By 2015, it was possible to deposit funds into a PGFA by means of a bank draft, certified cheque, Canadian casino cheque, wire transfer, EFT, debit card, or internet banking transfer from an authorized personal bank account, and chips from a 'verified win' issued at the same casino opening the PGFA.
761. Despite the variety of alternate funding sources, the PGFAs were almost exclusively funded by bank drafts. In the first half of 2016, the top 10 of 387 clients with PGFA accounts accounted for 47% of the \$301 million in PGFA deposits.
762. A GPEB review of the PGF program in 2015 determined that since its introduction in December 2009, a total of \$1.385 billion was deposited and almost the same amount withdrawn. Thirty per cent of the deposits were from bank drafts, while re-deposits and verified wins accounted for 68 per cent, and Canadian casino cheques accounted for the remaining 2 per cent. In the second half of 2014, 10 patrons accounted for 75% of PGF activity. An August 20, 2015 report concluded that "The PGF program is highly dependent on a small number of patrons that generate a vast majority of the activity. Almost half of the accounts created to date have been closed, and the majority of those that remain open are seldom used." In 2016, of new deposits to the PGFAs, \$185 of \$186 million came from bank drafts.
763. In March 2017, GPEB alleged that bearer instruments were being used to fund PGF accounts, allowing money laundering by third party facilitators. GPEB suggested that BCLC and GSPs were not doing sufficient due diligence to prevent the use of bearer drafts. BCLC conducted a review of every draft accepted in the past three years. All drafts were either made out to the GSP or the player, none were bearer drafts.
764. It may be that something was lost in the communication of the concern, as the real issue with bank drafts is not the payee, but the source. By way of explanation, in my first Interim Recommendation, I recommended that the source of funds for cash and bearer instruments be explained by way of a source of funds declaration. The issue is that most banks do not display a source of funds (for example, an account number) on a draft and, because of financial privacy, BCLC (and GSPs) is unable to confirm the origin of the money.
765. We know that organized crime will move from one soft target to another in terms of laundering money, and the situation in casinos is no different. If the ability to move cash becomes unduly difficult, launderers will attempt to exploit non-cash alternatives. The PGFA

is the most obvious. I attempted to deal with the source of funds issue in my first Interim Recommendation.

766. The greatest drawback with PGF accounts is that they are not user friendly. The back-office time and effort for a service provider to open a PGFA is literally 'over the top'. Attached as Appendix "E" is a list of the procedures at River Rock (current at March 7, 2018) which the cash cage must co-ordinate to open a PGF. This document was prepared at my request, as I was having difficulty understanding the complicated process.
767. After all the work involved in opening a PGF, most gamblers close them out shortly after gambling and obtain a cheque for the amount sitting in the account. In my interviews, I heard very few positive comments about PGFs and many complaints and concerns.

PAYOUTS

768. At present, the following may be provided to patrons of B.C. casinos for payouts.

1. Cash (higher denomination)

769. The most obvious method of payment is by way of cash. A concern with cash payouts is that a person intent on laundering small denomination bills (\$20's) can buy in with the bills, gamble for a short period of time and then obtain larger denomination bills (\$100's) when cashing out. This practice is referred to as "refining". GSPs are expected to pay close attention to this behaviour.

2. Cash (same denominations)

770. To avoid refining from occurring, GSPs can payout cash in the same denominations used by the patrons when they bought in. They may, in fact, return the very same bills after holding them in a cage vault. This practice is discretionary, however, and depends on whether the casino "deems that the patron had reasonable play and / or reasonable net gaming losses."
771. Criteria used by the casino in making this determination include the amount being wagered as a proportion of the buy-in, time spent gambling, and a gaming loss that "would not be consistent with a money-laundering scheme."

3. Cheques

772. GSPs are permitted to issue customer convenience or 'safety' cheques to patrons for the return of buy-in funds up to \$10,000.
773. The cheques are marked "Return of Funds – Not Gaming Winnings". Patrons can only receive one cheque per week. Although including remarks on a cheque may assist investigators, we know that modern cheque clearing processes involve limited human intervention, making the inclusion of a reference to gaming winnings of limited value except from a forensic perspective.

774. Between April 1, 2012 and June 30, 2015, only 38 patrons took advantage of the convenience cheque, leading a GPEB auditor to note that, “based on the low volume and small dollar amounts of convenience cheques issued, it does not appear that convenience cheques have been exploited or misused by patrons.” BCLC has indicated an interest in delimiting payout cheques.
775. The contents of a PGFA may be provided to the account holder by way of a cheque. These have been delimited. The rationale for this is the fact that the PGF accounts are sourced in the first instance by deposits from financial institutions.

CREDIT FACILITATION

776. Under section 28(1)(i) of the *GCA*, the GM may issue directives applicable to BCLC “prohibiting or restricting the extension of credit to participants in gaming events and governing the extension of credit”. GPEB has indicated to BCLC that GPEB approval of credit is required.
777. In 2011, BCLC proposed extending credit to qualifying patrons. It suggested a minimum threshold of \$100,000. Once appropriate identification had been obtained, it would be up to the GSP to determine how much credit it was comfortable extending to the client. The GPEB response was communicated on October 4, 2011. It indicated that the proposal required “research and development”.
778. In February 2015, BCLC proposed changes to the convenience cheque policy and proposed offering credit to Very VIP players (VVIP). At a joint meeting on June 4, 2015 between BCLC and GPEB, agreement in principle was obtained to the granting of credit to VVIP players.
779. In November 2015, BCLC submitted a credit proposal to GPEB and, in December 2015, both GPEB and the Finance Ministry requested that BCLC provide additional information on the proposal. In November 2016, BCLC “wound down” its proposal for the stated reason that “Service Providers do not believe it is a workable payment option”.
780. The ability to offer credit to high limit customers is, in fact, of great importance to GSPs and to the entire industry if it is to continue to modernize. At destination casinos, such as Parq, River Rock, and Grand Villa, credit would be popular with high limit gamblers arriving from international destinations.
781. The industry norm is to grant credit to high limit gamblers. This is very routine in Las Vegas and there are many benefits. The deep dive which occurs when approving a credit application doubles as a very efficient due diligence and KYP tool. Although responsible gaming is always a consideration when dealing with cash alternatives, credit is less of a concern than credit cards or other instant forms of cash (and gratification) as it requires prior approval, and tends to be for high limit, professional players with verified wealth.

782. The downside to credit is that some patrons will default on their obligations and, if the casino does not have any form of security, a loss will be incurred. However, I was advised that the loss ratio could be as low as one per cent. The difference between B.C. and Las Vegas is that BCLC would benefit from the increased revenue generated by credit, despite the GSPs being saddled with any losses. This will require a remedy, which may involve BCLC accepting a proportion of the loss, as a cost of doing business and expanding its revenue base.

THE FUTURE - CRYPTOCURRENCY?

783. In recent years, cryptocurrency has captured headlines around the world for its unique characteristics and ability to act as an alternative to cash and other forms of payment. Most people associate cryptocurrency with the explosive growth of Bitcoin, established in 2009, which recently surged to astronomic value. There has been a close connection between Bitcoin and Vancouver, where the first Bitcoin dispenser was installed. Whether cryptocurrency is in reality a volatile security, or a currency, continues to engender debate within the financial community, however it has received a form of official recognition in the *POCMLTFA* and regulations are about to be introduced.
784. The problem with cryptocurrency in its present state of development is that it is vulnerable to both facilitating illegal transactions and laundering the proceeds of such activity. Professor Gerry Ferguson of the University of Victoria, describes it as “the next big tool in money laundering”. He notes that at present, it is very hard to regulate cryptocurrency “both in fact and in law”.
785. Cryptocurrencies offer greater benefits to money launderers than cash because (1) there is no need for face-to-face transactions, reducing the risks of apprehension; (2) cryptocurrency transactions are conducted anonymously; and (3) the increased speed of transactions allows for more money laundering.
786. In the context of casinos, I was advised that neither Ontario nor Nevada, two leading gaming jurisdictions in North America, are contemplating allowing cryptocurrency as a cash alternative. Nevertheless, they recognize that technology is evolving at such a rapid pace, that the future is open to conjecture.
787. Despite cryptocurrency not currently being offered as a casino cash alternative, it is quite likely that it is being used outside casinos to settle loans and other debts. Vancouver lawyer Christine Duhaime is quoted as noticing “recently that bitcoin has become a big way to move money out of China”, noting that it is “instantaneous and no one knows at either end”.²⁹⁰

²⁹⁰ Kerry Gold, “Vancouver home sellers take a wild ride”, *The Globe and Mail*, Oct. 7, 2017 at p. S4.

788. FinTRAC asserts that cryptocurrency exchanges are MSBs and therefore subject to the normal AML requirements. However, no cryptocurrency exchanges are currently reporting to FinTRAC.
789. Other countries have moved aggressively to deal with cryptocurrency. Japan now requires that all cryptocurrency exchanges operating in that country be licensed and regulated by its financial services agency.
790. The magic of cryptocurrency may well reside in its back-office technology. Blockchain, its tracking tool, could revolutionize office processes.

CASH ALTERNATIVES ELSEWHERE

791. In Ontario, as we shall see later, a standards-based approach defines the relationship between regulator and service provider as well as between Crown agency and service provider. AGCO and OLG are not prescriptive in terms of what cash alternatives a casino can offer to its patrons. This is in keeping with the financial industry generally, where the menu of services is determined by individual financial institutions and businesses, if they fall within the framework of the overarching standards.
792. The Vice-President at a large Ontario destination casino advised that their casino offers a variety of cash alternatives, including credit. Credit requires pre-approval, after which the gambler arrives at the casino and obtains a marker at the cash cage or at a table game which signifies the person's credit limit. There are certain statutory requirements regarding credit, including a 30-day collection requirement and a 24-hour cooling off period, before increases are permitted. The casino does not advertise credit or solicit credit applications on the gaming floor, and most patrons seeking credit have a history with the casino. Interestingly, some patrons use credit as a technique to limit their play.
793. Also in Ontario, international wire transfers are allowed, by pre-arrangement. The approval process is similar to a credit account. Wires, bank drafts and certified cheques can be used as front money. There are no player accounts, however a person arriving with \$10,000 in cash will be able to complete a front money agreement and the cash is left at the cash cage.
794. If a patron returns with a casino cheque, staff will check the player database to confirm that there was sufficient play to justify the cheque. No written comment is made on the cheques indicating that it does or does not represent winnings. The casino does not take personal cheques, except when collecting a debt, for two reasons: responsible gaming concerns and insufficient funds on deposit.
795. In Las Vegas, wire transfers are not "cumbersome", by comparison to B.C. where the process to facilitate an EFT can be bureaucratic, intimidating, slow, and commercially unattractive.

796. I visited casinos in Las Vegas and tracked the process for an incoming EFT. A customer completes an application, the bank wires money to the casino's account at a premier American bank, the customer arrives at the casino, the patron's picture is taken, and he or she obtains immediate access to a gambling account. The player can walk around the casino with chips and cash out at will.

COMMENT

797. Despite the glitz of casinos and the never-ending cacophony of slot machines and players at card tables, running a casino is an expensive business. The need for checkers and more checkers, for sophisticated and expensive surveillance systems, for the amenities demanded by gamblers, and to satisfy the web of regulatory requirements, means that small reductions in customer numbers or buy-ins can turn a profitable business into a marginal operation.
798. A risk-based model allows business to carry on without an overabundance of stifling regulation. In their place, however, comes a heavy onus on businesses to adhere to established standards and to be accountable.
799. Cash alternatives are a good example. For years, BCLC and GPEB attempted to implement new cash alternatives, in a failed attempt to reduce the illegal cash flowing into casinos. The net result of the strategy was that more cash than ever entered casinos, and more of it was suspicious than ever before. GSPs simply shook their collective heads and carried on.
800. It does not have to be so. Ontario is an example of a gaming structure which has embraced a standards-based model in which cash alternatives are left to the casinos. Las Vegas, the premier North American gaming destination and now viewed as a leading edge, best practice within the gaming industry, operates in a similar fashion.
801. I canvassed the GSPs for their views on cash alternatives. They were unified in their desire for less bureaucracy; greater choice, particularly respecting credit; and more input which will allow for decisions based upon sound business principles. I agree. It is the industry standard elsewhere in the world and is in keeping with a standards-based environment, which places authority and responsibility at the front end, combined with strong regulatory oversight.
802. GSPs remarked at their frustration with the current B.C. model and the need for increased transparency in decision-making. It was pointed out that Las Vegas has a "great, transparent system" in which the GSPs "own" the issue of cash alternatives. They must exercise due diligence and adhere to KYC principles. They can make effective business decisions. If they fail in their diligence, they potentially suffer the wrath of the Nevada Gaming Commission, the Nevada Gaming Board, Fincen, the US attorney, the IRS, the FBI, and others.

RECOMMENDATIONS - *CASH ALTERNATIVES AND CASH LIMITS*

- R20 That cash alternatives become the responsibility of the Service Providers, subject to their compliance with overarching standards.
- R21 That cash limits not be imposed on buy-ins.
- R22 That PGF accounts be eliminated once responsibility for cash alternatives has transitioned to the service providers.

CHAPTER 28

CHIPS GO WALKING

CHIPS

803. Chips are the currency of gambling.²⁹¹ They are casino specific and have a value which is equivalent to the money used to purchase them. Chips with a denomination of \$100 and above have radio-frequency identification chip technology embedded in them. All chips and associated equipment in B.C. casinos are owned by BCLC.²⁹² Chips cost approximately \$2.50 each to produce, or \$5.00 if they include RFID capability.
804. The RFID information on chips is limited to a vendor proprietary security code, the site location and the chip's value. The RFID technology is inserted in the chips to prevent counterfeit chips being cashed out in a casino. RFID readers are installed at some cages, which allow personnel to determine their authenticity and to assist with their total value calculation.

CHIPS CAN WALK

805. 'Chip walking' describes the act of a patron exiting a casino with chips which they purchased. Oftentimes, it is an oversight on the part of the patron, or the intent is to return to the same casino the following day or in the future. Chip walking is not necessarily sinister. In the early days of gambling in Las Vegas, it was not unusual for merchants to accept casino chips for gas and groceries, or to find casino chips in church collection plates!
806. In bulk quantities, chip walking can be a serious problem. Chips have the advantage that their value equates with the current value of the dollar. In that regard, they are an alternate currency; preferred over precious metals that fluctuate in value and require appraisal, or cryptocurrencies which are not tied to a government currency.
807. There are instances of chips being used as currency in drug trafficking. Our review of B.C. civil forfeiture cases revealed at least two cases in which casino chips appear to have been used as currency.
808. A more common use for chips outside casinos is to settle loans and to facilitate the movement of money from outside the country. As we saw earlier, a patron could purchase chips and transfer them to an undisclosed third party. The casino would perform due diligence on the purchaser, including submission of an LCTR and possibly a UFT, without knowing that the purchaser is a stand in for someone who may be barred from the casino,

²⁹¹ Their casino nomenclature is 'casino value chips'.

²⁹² There are also non-value chips used for certain games, which are not considered in this overview.

known to police, engaged in criminal conduct, evading taxes, or laundering currency for any number of reasons.

WHY BOTHER?

809. We were advised by the RCMP that chip walking is not, at present, viewed as a major threat. The experience elsewhere has been different. A former Director of Fincen, Dr. Jennifer Shasky Calvery, concluded her speech to the 2014 Bank Secrecy Act Conference in Las Vegas with the following comment:²⁹³

Chip walking in and of itself may not be suspicious. We know there can be legitimate reasons why a patron would leave a casino and take chips with him or her, but there may also be less innocent reasons. A customer who walks out of your casino with a large amount of chips, or stores them on-site in a lock box for an extended period of time, may be trying to hide their funds or structure. This might be the kind of activity that you should report. Again, this speaks to the need for casinos to have procedures in place to monitor for this kind of activity to help mitigate risk. It also speaks for the need of government to understand from you the particulars of your business models and the precise areas of risk. That comes through continuing engagement.

810. U.S. casinos were put on notice that chip walking may be viewed by federal regulators as a red flag of suspicious activity, deserving of a Suspicious Activity Report (SAR).²⁹⁴ Regulators also spoke to the need for a method of monitoring chip walking and training gaming personnel.
811. To prevent chips being used for illegal purposes, they cannot be allowed to leave a casino. Therein lies the problem. Players of all kind will often exit a casino with one or more chips in their pockets. There is no security feature in B.C. casinos which prevents this from occurring.
812. The quantity of chips in circulation outside casinos fluctuates regularly. BCLC's average chip liability is \$3 million in \$5,000 chips, the most common high denomination chip.

THE 2015 CHIP WALK

813. In 2015, a large number of \$5,000 chips went missing from River Rock. BCLC calculated that it had an outstanding liability because of the missing chips of between \$4.4 and \$13.6 million.
814. A chip swap was scheduled for September 8, 2015, in which all the chips at River Rock would be exchanged for new chips, thereby rendering the missing chips unusable in the

²⁹³ Prepared Remarks of Jennifer Shasky Calvery, Director, FINCEN, 2014 Bank Secrecy Act Conference, Las Vegas, June 12, 2014, <https://www.fincen.gov/news/speeches/prepared-remarks-jennifer-shasky-calvery-director-financial-crimes-enforcement-1>

²⁹⁴ The rough equivalent of our STR.

casino. Wherever possible, notice was provided, and some gamblers were contacted to return any chips which they may have removed from the casino. The day before the swap was to occur, BCLC received a request from an external agency to not swap out the chips.²⁹⁵

814A. The chip swap was rescheduled. BCLC's concern included the following:²⁹⁶

"A large number of these chips are believed to be in circulation for reasons of servicing in some cases, an underground network of individuals that facilitate providing patrons with access to the chips to enable play at the RRC and specifically the high limit rooms, although there is also concern they may also be used for funding illegal gaming and as a financial instrument for other criminal activity.... This also poses a reputational risk to the gaming industry in British Columbia as this amount of outstanding chips could be viewed as funding an underground economy."

814B. By the time that the swap was to occur, most of the missing chips had been repatriated by gamblers, reducing the outstanding liability, and making an expensive swap unnecessary.

PREVENTION

815. Possible solutions to chip walking include positioning radio frequency detection devices and alarms at casino exits; a solution which nobody seems terribly interested in implementing because the technology is considered less than certain, it can be defeated through various simple methods, it will likely lead to confrontations with patrons, and ultimately, it is doubtful that GSP employees have the ability to search customers who exit a facility. Although the chip is the property of BCLC, the value represented by the chip has been paid by the customer in the first instance or obtained through winnings at a table.

816. GSPs acknowledge the problems associated with chip walking and recognize that the industry must do better to prevent large numbers of chips circulating outside casinos. They also recognize that the value represented by the chips is an outstanding liability of the respective casino and compromises the calculation of table drop, or gross income.

817. Manual tracking of chips within a casino is difficult as it requires surveillance personnel to follow the movement of players for protracted periods of time. It is also not possible to track patrons in washrooms. Cage personnel can track the return of chips, and tables are equipped to record chip purchases. However, there are limitations.

818. To date, BCLC has not provided a tracking sheet or electronic platform which would allow GSPs to use a consistent methodology for the tracking of chips and patrons. GSPs are using their own homespun tracking systems and searching the market for available solutions.

²⁹⁵ BCLC letter, Sept. 14, 2015.

²⁹⁶ BCLC Operational Plan, Jan. 18, 2016.

819. Inserting a serial number on chips or personalizing chips to a particular high limit customer are two possible solutions.²⁹⁷ A broader based solution involves GSPs operating their own Gaming Management System. With a GMS, a casino can track its regular players and their gambling habits, allowing them to enhance the patron's gaming experience through rewards programs. It also incorporates algorithms to detect unusual behavior. In British Columbia, the only GMS is housed at BCLC and GSPs are dependent on BCLC providing them with data runs. In Ontario, the intent is for each casino to have its own GMS.

COMMENT

820. The absence of an appropriate tracking mechanism for chips creates an opportunity for them to be used as an underground currency. It is also a means by which unscrupulous gamblers can purchase chips for use by unknown third parties, thereby circumventing FinTRAC reporting requirements and KYP procedures.

RECOMMENDATION - CHIPS GO WALKING

R23 That BCLC implement a chip tracking system for Service Providers.

²⁹⁷ In fact, personalized chips may be attractive to VIP gamblers.

PART 8

A NEW APPROACH

CHAPTER 29

ONTARIO

INTRODUCTION

821. My prior experience speaking with people in the gaming industry pointed me in the direction of Ontario and Nevada, as two jurisdictions from whose experience British Columbia could benefit.
822. There are many jurisdictions in the world which could have been chosen. The structure of gaming in the United Kingdom is another which is often mentioned as a strong and vibrant system. The innovative changes in Scandinavian countries and in the Low Countries of Europe are also viewed as examples of best practices. I thought it important however, for reasons of time and the familiarity of systems, to limit my field work to large jurisdictions in North America.
823. In this chapter I overview what I believe is relevant to British Columbia from the Ontario experience. I do the same for Nevada in the following chapter. As noted in the Acknowledgements, officials and operators in both jurisdictions were most helpful and prepared to assist in any way that they could.

GAMING IN ONTARIO

824. Ontario is an excellent counterpoint to British Columbia because it has a similar gaming framework and is moving closer to the B.C. Crown corporation model, but with significant differences which can inform our present situation. In Toronto, meetings were held with the CEOs of the Ontario Lottery and Gaming Corporation and the Alcohol and Gaming Commission of Ontario.

OLG – THE CROWN CORPORATION

825. The Ontario Lottery and Gaming Corporation is the corporation with authority to conduct and manage gaming in Ontario. OLG is a Corporation created by the *Ontario Lottery and Gaming Corporation Act, 1999*.²⁹⁸ It has a single shareholder, the Government of Ontario, and reports through its Board of Directors to the Minister of Finance. Members of the part-time Board of Directors are appointed by the Lieutenant Governor in Council. The day to day operations of OLG are carried out by its Chief Executive Officer. It is similar to BCLC in many respects and emerged out of the same era in Canadian gaming.

²⁹⁸ S.O. 1999, c. 12.

826. OLG's Vision is "To develop world-class gaming entertainment for Ontario." This is almost identical to BCLC's Vision that "Gambling is widely embraced as exceptional entertainment for adults."
827. OLG's Mission is "To generate revenue for the Province; stimulate and enhance economic development; and promote high standards of responsible gambling – all in the best interests of the Province of Ontario." Interestingly, BCLC makes no mention of the primacy of revenue generation in its Mission statement. BCLC's Mission reads: "To conduct and manage gambling in a socially responsible manner for the benefit of British Columbians."
828. The principal role of OLG, as with BCLC, is to generate revenue for the provincial coffers. Until recently, OLG directly operated some casinos, but also obtained revenue from independently operated destination casinos (Niagara, Rama and Windsor). Ontario is currently in the throes of a huge transition to a model which is very similar to that of B.C., in which all casinos will be operated by service providers contracted to OLG.
829. This move by Ontario results from a less than optimal return to government on the previous, bifurcated model. That earlier model developed over time and can be traced back to the proposed adoption of VLTs in the province (which did not in fact occur).
830. The OLG modernization project carved the Province of Ontario into gaming bundles and put them out to tender. They include Niagara, Central, Ottawa, West GTA, Niagara Falls Entertainment Centre, GTA, North, Southwest, East. The bundles are subdivided into zones, within which successful operators can populate the zones with existing or new casinos and other gaming facilities. The bundles and zones are designed in such a way that casinos are not in competition within the same geographic area. It also ensures dispersion of gaming to all areas of Ontario.
831. Two of the Lower Mainland's three GSPs have been successful in obtaining bundles. Gateway won the North and Southwest bundles. GCGC, which already operates casinos in Ontario, successfully partnered with Brookfield Business Partners LP to win the lucrative GTA Bundle, as well as both the East and the West GTA bundles. They note that the GSPs meet regularly with both OLG and AGCO to deal with compliance issues in a very open and productive manner.
832. At present, Ontario does not have VIP rooms similar to B.C. casinos, although they may be on the horizon with the development of the industry.

AGCO – THE REGULATOR

833. The Alcohol and Gaming Commission of Ontario resulted from the merger in 1998 of the Liquor Licence Board of Ontario and the Gaming Control Commission. It is an arm's length regulatory agency of the Government of Ontario, reporting to the Ministry of the Attorney

General. AGCO has responsibility for the administration of several gaming and liquor statutes, including the *Gaming Control Act*.²⁹⁹

- 834. AGCO's 750 employees regulate the alcohol, liquor, horse racing and gambling sectors, with cannabis likely to be added. AGCO has moved to an agnostic business line approach, allowing inspectors to be cross-trained in the different sectors.
- 835. AGCO is in fact two entities, a part-time Commission which provides governance, and the agency headed by a Registrar / CEO who reports to it. An MOU between the responsible Minister and the Commission defines the roles and responsibilities of both, as well as various administrative issues.
- 836. Originally, the Commission doubled as a governance board and an appeal board from decisions of the Registrar. The ability of a commission or board to provide effective governance while also exercising quasi-judicial duties can be problematic. In Ontario, it was felt that the Commission should restrict itself to governance of AGCO. The authority to deal with appeals was transferred to an independent administrative tribunal, the Ontario Licence Appeal Tribunal, with a further appeal available to the Ontario Divisional Court.
- 837. AGCO is both a law enforcement agency and a regulator and operates independent of the Ministry. Its powers of licensing, investigation, audit and inspection derive from the *Gaming Control Act*. The independence which AGCO enjoys removes the 'political anxiety' which afflicts regulators within the bureaucracy of government.
- 838. From time to time, it has been necessary for AGCO to impose a fine on OLG. These have resulted from certain direct services provided by OLG, such as liquor in casinos.
- 839. There is statutory authority for AGCO to recover its budget from gaming revenue. OLG pays all registration costs and investigative costs. This amount flows through the Treasury Board and amounted to \$43.6 million in fiscal 2015-16.
- 840. Under the *GCA*, the Registrar has a statutory authority to provide an opinion to the Minister with respect to the eligibility of persons to serve on the Board. AGCO also registers gaming employees at the OLG casinos.

ONTARIO PROVINCIAL POLICE

- 841. In Ontario, the view is clear that the Regulator requires a policing capacity. As one senior official stated, it is "all about keeping organized crime out". Gaming is viewed as a high-risk environment, which can easily serve as fertile ground for organized crime, itself composed of inherently high-risk takers. The solution in Ontario is a long-standing relationship with the provincial police force.

²⁹⁹ S.O. 1992, c. 24.

842. The Ontario Provincial Police (OPP) has a dedicated casino bureau consisting of over 150 resources. They are spread across the province, in specialized units. The model was adapted from the New Jersey State Police, which developed a casino unit to deal with anticipated incursions by criminal elements in the Atlantic City casinos. The OPP resources are charged back to the GSPs.
843. In the opinion of the CEO of AGCO, the OPP is an expensive model but the “only way” to proceed. The OPP casino bureau is integrated into the regulator and the officer in charge sits on the AGCO senior management team. The OPP is an integral part of the team and participates in priorities and planning exercises.
844. The Windsor Casino had the first permanent OPP unit. Niagara and Rama in Orillia followed. The OPP act as first responders in the casinos but will direct certain offences to the police forces of jurisdictions (local municipal or regional forces), or to specialized investigative units. They deal with gaming crimes such as cheat at play and loan sharking. The units gather intelligence and in recent years, have begun to be involved in suspicious cash transactions which may involve money laundering, as well as human trafficking.
845. Over time, the OPP bureau is moving away from protective duties in the casinos and increasingly emphasizing its mandate to deal with criminal conduct. This function has been referred to as one of ‘public interest’ as opposed to ‘public safety’.
846. Where the regulator believes that criminality has occurred in a casino, the matter is referred to the OPP. The regulator is clear that its role is not to investigate criminal matters.
847. The OPP’s role is described in AGCO’s Annual Report:

“The Casino Enforcement Units (CEU) are comprised of OPP Officers assigned to the AGCO’s Investigation and Enforcement Bureau. Each unit comprises members specially trained to conduct regulatory and criminal investigations in order to respond effectively to any threats to the integrity of the gaming activity. The specialized training ranges from detecting cheat at play, information gathering and anti-money laundering. The primary responsibility of the units is to detect/deter criminal activity and to provide 24/7 first response policing within the gaming sites to protect the integrity of the gaming industry. The units also provide a comprehensive information gathering role, by gathering information on any and all criminal organizations and activity within the industry and ensuring it is disseminated to proper regulatory and law enforcement partners throughout the world. The units perform regulatory functions such as assisting with eligibility assessments on individuals and companies seeking registration to conduct business with the Ontario gaming industry and liaising with internal stakeholders such as AGCO’s Audit & Gaming Compliance Branch as required to support the standards-based regulatory approach.”

848. In police circles, casinos are viewed as ‘target rich environments’, not necessarily because of offences committed within the casinos but because many of the patrons invariably have a criminal nexus. For this reason, the OPP also has an Intelligence Unit. It also does background investigations on employees, vendors and corporations, similar to what is performed by the Registration unit at GPEB. Most importantly, it is a presence upon which the GSPs can call when required. It operates a training program for gambling, which is certified by the Ontario Police Academy in Aylmer and is the only such course in Canada.³⁰⁰

849. The OPP’s workload is also outlined in AGCO’s Annual Report:

“During 2015/16, the CEU responded to approximately 8,071 occurrences at casinos and slot machine facilities. Of these, 1,922 were Criminal Code offences, including 170 alleged incidents of cheat-at-play (36 cheat-at-play charges laid). Other Criminal Code related occurrences included fraud, theft and assault investigations. There were a total of 1,799 other calls for police assistance, including calls for medical emergencies, police information and abandoned children. There were an additional 5,490 non-Criminal Code related occurrences. These occurrences involved provincial statute investigations or violations, including the LLA, Trespass to Property Act, 1990, and Mental Health Act, 1990. Other examples could include a suspicious-person investigation that may not necessarily fall into any specific offence category, missing persons’ investigations, as well as assistance to other police agencies. This could include assistance with information gathering, requests for information or general inquiries/assistance for an outside investigation. The 5,490 occurrences noted previously are in addition to assisting local police with nongaming related investigations. Only those events that result in a report being filed are considered to be reportable occurrences by the AGCO’s Investigation and Enforcement Bureau.”

850. The AGCO Director of Intelligence and Gaming Specialist Unit has overall functional command of the regulators and police at AGCO.

851. At present, both the OPP casino bureau and the AGCO are hiring civilian analysts, who will be able to analyze police and regulatory intelligence.

MONEY LAUNDERING

852. Money laundering emerged as an issue for AGCO approximately six years ago. In suspect cases, AGCO obtains the opinion of the OPP regarding where a particular complaint should be lodged. The casino bureau will deal with an unfolding incident, such as a suspicious deposit of cash, however may not pursue the investigation itself. According to AGCO, by having a police force engaged on this issue, there is instant credibility.

³⁰⁰ Members from IIGET were trained by the OPP during the time that the unit existed, and IIGIT members have sought guidance from the OPP in terms of gaming related operations.

853. In the opinion of the OPP, the most effective and possibly the only way to deal with loan sharks is through undercover operations. The OPP uses undercover operators from outside its casino bureau.
854. In Ontario, LCTs and SCTs, similar to LCTRs and STRs, predate the creation of FinTRAC in 2000. They are created at the cash cage by the GSP, then sent to OLG for transmission to FinTRAC and copied to the OPP Gaming Investigation Unit on site. If OLG completes an additional corporate STR, it will be forwarded to FinTRAC with a copy to the OPP.
855. The AGCO is actively involved in working with FinTRAC. The following is an extract from its last annual report:

“As part of the AGCO’s overall approach to working collaboratively with other government agencies, the AGCO worked closely with [FinTRAC] to help combat money laundering and terrorist financing at gaming facilities. An MOU was signed between both parties in 2004. The collaboration between the organizations continues to be enhanced in an effort to increase information sharing in appropriate circumstances and to enable the AGCO and FINTRAC to meet their regulatory mandates. The AGCO also **works very closely with other stakeholders such as the OLG and gaming operators** to ensure appropriate measures are in place. In carrying out an audit at a commercial gaming facility, the **AGCO auditor assesses the site’s compliance with** its Internal Control Manual to ensure that it fulfills the requirements under the GCA, the **Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2001** and all of the related regulations.... In addition to audits, the Audit and Compliance Branch carried out inspections throughout the year, **including 24 detailed AntiMoney Laundering reviews.**” [my emphasis]

COMMENT

856. In Ontario, it is very clear that OLG has conduct and manage responsibility and that AGCO is the regulator. The *Gaming Control Act*, 1992 provides a clear delineation of roles.
857. Ontario has a modern, standards-based approach to gaming regulation, which features a strong, independent regulator, re-enforced by a police contingent which deals in a co-operative manner with the Crown corporation. Ontario has much to offer to British Columbia.

CHAPTER 30

NEVADA

INTRODUCTION

858. As previously indicated, I visited Las Vegas and met with various officials and operators. My first stop was to the University of Nevada Las Vegas, recognized as a world leader in the research of gaming and hospitality. Within it is the International Center for Gaming Regulation, a partnership between the UNLV Law School and the University's International Gaming Institute. The ICGR's Director, Andre Wilsenach, has a wealth of regulatory experience in South Africa, Europe and the United States.
859. ICGR is a hub for research and transformative study. It provides independent education, research and training programs for policy makers, regulators, gaming lawyers, industry leaders, and law enforcement. One of its aims is to minimize duplication and to promote regulatory efficiency.
860. My visit to ICGR was followed by attending the monthly meeting of the Nevada Gaming Commission, as well as meetings with officials of the Nevada Gaming Board, the casino regulator. Following these meetings, I met with casino operators from Wynn and Westgate casinos. The following summary is intended to highlight best practices in Nevada, which can assist us in British Columbia.

NEVADA GAMING COMMISSION

861. In 1959, the Nevada Gaming Commission (Commission) was created by the State Legislature. This initiative paved the way for the rebirth of gaming in Nevada and contributed to the end of mob rule in Las Vegas casinos.
862. The Commission consists of five members appointed by the Governor to four-year terms, with one member acting as Chairman. The Commission members serve in a part-time capacity. The primary responsibilities of the Commission include acting on the recommendations of the Nevada Gaming Control Board (NGCB) in licensing matters and ruling upon work permit appeal cases. The Commission is the final authority on licensing matters, having the ability to approve, restrict, limit, condition, deny, revoke or suspend any gaming license.
863. The Commission is also charged with the responsibility of adopting regulations to implement and enforce the State laws governing gaming. Its decisions are not reviewable in the courts.

864. When the NGCB believes discipline against a gaming licensee is appropriate, it acts in a prosecutorial capacity, while the Commission acts in a judicial capacity to determine whether a sanction should be imposed.

GAMING CONTROL BOARD

865. In 1955, the Nevada Legislature created the NGCB within the Nevada Tax Commission. Its purpose was to eliminate the undesirable elements in Nevada gaming and to provide regulations for the licensing and operation of gaming. The NGCB was also empowered to establish rules and regulations for all tax reports to be submitted to the state by gaming licensees.
866. The NGCB consists of three full-time members appointed by the Governor for four-year terms, with one member acting as Chair, who is responsible for regulating all aspects of Nevada's gaming industry.
867. The primary purpose of the NGCB is to protect the stability of the gaming industry through investigations, licensing, and enforcement of laws and regulations; to ensure the collection of gaming taxes and fees; and to maintain public confidence in gaming.
868. For Nevada, the combined effect of the Commission and the NGCB has been for the State to develop a reputation around the world as an international leader in gaming regulation. The NGCB notes on its website the "long standing contributions of legislative and government leaders, gaming commissioners, board members and dedicated employees [and] the contributions of gaming lawyers, accountants, advisors and members of the academic community, who have challenged the system with continued new ideas."
869. Nevada adheres to the philosophy that gaming, when properly regulated, can thrive and make an important contribution to the economic welfare of the state. The NGCB notes that "Maintaining a balance between rigorous standards for the industry and the kind of flexibility that permits innovation and prudent expansion is an overarching goal that guides not only our day to day decision making, but also our consideration of changes to regulations and statutes."
870. The NGCB consists of six Divisions, not unlike GPEB, but with an important difference. Its Divisions are Administrative, Audit, Enforcement, Investigations, Tax & License, and Technology. The Enforcement Division equates with a police force and the Investigations Division is the rough equivalent of GPEB's Registration Division. There is no equivalent to GPEB's Compliance Division.

THE ENFORCEMENT DIVISION

871. The Enforcement Division is the law enforcement arm of the NGCB. It maintains five offices statewide and operates 24 hours a day, 7 days a week. Primary responsibilities are to conduct criminal and regulatory investigations, arbitrate disputes between patrons and

licensees, gather intelligence on organized criminal groups involved in gaming related activities, make recommendations on potential candidates for the "List of Excluded Persons", conduct background investigations on work card applicants, and inspect and approve new games, surveillance systems, chips and tokens, charitable lotteries and bingos.

872. I met with the Deputy Chief of the Enforcement Division, who heads the Las Vegas office, as well as with one of the investigators. I hypothesized that a box of cash arrived with rubber bands at a cash cage. What would occur? The officers doubted that this would occur in Las Vegas, although it might have happened in the past. Today, their expectation is that the casino will contact the on-duty enforcement agent, who would attend at the casino and deal with the suspicious money.
873. It is important to note that AML is not a large part of the Enforcement Division's work, due to the reporting responsibility having moved almost exclusively to the federal domain several years ago. At present, Fincen, the U.S. equivalent of FinTRAC, in partnership with the Internal Revenue Service, acts as the enforcement arm for most money laundering issues.
874. Typically, the State will add its own penalty on top of a federal penalty, on the basis that the federal penalty constitutes a violation of the casino's registration conditions. In recent years, there have been significant federal cases involving Sands casino and Caesar's casino in Las Vegas, which sent shock waves through the Nevada gaming industry.³⁰¹
875. The Enforcement Division is composed of sworn police officers and unsworn administrative staff. They work offsite in their own offices and frequent casinos around the State on enquiries and investigations. The qualifications for applicants to the Division are found online, and include the following:

"Graduation from an accredited college or university with a Bachelor's degree in business administration, public administration, administration of justice, economics, finance, accounting, pre-law, computer science, criminal justice or other applicable degree; or An equivalent combination of education and investigative experience involving white collar crime, narcotics trafficking or money laundering, organized crime, intelligence collection, fraud or closely related experience and/or professional level experience in the areas of: accounting, auditing, legal research, business or public administration in a related area or closely related field. Both education and experience can be substituted on a year for year basis."

876. Typical duties include the following:

³⁰¹ *NGCB v. Caesars Entertainment Corporation, et al.*, NGC 15-4, *NGCB v. Las Vegas Sands Corp.*, NGC 14-10. See also, Joseph Rillotta, "Beyond the SAR-C: Best Practices for Gaming Companies to 'Know Your Customer' and Avoid Organizational Money Laundering Liability in the Post-Sands Climate", *UNLV Gaming Law Journal*, Vol. 5:145.

“Conducts detailed and complex criminal, regulatory, administrative and background investigations in compliance with the regulations and statutes as related to gaming in Nevada;

Investigates public and industry complaints, grievances, disputes or other incidents involving licensed gaming or related matters;

Collects intelligence information regarding criminals and criminally oriented persons, the activity of individuals engaged in organized crime and other activity relating to gaming in Nevada;

Interviews witnesses/complainants, interrogate suspects, conducts covert surveillance, and obtains information from confidential informants through appropriate recruitment, development, maintenance and control of said informants and other cooperating individuals;

Conducts inspections of gaming licensee surveillance systems, inspects various gaming devices including slot machines, cards, dice and seizes items if necessary;

Provides assistance to other jurisdictions in gaming-related matters and cooperates with other law enforcement agencies in the exchange of information as appropriate;

Greets and responds personally, telephonically and in writing to the questions of members of the general public and the gaming industry concerning gaming related matters;

Receives new and updated training on a variety of topics including licensed games, cheating techniques, investigation of disputes, defensive tactics, arrest techniques, Nevada criminal law, detention, arrest and transport of criminal violators, firearms use and safety.”

THE INVESTIGATIONS DIVISION

877. The Investigations Division investigates all gaming license and key employee applicants, to determine their viability, business integrity, and suitability. Division investigators produce detailed reports which are used by the NGCB and Commission as the basis for licensing recommendations and decisions.
878. The Corporate Securities Section within the Investigations Division, investigates and analyzes activities of registered, publicly traded corporations and their subsidiaries in the Nevada gaming industry. Actions which might affect the industry, such as changes in control, public offerings, involvement in foreign gaming, and recapitalization plans are scrutinized by the Division and reported to the NGCB.

COMMENT

879. Nevada provides an excellent model for gaming regulation. It is standards based, and not prescriptive.
880. The Nevada Gaming Commission, although staffed with part-time Commission members, is all-powerful in terms of the granting of casino licenses and registration generally. Many of its roles are subsumed in B.C. by BCLC or GPEB and others are not relevant due to the small number of casino operators in B.C. compared to the situation in Nevada. Should B.C. eventually move away from the Crown corporation model to a tax and regulate model for casinos, the Commission would be an excellent feature, as it is divorced from politics.
881. The Nevada Gaming Control Board is the regulator however it also contains an enforcement (police) component. Much of the work undertaken in B.C. by the Compliance Division of GPEB falls within the purview of NGCB's Enforcement Branch.
882. Although the State does not regulate AML laws in Nevada casinos, it is abundantly clear that the Enforcement Division acts as a first line of defence against organized crime and bulk cash buy-ins.

CHAPTER 31

STANDARDS-BASED INDUSTRY

INTRODUCTION

883. The literature which discusses the merits of a standards-based approach to regulation versus a prescriptive approach is voluminous. There is merit to each approach. Increasingly, however, governments in Canada are opting for the former, due to its flexibility as well as its ability to target areas of greatest risk.
884. A prescriptive approach is as the word suggests, akin to a prescription to perform specific tasks and be assessed accordingly.
885. A standards-based approach is the opposite of a prescriptive approach. It favours the development of overarching standards which serve as a guide to those who are subject to regulation. It allows for maximum flexibility, and to adapt one's business or enterprise to the standards.
886. The standards-based approach is often referred to as risk-based, not because it is riskier, but because it targets risks rather than attempting to monitor everything and everybody.
887. A practical comparison can be made to performance evaluations of employees. Should each employee be subject to the same detailed and time-consuming appraisal on a yearly basis, or should employees work to a certain standard or expectation and receive feedback, positive and negative, as required? There are benefits to each approach but targeting poor performers for closer scrutiny and identifying high flyers, is probably of much greater utility than a one size fits all approach.
888. As we noted earlier, in Ontario, gaming adheres to a standards-based approach, in which outcomes are mandated, not the process to achieve those outcomes. The standards in Ontario were developed in a co-operative fashion with the industry, however the regulator is the 'keeper of the standards'. Performance expectations flow from the standards.
889. Many argue that the standards-based approach places much greater accountability and responsibility on those who are the subject of regulation. I agree. The BCGIA appears to agree as well. Its Executive Director commented that the standards-based approach in Ontario appears to make sense.
890. In a standards-based scheme, it is important to ensure that the standards themselves are not overly prescriptive, otherwise the model will be undermined. In Ontario, the development of OSAs with the rollout of the new bundles will test the standards-based philosophy as these documents tend to be long and prescriptive by nature. I was advised by

OLG that the OSA should not change the overarching philosophy. The model allows sufficient room to identify certain areas which will of necessity require greater attention to detail.

891. Moving from a prescriptive approach to a standards-based approach requires a fundamental culture shift. In addition to changing the way people think, such a shift also requires rethinking how tasks are conducted. The concept of seeking regulatory approval for new initiatives is replaced by an obligation on those who are regulated to undertake initiatives which are in keeping with the overarching standards.
892. The belief in Ontario is that private sector operators, properly regulated, can produce greater efficiencies than are possible with government run casino operations. The Vice-President of an Ontario casino confirmed that the standards-based approach works well. Their casino has adapted to the new philosophy but remains prescriptive in many of its own internal processes. This is by design to best meet certain of the standards. At least now the casino has more flexibility to make change and a reduction in the number of external approvals.
893. An example provided was the internal control manuals maintained by casino operators, which previously were voluminous and required approval in advance from the regulator. Now it is left up to the casinos to design their processes in accordance with the standards. This approach has also had a positive effect on cash alternatives, which are largely left in the hands of the casinos to decide what works for their operation, provided that they are in line with the standards.

THE ONTARIO MODEL

894. In Ontario, the risk-based standards are those of the Registrar (CEO) of AGCO and are referred to as the Registrar's Standards.³⁰² These are the foundational piece in Ontario's modernization of gaming regulation and its transition away from a "command and control" model.
895. The introduction of the Registrar's Standards followed upon statutory and regulatory amendments to the *Gaming Control Act, 1992* in June 2012. Specifically, the changes provided the Registrar with the authority to implement risk-based standards to address various key areas of regulatory concern; such as surveillance, security, access to gaming sites, protection of players and responsible gambling.
896. In most cases, the Standards are drafted at a high level of generality, with the aim being to capture the purpose behind the rule. This offers greater flexibility for regulated entities to

³⁰² https://www.agco.ca/sites/default/files/gaming_standards_apr-2017_en.pdf Also see Info Bulletin No.72 - Registrar's Standards for Gaming at <https://www.agco.ca/bulletin/2013/info-bulletin-no72-registrars-standards-gaming>

determine the most efficient and effective way of meeting the outcomes required, which in turn helps reduce regulatory burden and supports market innovation. Further, the flexibility inherent in a standards-based model allows AGCO to focus its resources on key risks and to deliver a modern approach to gaming regulation in a rapidly evolving industry.

897. From an Ontario perspective, other benefits of a standards-based approach to gaming regulation include the following:
- Increased efficiencies for gaming operators to respond to changing market conditions.
 - Strong proactive compliance culture and monitoring of performance by gaming operators against their own controls.
 - A more effective regulatory structure that is geared to the achievement of results or outcomes and regulatory oversight focusing on high impact areas of concern.
898. The Standards were based on a comprehensive risk assessment conducted in consultation with key stakeholders, including OLG and social responsibility groups. Going forward, risk assessments will be conducted periodically to ensure that the Standards continue to be relevant, and that the highest level of integrity in gaming in Ontario is maintained.
899. In a 2011 value-for-money audit, Ontario's Auditor General commended the AGCO for having one of the most effective regulatory regimes in North America and expressed strong support for the AGCO's ongoing transition to a more risk-based regulatory approach.
900. A comprehensive implementation plan was developed in collaboration with OLG and operators in order to facilitate a smooth transition to the standards-based model and to preserve the integrity of and public confidence in gaming in Ontario.
901. The AGCO supports regulated entities in achieving regulatory outcomes. It provides this support through the effective use of a broad range of regulatory tools that will allow it to do more than enforce regulatory obligations. The AGCO's regulatory assurance activities are both proactive and reactive, and include education, assessments, inspections, investigations, audits, and equipment testing; as well as reliance on internal or external audits or attestations.
902. If a registrant fails to comply with its regulatory obligations, AGCO has several enforcement tools at its disposal, including warning letters, the imposition of enhanced regulatory assurance activities, additional requirements or terms of registration, monetary penalties and, in cases of material or ongoing instances of non-compliance, suspensions or revocations of registration.
903. Ultimately, the regulatory framework is designed to provide regulated entities with maximum flexibility, while continuing to ensure the highest levels of integrity within the gaming industry.

904. The *Registrar's Standards for Gaming*³⁰³ are divided into Common Standards across the gaming sector, which total 22 pages in its booklet form, and Additional Standards for specific aspects of gaming. In the case of casinos, there are an additional two pages. There are appendices and notification matrices to assist.

905. The “Common Standards and Requirements” which apply across all applicable gaming sectors, are divided into six identified risk themes:³⁰⁴

1. Entity
2. Responsible Gambling
3. Prohibiting Access to Designated Groups
4. Ensuring Game Integrity and Player Awareness
5. Public Safety and Protection of Assets
6. Minimizing Unlawful Activity Related to Gaming

906. Within the last theme, 6.1 requires that: “Mechanisms shall be in place to reasonably identify and prevent unlawful activities at the gaming site.” At a minimum, this requires that casinos:³⁰⁵

1. Conduct periodic risk assessments to determine the potential for unlawful activities, including money laundering, fraud, theft and cheat at play.
2. Ensure that all relevant individuals involved in the operation, supervision or monitoring of the gaming site shall remain current in the identification of techniques or methods that may be used for the commission of crimes at the gaming site.
3. Appropriately monitor player and employee transactions and analyze suspicious transactions for possible unlawful activity.
4. Report suspicious behaviour, cheating at play and unlawful activities in accordance with the established notification matrix.

907. The casino-specific standards provide that “Anti-money laundering policies and procedures to support obligations under the [POCMLTFA] shall be implemented and enforced.” At a minimum, this requires that:³⁰⁶

³⁰³ AGCO, Toronto, 2017 - https://www.agco.ca/sites/default/files/gaming_standards_apr-2017_en.pdf

³⁰⁴ *Ibid.* at p. 6.

³⁰⁵ *Ibid.* at p. 35.

³⁰⁶ *Ibid.*

1. Copies of all reports filed with the FINTRAC and supporting records shall be made available to the Registrar in accordance with the established notification matrix.
2. Operators shall inspect valid government issued photo identification in relation to anti-money laundering requirements.

908. There is also a requirement that the AGCO OPP Casino Enforcement Unit be provided with independent monitoring equipment with override capability within the Casino Enforcement Unit work area.³⁰⁷

909. A standards-based approach is widely regarded as a best practice in terms of regulating an industry. It is a common approach in governments throughout North America and particularly in the casino industry. Andre Wilsenach, of the International Center for Gaming Regulation in Las Vegas, notes that standards are “front-loaded” and allow the casino industry to function as the businesses that they are and not continue operating under a prescriptive model. As he describes it, “people are still looking for the mob”, which left the industry long ago. The threats today are different and require a different model.

COMMENT

910. Ontario’s experience in transitioning its gaming sector to a standards-based model provides British Columbia with a roadmap on which to build its own.

911. I recognize that my mandate is specific to Lower Mainland casinos and therefore the Recommendations below apply to the casino industry. I do not presume that the entire gaming sector should move to a standards-based approach however I do believe there is considerable merit if it does, particularly if implementation is staged. This was the approach taken in Ontario. Obviously, casinos are the area of greatest concern in B.C. and should be the first business line to transition.

RECOMMENDATIONS – STANDARDS-BASED INDUSTRY

R24 That the casino industry transition to a standards-based model.

R25 That the foundational standards of the standards-based model be developed by a cross-sector of industry and government, building upon the Ontario Standards, and that they be periodically reviewed and renewed.

R26 That the CEO / Registrar of the Regulator be the keeper of the standards.

³⁰⁷ *Ibid.* at p. 10.

CHAPTER 32

A NEW REGULATOR

INTRODUCTION

912. The present regulatory system in British Columbia does not work in terms of compliance and enforcement of AML. The foundational structure of the *Gaming Control Act* does not provide for a regulatory relationship between GPEB and BCLC. Roles and responsibilities are not clearly defined and there is an absence of many important regulatory authorities, such as with respect to AML. The regulator is embedded within the bureaucracy of government and does not have the necessary independence to act effectively.

A STRONG REGULATOR

913. Many interviewees, including representatives of the service providers, emphasized the importance of a strong regulator and the need for regulatory visibility. A strong regulator is seen as the best protection for the public, as it will ensure that the necessary checks and balances are in place.
914. GPEB fulfills neither of these roles at present, due in large part to its lack of independence, a lack of clarity in its role, and the assumption of various tasks by BCLC that one might expect a regulator to undertake. I am referring specifically to GPEB's compliance and enforcement role.
915. The GSPs are used to working with strong regulatory bodies in Ontario and Nevada and find it difficult to navigate the unique waters in B.C. They yearn for a more fulsome relationship with the regulator, one GSP noting that GPEB is currently "isolated on the outside" of the industry.
916. As its title indicates, GPEB is expected to be both the regulator of gaming in B.C. and the provincial government's policy centre for gaming. This bifurcated role results from GPEB being an integral part of the bureaucracy. It is a Branch within a Ministry. The GM reports to an Associate Deputy Minister, who reports to a Deputy Minister, who reports to the Attorney General. The same situation existed in the Ministry of Finance. In the past, it has often been difficult for the GM to access the Minister, due to the intermediaries.
917. Furthermore, the burden faced by a regulator on the inside of the bureaucracy, is the ready access which senior officials and the Minister have to its talent. GPEB's policy role in government is onerous and detracts from its enforcement responsibility. Due to a constant stream of requests from senior bureaucrats and ministerial staff for position papers and briefing notes, executives within GPEB often find themselves mired down with this work, to

the detriment of enforcement and other responsibilities. This is not a new phenomenon. It is the reality of being within the bureaucracy of government.

918. A related problem has been GPEB's orphan status within government. It has not remained in one Ministry for very long during its history (see Appendix B). By moving about within government, senior officials in each 'new' Ministry must be educated by the GM on the unique nature of the gaming industry.
919. A further problem arises when both BCLC and GPEB are within the same Ministry. With the friction that has existed for years, it falls to the associate deputy minister, the deputy minister or the minister to resolve impasses between the entities.

A NEW REGULATOR

920. Moving forward, B.C. requires an independent regulator which is not an integral part of the bureaucracy but rather is an independent agency of government. To provide appropriate governance, it should report to a board or commission, in much the same way as the CEO of AGCO reports to a commission in Ontario.³⁰⁸
921. A governance board, based on the Ontario model, will ensure that the independent agency is not abusing the trust placed in it, will serve in an advisory role for the CEO, and will be able to run 'interference' on behalf of the CEO and board in the unfortunate event that this becomes necessary.
922. The Province may wish to consider adding other roles to the regulator and the Board, such as the regulation of liquor and, or cannabis. All three activities or commodities were once viewed as vices and reflect many similar regulatory issues. Furthermore, organized crime is known to have been involved with each, at one time or another.

STRUCTURE

923. There are various types of Crown agencies in British Columbia. It is important that the new regulator be an independent, Service Delivery Crown Corporation, as in the case of the BC Securities Commission. A Service Delivery Crown Corporation is a separate legal entity that delivers goods and services based on government policies. It provides services with social and economic benefits to citizens.

³⁰⁸ A similar recommendation was made in a 2000 Report to the Province by J. Peter Meekison. He recommended an independent commission to regulate BCLC and the then BC Gaming Commission (see Meekison, *supra* at p. 34).

FUNDING

924. The majority of Service Delivery Crown Corporations receive all or most of their funding from government, but several are partially funded. The government has various funding options for the new regulator, however gaming revenue is the most obvious. The Ontario model is very persuasive as the budget allotment for AGCO is channelled through Treasury Board.

ROLES AND REPOSNSIBILITIES

925. The regulator would continue with its existing functions (i.e. audit and horse racing), except that the Compliance Division, more appropriately referred to as the Investigations Division, would undertake purely regulatory investigations and its Intelligence unit would migrate to a designated policing unit.
926. Despite the creation of a designated police unit, it may still be advantageous for investigators to have the status of special constables, although clearly their mandate is not criminal enforcement. The only time that this status would be invoked is to assist a police force. It is imperative that core competencies be developed that will govern the hiring requirements of investigative staff.

ADMINISTRATIVE SUPPORT

927. The regulator must be independent of government. It may, however, be advantageous for it to obtain its administrative support and procurement services from government. An example is FICOM.

LEGAL SUPPORT

928. It is imperative that the board possess in-house counsel, who has or will develop a speciality in gaming law. In addition, the Provincial prosecution service should ensure that at least one of its prosecutors develops expertise in gaming related matters, to manage charge approval and prosecutions resulting from regulatory and criminal investigations.

APPEALS

929. To avoid the Board's focus moving away from governance, it is important that there be another venue for the taking of appeals from decisions made by the CEO and staff of the Board.
930. In British Columbia, there is presently a Financial Services Tribunal which handles appeals of penalties imposed under several statutes. In the past, there was a Liquor Licensing Appeal Board. The Ontario model of a Licence Appeal Board is yet another model. British Columbia may be ready for an appeal body that considers appeals from cannabis, gaming, and liquor offences.

931. The importance of an appeal body is to avoid the regulator deciding on appeals of the penalties which it imposes. The principles of administrative fairness favour an independent tribunal.
932. The ability to seek Judicial Review of the decision of the independent tribunal is yet another safeguard and currently exists with respect to the Financial Services Tribunal.
933. There should be public disclosure of the appeal body's decisions.

THE GAMING CONTROL ACT

934. British Columbia's *GCA* appears to have served its original purpose, that being to amalgamate a number of disparate statutes, give the regulator a statutory existence, and most of all, remove politics from the business of gaming.
935. Nevertheless, the *GCA* was developed in quick time in 2002. That year, 78 bills passed through the Legislature and it was necessary to somehow merge "different voices" in the *GCA*. The legislation presupposed a collaborative relationship between the entities within gaming, which unfortunately is not presently the case.
936. Amendments will be required to the *GCA*, to clearly delineate the roles and responsibilities of the regulator and the Crown corporation.
937. I had occasion to speak with Mr. Howard Blank, a former VP Communications for GCGC. Mr. Blank recommended and provided me with a proposal for a program that could be an effective employment requirement for gaming workers. Referred to as Play Right [or Game Right], it is a novel adaption of the Serve Right program for persons working in bars. The course could be a mandatory introduction to a number of topics related to regulation, including training in AML, and familiarization with the roles of the regulator and the police. I believe it has much to offer.

RECOMMENDATIONS – A NEW REGULATOR

- R27 That British Columbia transition to an independent regulator in the form of a Service Delivery Crown Corporation, with a Board of Directors and a CEO / Registrar.
- R28 That the Board of Directors of the Regulator be a governance board and not be responsible for appeals from decisions of the Registrar.
- R29 That regulatory investigators continue to be Special Provincial Constables.
- R30 That anti-money laundering be a responsibility of the Regulator and that it institute mandatory training for front line gaming personnel, including VIP hosts, with consideration of a Play Right program.

- R31 That the Regulator also be the regulator of BCLC and that the BCLC Board, officers and employees be subject to registration.
- R32 That the Regulator provide a 24/7 presence in the major Lower Mainland casinos, until a designated policing unit is in place.
- R33 That appeals from decisions of the Registrar be sent to an administrative tribunal constituted for this purpose, or already in existence.
- R34 That funding of the Regulator continue to be from gaming revenue.
- R35 That the Regulator have dedicated in-house counsel.
- R36 That investigators hired by the Regulator meet core competencies.

CHAPTER 33

GAMING POLICE

INTRODUCTION

938. To protect B.C.'s casino industry from organized crime, our response must be holistic and co-ordinated. The service providers, the Crown corporation, the regulator and the police must work together with a common goal, to preserve the safety of the public and prevent lawless elements from using casinos for nefarious purposes.

939. In the Lower Mainland, the five large casinos are located in the following cities, served by the accompanying police force or detachment:

Grand Villa	Burnaby	Burnaby RCMP Detachment
Hard Rock	Coquitlam	Coquitlam RCMP Detachment
Parq	Vancouver	Vancouver Police Department
River Rock	Richmond	Richmond RCMP Detachment
Starlight	New Westminster	New Westminster Police Department

940. Although three of the casinos are policed by the RCMP, there is an important caveat. These detachments are under contract to the municipality and for all intents, function as municipal police forces. They rely on integrated units, provincial, and federal resources for specialized support that would not normally be handled by municipal patrol officers or detectives.

941. The RCMP is not able to provide permanent criminal investigators in casinos, except through the vehicle of a dedicated unit with fenced funding. This is largely due to the shifting strategic priorities and demands on police resources, which the RCMP constantly faces at both the provincial and federal levels. Although the IIGET model seems not to have worked, there is considerable support for JIGIT. The overriding concern however, is that JIGIT is a temporary unit which requires approval to continue after five years.

942. JIGIT does have limitations. Although it is admirable that it is cutting its teeth on a major organized crime file, it inevitably means that JIGIT resources will be tied to that case for a substantial period. After charges, comes the need for copious disclosure and court appearances. Although JIGIT is also rolling out its illegal gaming team, the reality is that it cannot act as a 24/7 presence in casinos, nor does it have the capacity to deal with the lesser forms of money laundering and loan sharking which have plagued our casinos for years, let alone other *Criminal Code* gambling offences.

943. Although the seconded GPEB investigators on the JIGIT can provide a wealth of experience, they are not performing a regulatory function as much as they are acting as police officers, side by side with RCMP investigators. They do have unique access to GPEB systems, however as we have seen, these are limited by comparison to the intelligence that BCLC holds in its databanks.
944. There is a solution to the current gap in policing. We can look to the examples of Ontario and Nevada where there are dedicated gaming enforcement police. These models have worked for many years and continue to be successful.
945. The B.C. *Police Act* provides for designated police units (sections 4.1 and 17.1 refer).
946. A designated policing unit is, for all intents and purposes, a police force. It is a standalone department imbued with the independence that comes with the ancient office of a constable.
947. The best example of a designated policing unit is B.C.'s Transit Police.³⁰⁹ It is the first dedicated transit police force in Canada, funded by the transit authority, with a police board, and serving the public around the clock. As a former Board member of that force and having walked a beat with transit police officers, I can personally attest to the value of a dedicated force and the importance of specialist police providing enforcement on our transit lines.
948. A dedicated Gaming Enforcement Police Service (GEPS) to police casinos and related gaming activity will fill the gap that currently exists in Lower Mainland casinos. Such a unit would primarily operate in plainclothes and have offices outside the casinos, likely co-located with the regulator. As in Ontario, it could be funded with gaming revenue. Police forces are not cheap to operate, however the GEPS does not have to be a large force. I recommend 30 police officers and requisite support personnel. The continuation of JIGIT will allow the GEPS to concentrate on what occurs inside and near casinos.
949. Over time, the members of the force will acquire unparalleled expertise in all matters respecting gaming, as we see with both the OPP and the Nevada GCB Enforcement Division. I expect that the employees of casinos will find it reassuring to know that there is a police presence in the casinos. When the next cardboard box containing \$200,000 in \$20 bills arrives in a casino, the cage teller need only make a call to the GEPS and the matter will be dealt with as it should.
950. There has been considerable discussion regarding the Interim Recommendation which I made regarding an overnight GPEB presence. With the transfer of regulatory functions from BCLC to GPEB, the rationale for a 24/7 presence remains, however now it is likely more appropriate for that responsibility to gravitate to the newly constituted police force.

³⁰⁹ <https://transitpolice.ca/>

IMPLEMENTATION

951. Creating a new police force is not an easy task, however B.C. has an excellent example of a specialized force with the existing Transit Police. The GEPS will be an integral part of the Regulator. It will be a supplemental police force which follows the municipal policing model. It does not replace a jurisdictional police force or reduce the authority or jurisdiction of any other force. In fact, MOUs will be required to allow the GEPS to share certain facilities with larger forces, such as the use of detention facilities.
952. The ideal scenario is for the GEPS and the Regulator to share a common civilian board, which acts as the Board of Directors for the Regulator and the Police Board for the GEPS. The *Police Act* will govern the role of the Police Board, which appoints the Designated Constables, Deputy Chief Officer(s) and Chief Officer, and has governance and disciplinary authority under the *Police Act*.
953. GEPS officers will be required to achieve Qualified/ Certified Police Officer status in BC. This can be obtained by graduating from the Police Academy at the Justice Institute of B.C. or by leaving an existing force and being hired as an experienced 'lateral / exempt' officer.
954. I foresee that many experienced police officers in other forces will be interested in joining the new force. It has the benefit of allowing officers to specialize in a very interesting area and primarily engage in investigative work. There will be opportunities for current GPEB investigators with policing experience, to apply to the GEPS as well.
955. The GEPS will be accountable as all police forces to the complaints and disciplinary process in the *Police Act*.

RECOMMENDATION - GAMING POLICE

- R37 That a Designated Policing Unit [police force] be created to specialize in criminal and regulatory investigations arising from the legal gaming industry, with an emphasis on Lower Mainland casinos.
- R38 That the DPU be an integral part of the Regulator.
- R39 That the DPU not be responsible for investigating illegal gaming outside casinos.
- R40 That the DPU contain an Intelligence Unit.
- R41 That the duties of the OPP Casino Bureau and the Nevada GCB Enforcement Division be reviewed in order to determine an appropriate role for the DPU.
- R42 That anti-money laundering be a specific responsibility of the DPU.
- R43 That funding of the DPU be from gaming revenue.

R44 That the Provincial prosecution service ensure that it has prosecution counsel familiar with gaming law.

PART 9

THE ECONOMY

CHAPTER 34

VULNERABLE SECTORS

TERMS OF REFERENCE

956. The Terms of Reference for this Review contained the following:

“If an issue is identified, the Minister requires advice on:

1. What connection, if any, the issue has with other areas of the BC economy, laws or policies that require government, law enforcement, statutory or regulatory attention”.

957. Casinos serve as a vehicle through which organized crime washes cash in the placement phase of the money laundering cycle. The gambler can then take his or her residual funds and, or winnings and invest that money as you would cash from a legal source. Most laundered cash is reinvested in product for the illegal enterprise. A portion is skimmed off as profit and invested in real or personal property, or to purchase a variety of services.

958. In the case of the Vancouver Model, some wealthy individuals obtained loans of dirty cash, which they used for gambling and to disguise the movement of money out of China. The illegal MSB that supplied the cash obtained reimbursement in China.

959. In each of the above scenarios, dirty money was laundered. Below is a brief overview of some vulnerabilities which B.C.’s economy faces as a result of money laundering.

REAL ESTATE

960. Real estate is at the core of the modern economy in B.C. and drives progress in many sectors. It is a critical industry that provides jobs for many thousands of British Columbians. The casino sector pales by comparison to the enormity of the real estate sector. It is not within the mandate of the current Review to make recommendations that impact on the real estate sector. It is imperative however to comment on what has been learned during this Review.

961. It is estimated that one third of British Columbia’s GDP involves real estate. It has been said that, “everything in B.C. comes back to real estate.” It has also been suggested that you can see a “rat move through all of it”, meaning that each component of the industry is vulnerable to criminal actors who tend to operate in more than one discrete area of real estate sales, mortgages, insurance, and so forth.

962. Real estate is readily accessible and, in the Vancouver market, tends always to increase in value over time.

963. During the currency of this Review, the importance of this sector has been emphasized by repeated references in the media to criminal involvement within the real estate industry.
964. On September 29, 2017, a newspaper reported that an RCMP inspector familiar with money laundering in relation to casinos had expressed the belief that VIP gamblers, funded by an illegal money service business, “own many luxury properties in the Lower Mainland”. According to the officer, “We are finding now not only one layer of nominees, but two, three and four. And some of these nominees live in China, and they are either related to you, or they don’t know they are owners. So for many of the properties, we just had to walk away.”
965. On October 1, 2017, Post Media reported that whale gamblers were involved in the purchase of real estate. Citing cross-reference research which it had conducted between filings in civil actions, land title documents and BCLC records obtained through freedom of information requests; it noted that in 2014, one high roller, who obtained \$645,000 in small bills through a drop off outside a casino, owns a \$14 million house near Point Grey Country Club. It also alleged that loans from an unregistered MSB had been used to fund real estate development and make mortgage payments. Large, short-term loans were also allegedly secured to real property.
966. Recent reporting by Kathy Tomlinson of the *Globe and Mail* has shed light on the extent of the problem in B.C. real estate and the ripple effects felt throughout the economy.
967. The RCMP notes that illegal money entering the world of real estate can be hidden through numerous devices; including property registration, management companies, mortgages, double and triple layers of ownership, and beneficial ownership.
968. Mortgage brokers do not have an obligation to report to FinTRAC, making them more vulnerable to criminal actors. Private lenders and mortgage investment companies also provide opportunities for money laundering.
969. The use of facilitators is critical. The RCMP refers to lawyer trust accounts as vehicles that can be abused due to a lack of transparency in regard to the source of funds. Most mortgage proceeds flow through the trust accounts of notaries and lawyers.
970. The AGBC has indicated an interest in pursuing the issue of criminality in the real estate sector now that the current review of money laundering in casinos is near completion.

LAWYERS

971. Without question, the absence of reporting by lawyers to FinTRAC is a gap in Canada’s AML regime and is a significant impediment to police investigations involving the movement of money through real estate and other financial sectors. Canada is an outlier, as other common law jurisdictions, including the United Kingdom, have robust provisions in place which require financial reporting by lawyers. Although not an answer to the issue, the Law

Society of B.C. is leading the way in terms of self-regulation of lawyers and has extensive policy in place regarding lawyers receiving and recording cash transactions.

972. The irony is that in British Columbia, most residential real estate transactions are handled by notaries, who do report to FinTRAC. It is hard to rationalize why their handling of real estate funds should be treated differently than that of lawyers.

LUXURY ITEMS

973. It is well documented that the criminal lifestyle is often attracted to expensive consumer goods; such as luxury cars and pleasure craft. Due to their high value, these items also provide excellent opportunities to reintroduce illegal cash into the legitimate economy during the integration, or dry cycle of the laundering process. They are not reportable transactions to FinTRAC.
974. Vancouver has been described as the number one super car city in North America. Furthermore, dealers in Greater Vancouver are among the highest volume new and used luxury car dealers in Canada.
975. In essence, an individual can walk into a luxury auto dealership and purchase a high-end vehicle with any amount of cash. The only obstacle will be dealership policies. It falls to the dealer to deposit the cash in a financial institution, or otherwise manage the cash.
976. A large number of curbers, unregulated intermediaries, are believed operating in B.C. and a vigorous awareness campaign is underway to alert British Columbians to the dangers inherent in dealing with curbers. The fact that these are all cash-based activities make them extremely vulnerable to the introduction of dirty money.³¹⁰

MONEY SERVICE BUSINESSES

977. MSBs have become a fixture of the urban Canadian financial system. Their primary purpose is to transmit funds electronically to distant locations. Some cater to particular clientele or ethnicities. All must be registered with FinTRAC. Only in the Province of Quebec are MSBs licensed by the province. Licensing is common in the United States. Development of a licensing regime in B.C. is strongly supported by CFSEU. The belief is that it would assist government in ensuring that the industry and the public are protected from the injection of proceeds of crime into the local economy.
978. The volatility of the MSB industry has been apparent in the U.S. with many financial institutions ending their relationship with MSBs as part of a de-risking process to avoid the AML requirements and other hurdles faced by MSBs.

³¹⁰ This is not to say that there is not regulation of car dealers. In fact, the Vehicle Sales Authority of B.C. was created under the authority of the *Motor Dealer Act*, RSBC 1996, c. 316, to act as a regulator with a mandate for consumer protection. It oversees registered dealers.

979. As we have seen, unregistered MSBs have been a popular conduit for the transmission of proceeds of crime. They tend to be the modern embodiment of underground banking and serve to move money around the world without the need for actual transmission. In place of electronic transfers, they settle accounts by e-mail or other informal means.
980. Illegal MSBs, by their nature, do not submit LCTRs or STRs to FinTRAC.³¹¹ According to the RCMP, "Their intent is to hide the identity of the remitter, evade banking laws and circumvent suspicious currency transaction reporting". I was advised that FSOC "is reactive to both intelligence and other sources of information which pertain to MSB's and their complicity and facilitation of criminal activities, vis a vis, money laundering. Once received, the enforcement response is driven by an intelligence assessment, triage and capacity."³¹²
981. I asked what FinTRAC does when it becomes aware of an unregistered MSB. I was advised that it is a serious offence under the *POCMLTFA* and cases would be reported to the police. In B.C., however, the RCMP has received very few reports of unregistered MSBs. I was advised that the RCMP "is reactive to both intelligence and other sources of information which pertain to MSB's and their complicity and facilitation of criminal activities, vis a vis, money laundering. Once received, the enforcement response is driven by an intelligence assessment, triage and capacity."³¹³

THE REGULATORY RESPONSE

982. FinTRAC acknowledges that it does not regulate certain sectors of the economy which are vulnerable to money laundering. These include motor vehicle dealers, auction houses and boat sellers.
983. Senior management at FinTRAC candidly admits that it relies on banks and other financial institutions performing their normal due diligence, to cover off those entities which are not required to report under the *POCMLTFA*. For example, FinTRAC relies on mainstream financial institutions performing due diligence on financial transactions involving car dealers, which are not required to report to FinTRAC.
984. The view is that every car dealer, auction house and boat dealer will have a bank or credit union account. This increased reliance on mainstream financial institutions is a less than perfect solution. It removes the responsibility on a dealer to ask the necessary questions one would expect when required to know your customer. It may well be that the cash should not be accepted in the first instance. Also, the dealer is in a much better position to obtain accurate information concerning source of funds. The financial institution is one step removed.

³¹¹ It was noted that they may however, be agents.

³¹² RCMP memo, Jan. 30, 2018.

³¹³ *Ibid.*

985. As FinTRAC pointed out that casinos tend to know their customers better than banks do. This is not surprising and emphasizes the importance of reporting at the primary transactional level, which is not currently the case in several sectors of the economy.
986. For many years the metal recycling industry in B.C. was unregulated. Numerous media reports over the course of a number of years described abuses which were occurring in this industry, most revolving around the purchase of stolen property. Voluntary attempts were made by the industry and by law enforcement to remedy this lacuna, however it was not until the Province passed the *Metal Dealers Recycling Act*,³¹⁴ requiring recyclers to record transactions and make those records available upon demand, that the problems diminished. In recent years, law enforcement has observed a dramatic improvement. At the very least, it now has a verifiable record of transactions which it can call upon if required. Similar legislation may fill gaps where FinTRAC reporting does not take place.
987. Although outside the ambit of this Report, a similar approach may also be of use with respect to certain aspects of the soon to be legal marihuana industry. At present it is hard to know from where product originates for the many boutique operations, the funding behind these operations, and the flow of proceeds.
988. Most leads provided by FinTRAC disclosures are sent to police. Unless police have adequate resources to deal with these leads, nothing will occur. In 2012, the RCMP eliminated its national Proceeds of Crime and Commercial Crime Sections, in favour of a new task force orientation to investigations. Although indications are that the RCMP is now rebuilding its financial crime expertise, the gap in federal policing in this important area between 2012 and 2017, displaced responsibility for ‘white collar’ crime to provincial and municipal police, who generally did not have the resources or expertise to take on these complex files.

PROPOSED AMENDMENTS TO THE POCMLTFA

989. On February 7, 2018, the Minister of Finance released a public consultation paper with respect to the POCMLTFA. The consultation document is comprehensive and formed the basis for my third Interim Recommendation (see the next Chapter).³¹⁵

GEOGRAPHIC TARGETING ORDERS

990. The public consultation document has outlined the concept of geographic targeting orders, which would require reporting by entities in a specific geographic area, rather than Canada-wide. This may be of assistance if a sector is only high risk in one or more parts of the country. As Canada’s luxury car capital, a geographic targeting order could require the submission of STRs and LCTRs by motor vehicle dealers in Greater Vancouver, but not in other parts of the country. The problem, however, with these orders may be displacement,

³¹⁴ S.B.C. 2011, c. 22.

³¹⁵ <https://www.fin.gc.ca/activty/consult/amlatfr-rpcfat-eng.asp>

with local buyers travelling to Alberta and beyond to buy a car. A better avenue may be to provide a higher than \$10,000 reporting threshold for these industries.

INFORMATION EXCHANGE

991. As indicated above, law enforcement officials do not work within FinTRAC, due to privacy concerns. Any opportunity to broaden the use of the intelligence housed within FinTRAC would be a benefit. Unless that intelligence is used by law enforcement and other agencies, FinTRAC is simply a collector of information.

RECOMMENDATIONS - VULNERABLE SECTORS

- R45 That the Province undertake research into allegations of organized crime penetration of the real estate industry.
- R46 That the Province consider a licencing and recording regime for MSBs, similar to the *Metal Dealers Recycling Act*.
- R47 That the Province consider researching the vulnerability of the luxury car sector and the horse racing sector to organized crime.
- R48 That the Province continue to encourage the federal government to amend the *POCMLTFA* to broaden the entities subject to reporting, specifically luxury goods of interest to organized crime.

PART 10

THE PRESENT

CHAPTER 35

RECENT DEVELOPMENTS

INTRODUCTION

992. As indicated elsewhere in this Report, events continued to unfold on a number of fronts during the currency of this Review.
993. Two major RCMP investigations continued to draw media interest.
994. Strong investigative journalism and freedom of information disclosures fuelled a stream of media reports concerning the Lower Mainland casinos.
995. Lastly, the Interim Recommendations made during this Review contributed to the changing landscape.
996. Below I comment on each of these events.

RCMP INVESTIGATIONS

997. As already mentioned, I did not attempt to obtain details of the ongoing RCMP investigations, as my Review was designed to be strategic; examining structures and processes. I have however welcomed any information which informs that goal and can be made public in this Report. The RCMP was able to provide me with a briefing note and a briefing which satisfied those requirements.

MEDIA

998. Investigative journalists have done a very good job of highlighting concerns with Lower Mainland casinos. In some ways my work paralleled their investigations, and I applaud the efforts of journalists to uncover the facts. Many of the articles were developed, in part, from material released by the Province pursuant to FOI requests. Other media articles related to unfolding events.
999. It is difficult to conduct a Review such as this when contemporaneous events are occurring which of necessity must also be considered. I have done my best, conscious that my mandate relates specifically to money laundering. I had the benefit of unfiltered discussions with all the principals within the gaming sector and, in this way, I attempted to place the various media stories in a broader context and arrive at actionable recommendations on how the Province can do better in the future.
1000. I do add the caution however, that this Review was not an investigation and there will likely be additional media revelations in the future respecting Lower Mainland casinos. Continued

journalistic oversight is a good thing. The important issue is that there be structures and processes in place to deal with future developments. That is what these Recommendations seek to accomplish.

FIRST INTERIM RECOMMENDATIONS

1001. On November 29, 2017, I made two Interim Recommendations to the Attorney General, intended to deal with immediate issues in the casinos, with the intent of preventing casinos from being used by persons intent on laundering the proceeds of crime. The urgency of the situation was such that it was important to make these Interim Recommendations as an interim or stop gap measure prior to the delivery of this final Report. The two Interim Recommendations and my rationale were as follows:

“First, I recommend that Gaming Service Providers (GSPs) complete a source of funds declaration for cash deposits and bearer monetary instruments which exceed the FinTRAC threshold for Large Cash Transactions of \$10,000. At a minimum, the declaration must outline a customer’s identification and provide the source of their funds, including the financial institution and account from which the cash or financial instrument was sourced. In the case of new customers, after two transactions, cash should only be accepted from the customer if the veracity of the previous answers has been confirmed and is not considered suspicious.

Second, it is important that the regulator be seen on site and available to the GSPs. As a result, I recommend that a GPEB investigator be on shift and available to the high volume casino operators in the Lower Mainland, on a 24/7 basis. The presence of the regulator will allow for the increased vigilance required in casinos. In particular, it will assist with source of fund issues, third party cash drops, and general support for GSPs and BCLC.”

1002. The AGBC accepted both Recommendations.³¹⁶ He added that the necessary hiring would occur to deal with the second Recommendation.

1003. With respect to the first Interim Recommendation, it was apparent to me that the GSPs had been completing a checklist of sorts for the source of funds, which merely recorded what patrons told them, with little attempt to verify details. This was symptomatic of the fact that authority for the completion of STRs rested with BCLC, and the service providers saw their role to be suppliers of information. It is most important that GSPs become more engaged and that patrons be asked to provide real and verifiable details.

³¹⁶ When publicly announced, the wording of the first Interim Recommendation was altered slightly to read “bearer bonds” in place of “bearer monetary instruments”. This was apparently an attempt to avoid legalistic language, although it should be noted that the intent of the Recommendation was to include all bearer instruments including, for example, bank drafts. Despite the change of wording, it is clear that this was also the AGBC’s intent when he referenced bank drafts in the press conference that accompanied the public notification of the Interim Recommendations.

1004. Without question, being asked some probing questions or to produce documentation, may scare some customers away, but that is the price of doing business. I am confident from my interviews that gamblers love to gamble, and that the gaming industry is resilient. The benefit of an effective Source of Funds Declaration should outweigh any negative effects, by placing greater scrutiny on the activities of high risk patrons. It will also go a long way to restoring public confidence in the gaming industry.
1005. With respect to the second Interim Recommendation, it came as a surprise and something of a shock to learn that neither BCLC nor GPEB investigators worked in the evenings or overnight, when the business at casinos is at its busiest. If a cage teller encountered a loan shark or money launderer, who other than their supervisor could they call? In actuality, there was nobody.
1006. For that reason, it was important for the GSPs, and for public safety and confidence in the gaming industry, to ensure that there is a 24/7/365 regulatory presence in the casinos. Determining whether that meant having one or more GPEB investigators on site, or at a regional office, was best left for GPEB itself. Similarly, it was left to GPEB to determine what duties the investigators would perform. Presumably they would continue with the work that they normally perform during daytime hours.
1007. It was also left to both entities to implement the Recommendations as soon as practicable.

REACTION TO FIRST INTERIM RECOMMENDATIONS

1008. Both BCLC and GPEB reached out to me for further clarification on the Interim Recommendations. For example, BCLC asked whether ‘churned cash’ would be the subject of a new Source of Funds Declaration and GPEB asked what a ‘presence’ meant in the second Recommendation. I demurred for two reasons, the AGBC was the decision maker and I did not wish to be overly prescriptive.
1009. BCLC proceeded quickly to develop and consult with GPEB on a new Source of Funds Declaration. I am advised that it was implemented shortly after the Recommendation was accepted. Furthermore, GPEB now “has an increased presence at Lower Mainland casinos and is in the process of hiring additional investigators to fully provide a 24/7 presence”.
1010. I have gauged both the reaction to these Interim Recommendations and their impact, to determine whether they achieved the intended effect. Preliminary indications are that there has been a huge drop in suspicious transactions.
1011. Within the casino industry, the reaction and response to the Interim Recommendations has been supportive, although feedback from the industry indicates that the Source of Funds Declaration, as drafted, is more onerous than necessary.
1012. In a comment to the media, the Chief Operating Officer of GCGC stated that “The declaration of source of funds for high-value players is something virtually all our guests

who play at these levels are familiar with completing, and we do not believe this will impact the guest experience.” This is encouraging as the new Declaration is considerably more robust than what had previously been in place and is also in line with the earlier MNP Recommendation.

THIRD INTERIM RECOMMENDATION

¹⁰¹³. On March 19, 2018, I made an additional Interim Recommendation to the Attorney General, with respect to the consultation process which had recently been announced by the federal Ministry of Finance. The Interim Recommendation read:

“I recommend that the Province of British Columbia make representations to the House of Commons Standing Committee on Finance with respect to a public consultation underway regarding amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.”

¹⁰¹⁴. On March 29, 2018, the AGBC presented to the House of Commons Standing Committee on Finance, which was considering this issue.

CHAPTER 36

IMPLEMENTATION

INTRODUCTION

1015. This Review represents only one phase, the shortest and least demanding phase, of the change process in B.C. casinos. I have identified areas for improvement and make Recommendations which serve as a foundation for future progress.
1016. While the announcement of this Review was itself a watershed moment for the casino industry in the Lower Mainland, the greatest challenge for government will be implementation. For this Review to be truly meaningful, effective implementation is essential. It is for this reason that I have prepared this last set of Recommendations, arguably the most important if there is going to be effective change.
1017. I do not suggest that every Recommendation in this Report must be implemented in precisely the manner that I have suggested. As noted throughout this Report, there are many areas where the specialized expertise of those involved in government and in the casino industry must be brought to bear in order to determine how best to address a particular issue. The same is true at the implementation stage. As explained below, part of the process of implementation involves bringing a multi-disciplinary perspective to the issues, to evaluate how each Recommendation can best be implemented.
1018. It has been ably stated by a number of interviewees that it is important that any recommendations be implemented with the health of the gaming industry uppermost in mind. I agree, although I would place the health of the industry directly below public safety. I believe that both objectives can be achieved with these Recommendations and that an unanticipated consequence will be to further grow the industry.

REQUIREMENTS FOR IMPLEMENTATION

1. Stakeholder Input

1019. I spoke at length to the founding head of the B.C. Gaming Industry Association, currently its Executive Director. Among the members of the BCGIA are the three GSPs in B.C. The Executive Director noted that these are “profoundly troubling times for everyone involved” in the industry, noting that good must come out of it.
1020. The industry views the release of this Report as a key pivot in moving the industry forward. The GSPs wish to play an appropriate role in implementation, including how it should occur and to assist with training.

2. Leadership

1021. I consulted with a nationally recognized project management firm which emphasized the importance of recognizing that once government decides which of the Recommendations it will adopt from this Review, implementation of those Recommendations must incorporate principles of effective project management. There must be a comprehensive action plan with deliverables by defined dates. The importance of project management cannot be over-emphasized. For a period of time, it will have the effect of a new line of business.
1022. There must be a cadence to the change process and effective internal communications and updates within the affected entities, plus external communications with the public. In other words, the new imperative for government and industry is to effectively respond to those Recommendations which are accepted, as they would to any significant change. Messaging must also be coordinated.

3. Collaborative Relationships

1023. Further to the imperative of project management is the need for all parties to the current gaming relationship, BCLC, GPEB and the GSPs, to recognize that they have a collective responsibility to respond to the current crisis of confidence in gaming.

4. Ongoing Review

1024. As with any change process, there must be performance targets and a constant assessment of progress.

ADDENDUM

1025. A draft of this Report was delivered to the AGBC on April 3, 2018. Copies were later provided to BCLC, GPEB and CFSEU for their review. Comments were provided by all three entities, for which I am appreciative. I was provided with the unfettered ability to determine which comments and, or corrections to integrate into this Report. I have done so, and this final report reflects those revisions.

APPENDICES

APPENDIX A

SELECTED LIST OF INTERVIEWEES

In addition to the people listed below, we met with some individuals who, for reasons specific to them, I have not identified below. During site visits, we had occasion to speak with many more individuals, however those contacts were incidental to the purpose of our visit. I apologize in advance to any who, by error, were omitted from the following list.

The position titles of the individuals listed below reflect their positions at the time of our interview or meeting.

ACL	Barbacki, Christine	Public Sector Account Executive
AGBC	Dann, Katherine	Legal Counsel
	Dorrian, Brian	Legal Counsel
AGCO	Major, Jean	Chief Executive Officer
	Bertucca, Fred	Deputy Chief Operating Officer
	Ramm, Derek	Director of AML
	Slater, Craig	General Counsel & Director Legal Services
Ascendent FX	Beck, Bernard	Executive VP & Chair of Compliance
BCGEU	Macdonald, Dave	Vice-President Component 17
	Mistry, Jitesh	General Counsel
	Yachnin, Thom	Director
BCGIA	Goudron, Peter M.	Executive Director
BCLC	Smith, Bud	Chair, Board of Directors
	Lightbody, Jim	President & Chief Executive Officer
	Alderson, Ross	Director, AML & Investigations
	Bamra, Bal	Manager, AML Intelligence
	Blank, Howard	Former VP Communications
	Davis, Pat	VP Business Technology & Project Mgmt.
	Desmarais, Brad	VP Casino & Community Gaming
	Hardy, Kevin	Manager
	Hiller, Mike	Investigator
	Jang, Darren	Senior Manager, Product Management
	Karlovec, John	Interim Director, AML & Investigations
	Kroeker, Rob	Chief Compliance Officer & VP Legal, Compliance, Security
	Panaittar, Rany	Project Manager

	Robinson, Laird Rudnicki, Brad Tottenham, Daryl E. White, Bill	Manager, Corporate Security & Compliance AML BI Analyst Manager, AML Programs Director, Project. Management Office
Canadian Gaming As.	Paul Burns	President & Chief Executive Officer
FICOM	Carter, Chris Greenwood, Philip Heaman, Dan McTavish, Michael West, Gerard	Deputy Superintendent of Supervision Manager, Market Conduct Managing Director A/Executive Director, Market Conduct Manager, Investigations Mortgage Brokers
FinTRAC	MacKillop, Barry Dugger, Murray Judge, Robby Lalonde, Marc Lambert, Daniel Leong, Samantha Matharu, Jaspal	Interim Director Regional Director Regional Compliance Manager Senior Compliance Officer Assistant Director, Intelligence Analyst Manager, Regional Support Unit
Gateway	Santo, Anthony McNally, Terry Nijjar, Jagtar Sears, Randy Strukoff, Tolek M.	President & Chief Executive Officer Chief Compliance & Risk Officer Chief Administration Officer Senior VP & Managing Director / VP, Marketing, BC Casinos Chief Legal Officer & Corporate Security
GCGC	Baker, Rod N. Doyle, Terrance Ennis, Patrick Gillespie, Shauna Ramiro, Ileene Thomas, Adrian Wong, Krissy	President & Chief Executive Officer Chief Operating Officer Executive Director, Corporate Security & Compliance Manager Compliance Manager Former President Manager AML Compliance
GPEB	Mazure, John Ackles, Ken Akin, Richard Barber, Rob Bruce, Kim Dickson, Derek Fitzgerald, Anna Giesbrecht, Al Henderson, Jeff	ADM / GM Manager Investigations (JIGIT) Manager Intelligence Unit & LM Investigs. Former Investigator Ex. Dir. Licensing Registration, Certification Former Director Investigations Executive Director Compliance Manager Financial Integrity Senior Policy Analyst

	Horricks, David Jaggi-Smith, Michele Jomha, Robin MacGregor, Scott Mayer, Doug Meilleur, Len Samson, Heather Schalk, Joe Scott, Douglas S. Skrine, Cory Stewart, Robert Storms, Tim Sturko, Derek Vander Graaf, Larry P.	Ex. Dir., Community Supports Development Ex. Dir., Strategic Policy and Projects Director / Deputy Registrar LRC Intelligence Analyst Manager Audit, Compliance Executive Director Compliance Investigator Former Director Former GM / ADM Regional Director Manager Intelligence Manager Audit Compliance Former GM / ADM Former Executive Director
Law Society of BC	Kresivo, Miriam, QC Avison, Don	President Chief Executive Officer
Macquarrie Univ.	Langdale, John	Professor
MV Sales Authority	Chambers, Jay Christman, Ian	President Registrar of Motor Dealers & Privacy Officer
Nevada GCB	Grozenski, Robert M. Taylor, James Cook, Clark E. Presson, Diane	Deputy Chief, Investigations Deputy Chief, Enforcement Senior Agent, Investigations Division Supervisor, Agency Liaison
NWPD	Janzen, Dave	Deputy Chief Constable
OLG	Rigby, Stephen Petrocco, Michael J. Sullivan, Lori K.	Chief Executive Officer VP Corporate Compliance Senior VP, General Counsel & Corporate Secretary
OPP	Price, William Custode, John V.	Bureau Commander (Chief Superintendent) Gaming Specialist (Sergeant)
Paragon	Menke, Scott Amerine, Dennis Brunini, Joe McCormack, Devin	Chief Executive Officer Chair, Audit, Compliance & Resp. Gaming President, Parq Security Director
PS&SG	Pecknold, Clayton Tawtel, Phil Sims, Brian A.	ADM Executive Director, Civil Forfeiture Director, Civil Forfeiture Office

RCMP	Gresham, Asst. Commr.	Criminal Operations Officer
	Jim	
	Baxter, Barry	Retired Inspector
	Chrustie, Cal	Retired Superintendent
	Clement, Garry	Retired Superintendent
	Dadwal, Inspector Paul	Investigative Services Officer, JIGIT
	Finn, Chief Super. Keith	Deputy Criminal Operations Federal, "E"
	Hackett, Asst. Commr.	Officer, CFSEU – BC
	Kevin	
	Ward, Inspector Bruce	Officer in Charge Financial Integrity Group 1
Real Estate Council	Holmes, Robert D.	Chair
	Coleman, Maureen	Manager, Professional Standards
	Thiele, Geoff	Director, Legal Services
Supt. of Real Estate	Noseworthy, Michael	Superintendent
TD Canada	McConnell, Pierre	Investigator
	Weaver, Dan	Investigator
Univ. of Victoria	Ferguson, Gerry	Distinguished Professor of Law
Univ. N Las Vegas	Wilsenach, Andre	Executive Director, ICGR
Vancouver PD	Rankin, Laurence	Deputy Chief Constable
	Porteous, Mike	Superintendent
Westgate Casino	Hodge, Brian	Director of Compliance
	Pearse, Michael	VP Finance
Wynn Casino	Whelan, Larry	Compliance Officer
York University	Beare, Margaret	Professor
Others	Blanchflower, Michael	Barrister
	Bourgeois, Donald J.	Lawyer
	Coleman, Hon. Rich	MLA
	Guo, Hong	Lawyer
	LePard, Chief Off. Doug	Transit Police
	McPhail, Ian, Q.C.	Lawyer & ex-Chair, AGCO

APPENDIX B

RESPONSIBLE DEPARTMENTS AND MINISTERS

1985 -	Ministry of Government Services -	Elwood N. Veitch
1986 -	Ministry of Government Services -	Elwood N. Veitch
1987 -	Ministry of the Provincial Secretary -	Bill Reid
1988 -	Ministry of the Provincial Secretary -	Howard Dirks
1989 -	Ministry of the Provincial Secretary -	Howard Dirks
1990 -	Ministry of the Provincial Secretary -	Howard Dirks
1991 -	Ministry of the Provincial Secretary -	Elwood N. Veitch
1992 -	Ministry of Government Services -	Lois Boone
1993 -	Ministry of Government Services -	Lois Boone
1994 -	Ministry of Government Services -	Robin Blencoe
1995 -	Ministry of Government Services -	Ujjal Dosanjh
1996 -	Ministry of Finance and Corp. Relations -	Andrew Petter
1997 -	Ministry of Employment and Investment -	Dan Miller
1998 -	Ministry of Employment and Investment -	Mike Farnworth
1999 -	Ministry of Labour -	Joan Smallwood
2000 -	Ministry of Labour -	Joy MacPhail

BOTH GPEB AND BCLC:

2001 -	Minister of Public Safety and Sol. Gen. -	Rich Coleman
2002 -	Minister of Public Safety and Sol. Gen. -	Rich Coleman
2003 -	Minister of Public Safety and Sol. Gen. -	Rich Coleman
2004 -	Minister of Public Safety and Sol. Gen. -	Rich Coleman

2005 -	Minister of Public Safety and Sol. Gen. -	Rich Coleman
2006 -	Minister of Public Safety and Sol. Gen. -	John Les
2007 -	Minister of Public Safety and Sol. Gen. -	John Les
2008 -	Minister of Public Safety and Sol. Gen. -	John van Dongen
2009 -	Ministry of Housing and Social Dev't. -	Rich Coleman
2011 -	Ministry of Public Safety and Sol. Gen. -	Shirley Bond
2012-	Minister of Energy and Mines & Minister Responsible for Housing -	Rich Coleman
2013 -	Minister of Energy and Mines & Minister Responsible for Housing -	Rich Coleman
2013 -	Minister of Finance -	Michael de Jong
2017-	Attorney General -	David Eby

APPENDIX C

SAS INFORMATION NOTICE

INFORMATION NOTE British Columbia Lottery Corporation Date: February 15, 2018	Statistical Analysis System (SAS) Software Update
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Key Facts:

SAS is an integrated software suite developed by SAS Institute (www.sas.com) that can mine, alter, manage and retrieve data from a variety of sources and perform statistical analysis for multitude of business purposes. BCLC uses SAS for two primary components:

- SAS business intelligence functions
- SAS anti-money laundering (AML) functions

BCLC used the desktop version of SAS in a limited fashion for business intelligence functions prior to 2016.

In February 2014, FINTRAC introduced regulations requiring the ongoing enhanced monitoring of customers. This resulted in a significant number of customers, in the thousands, who BCLC would need to monitor on an ongoing basis.

Given BCLC's awareness of the SAS analytics capabilities and given that SAS is a provider of AML software for three major banks, the decision was made to expand SAS to an enterprise analytics tool, with its own servers. As part of that work, BCLC chose to include SAS AML capabilities to enhance BCLC's existing AML program. BCLC recognized this was innovative work in the casino sector and that no other casino operator was using SAS to enhance its AML functions, but prioritized the development of our AML capability.

BCLC's executive approved the business case for SAS on May 9, 2014 and it initiated the project that same month. The budget (capital and operating) was \$7.4 million. BCLC implemented the project slightly under budget at \$7.3 million.

Approximately \$3 million of the total cost was for overall software licensing costs and hardware (server) costs. Most of the remaining budget was for labour and services related to the AML portion of the project.

Since 2016, BCLC has used SAS business intelligence functions for all lines of its business to support greater customer understanding through comprehensive data analysis and increased product performance and management. SAS functions enhance BCLC's ability to interpret transactional data from a variety of our systems. The SAS business intelligence functions enable BCLC to create data-driven insights to support decision-making. SAS business intelligence functions ultimately help BCLC in the effort to deliver more relevant and valuable content/games to customers. For example, BCLC has used SAS to determine appropriate groupings of customers to award free-play bonuses to maximize marketing effectiveness. It has also used the software to determine the appropriate placement of slots on the casino floor in order to optimize slot performance, and to predict the likelihood of slot machine parts that are about reach end of life.

The SAS AML is a module within the SAS technology platform designed for the banking sector and intended to support risk-based approaches to monitoring transactions for illicit activity in accordance with AML and anti-terrorist financing regulations. It uses a combination of behavioral and peer-based analytics techniques that can enhance detection of suspect transactions. BCLC was the first in the gambling industry to engage SAS for AML services.

As part of its AML suite of software systems, BCLC also uses a system called iTrak to automate several AML reporting and analytics functions. iTrak is an incident-management system which acts as the main repository for all incidents and transactions collected for a player. BCLC manages all FINTRAC reporting through this software solution. BCLC uses five other solutions for various analytics, as well as four open source external databases to build profiles and assess the risk associated with certain players.

Given the sensitivities related to this work, BCLC utilizes analytics technology to expedite reviews; however, ultimate judgments and assessments of players and transactions always require human intervention. BCLC's systems processes and procedures meet all federal regulatory prevention, monitoring and reporting requirements pertaining to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act as evidenced by recent independent reviews of BCLC's AML program by

FINTRAC and EY

BCLC's intent in acquiring SAS AML was to continue the evolution of BCLC's AML program by consolidating some aspects of BCLC's AML program into a single technology and increasing its analytical capacity. The intent was to leverage SAS AML into a case management, monitoring and incident reporting system. SAS represented to BCLC that it could deliver on these requirements.

It was later determined that, due to the differences in the AML requirements between the banking and gambling sectors, SAS would need to undertake increased effort and customization in order to meet the requirements. In particular, while the banking sector must submit Large Cash Transactions (LCTs) and Suspicious Transaction Reports (STRs), they do not submit Cash Disbursement Reports (CDRs), which the casino sector is required to do. BCLC worked with SAS to concentrate on the delivery of the foundational capabilities of the SAS AML system and deferred some of the more advanced capabilities in order to remain within the allocated budget. During the same period, manufacturers of BCLC's existing systems (i.e. iTrak) began offering some of the same advanced capabilities, offering upgrades that were easier to achieve and more cost effective.

Since September 2017, BCLC has used some functions of SAS AML, specifically monitoring and alerting functions. SAS AML delivered nine automated alerts, two of which BCLC currently uses. The others are not currently in use for various functionality reasons and because more recent changes to AML controls made some alerts no longer useful (e.g. requiring source documents for all buy-ins). SAS remains a powerful analytics tool and BCLC will proceed with leveraging the analytics capabilities of the software to further its AML program.

Next Steps:

Moving forward, BCLC has prioritized four other SAS AML capabilities over the next 18-24 months to support additional business intelligence initiatives specific to AML functions:

1. Data management (the ability to merge multiple data sources);
 2. Monitoring and alerting (the ability to set up alerts when specific scenarios are found in data);
 3. Correlational analysis (the ability to detect relationship between multiple variables); and
 4. Forecasting (analysis historical performance and automating projections).
1. Data Management: SAS enables the amalgamation of disparate sources of data that will enable comprehensive reporting on multiple items such as: win/loss reports; Patron Gaming Fund (PGF) buy-ins, deposits and withdrawals; Large Cash Transaction (LCT) reports; and Casino Disbursement Reports (CDR). By August of 2018, BCLC will implement win/loss reporting that will provide information related to bet amount and net effect. This will help build a piece of a player's profile, which enables BCLC to create benchmarks and identify anomalies related to managing AML risks. Through data management, BCLC will also develop automated reports to summarize results for key internal groups including the AML Unit, Investigators, Compliance and Executive.

2. Monitoring and Alerting: The SAS platform allows BCLC to develop complex processes to monitor data scenarios and monitor transactional data for specific patterns or anomaly detection. If SAS detects anomalies or certain thresholds exceed the parameters, it sends alerts to staff. Some SAS alerts are already in use by BCLC, and it continues to develop new alerts. Monitoring and alerting allows for increased efficiencies in identifying higher risks incidents for AML analysts and investigators.

For example:

- a) If a player comes into a casino and reaches a threshold that is different from the rest of the population, it will create an automated alert to review transactional activity;
 - b) If a player accumulates two or more Suspicious Transaction Reports (STR), it will alert BCLC to potentially higher-risk individuals;
 - c) If there are errors in Cash Disbursement Reports, the alerts will assist in detecting them;
 - d) If any players are visiting multiple sites and buying in over a three-day period (already in place), it will alert BCLC; and
 - e) Identifying and monitoring the top 100 players by risk categories and alerting BCLC to changes in betting behaviours.
3. Correlational Analysis: SAS will provide BCLC the ability to automate some aspects of the analysis of the relationship between cash disbursements, large-cash transactions, other player transactions and potential economic trends for risk modeling and monitoring. BCLC will have operational models in place for December 2018. These operational models will help enhance benchmarks and refine anomaly detection to improve AML risk management. For example, models will assist BCLC to analyze transactional behaviour in PGF accounts from PGF buy-ins/deposits/withdrawals and correlate with historical STR activity to identify high-risk PGF accounts.
 4. Forecasting: BCLC will leverage SAS's forecasting capabilities to create "what if" scenarios for new policy implementation to measure the effect on predetermined key performance indicators over time. For example, if FINTRAC changes the reporting threshold limits, what would be the impact on revenue? SAS can forecast on multiple levels including player, segment and business. The development of forecasting scenarios is currently underway and will be tested throughout the next fiscal year and implemented for March 2019. Forecasting with SAS will provide BCLC with the ability to quantify the impact of potential changes related to AML

BCLC's intelligence and business analysts will continue to work with the SAS platform to develop dashboards and other reports to support business and AML functions. There is no additional capital or other project costs required to build out these SAS functions.

BCLC response Points:

- ☐ **BCLC prioritized the development of its AML capability and we are committed to continuous improvement.**
- ☐ **BCLC reached out to the banking sector for best practices and found a software vendor, SAS, which three of the top five banks use in their AML suite of software services.**

- **BCLC was already using business intelligence functions of SAS in early 2016 as part of its overall business-intelligence toolkit. SAS supports greater customer understanding and communication, and increased product performance and management across all lines of our business.**
- **BCLC continues to adapt SAS to best support the various components of our business, and this is an ongoing process and priority.**
- **In 2017, BCLC began using SAS's AML functions to monitor and automate alerts regarding key anomalies to support our anti-money laundering program. The software has a number of other capabilities that BCLC will prioritize in the next 18-24 months.**
- **SAS is one of several technological solutions and processes that support our AML program. BCLC was the first application of this tool for AML outside of the banking sector, and the conversion to the casino sector proved more complex than originally anticipated by SAS.**
- **BCLC will continue to build out SAS analytics capabilities that will help enhance and evolve our AML analytics and support our AML program.**
- **BCLC's executive approved the business case for SAS in 2014. The budget (capital and operating) was \$7.4 million. BCLC implemented the project slightly under budget at \$7.3 million.**
- **There are no additional capital or other project costs required to build out additional SAS AML capabilities.**

	Name	Number
Program Area Contact:	Laura Piva-Babcock	T: 250-828-5576

APPENDIX D

SAS MEMO TO P. GERMAN



TO: Peter German
FROM: Chris Haskell - SAS Canada, General Counsel (Canada and Latin America)
DATE: March 8, 2018
SUBJECT: SAS and BCLC – AML Compliance and Analytics Enhancement Project

In connection with your BC Casino Money Laundering Review, this Memo provides comment on SAS' role in BCLC's anti-money laundering software project.

Given timing restrictions, interviews have been conducted with a limited number of project personnel and a subset of project documents have been reviewed. As such, the comments below are provided to the best of my knowledge and without prejudice.

BACKGROUND

Software Agreement

SAS Institute (Canada) Inc. ("SAS") and British Columbia Lottery Corporation / B.C. LOTTOTECH INTERNATIONAL INC. ("BCLC") entered into a software license agreement in March of 2014, by which BCLC acquired a license to various SAS software products, including *SAS High Performance Anti-Money Laundering* ("SAS AML"). The fee was \$2,993,355 for a five (5) year term license.

Services Agreement

SAS and BCLC also entered into a services agreement in March of 2014, in the form of a Statement of Work ("SOW") for the *AML Compliance and Analytics Enhancement Project* (the "Project"). The SOW addressed the installation and configuration of the software in a development environment. It included mentoring and related services intended to enable BCLC personnel to deploy the software in three (3) additional operating environments, including the production environment. BCLC was to lead the Project. SAS was to act in a supporting role.

SAS services were provided on a time and materials basis. The work effort was estimated at \$1,285,200. That estimate was based on standard SAS AML product functionality, standard data integrations and many other express assumptions. The SOW contemplated that collaboration would be necessary and that fee adjustment may be required.

Procurement Process

It appears that there was no competitive procurement process specific to the Project. Instead, procurement of SAS AML was conducted in a sole-source manner.

There was some link to *Request for Proposal Competition Number 1112-120306LW*, which was issued by BCLC in 2012 for statistical and predictive analysis software capable of using historic data to predict and forecast patterns and trends. The lack of a formal procurement process for the Project makes it challenging to definitively determine BCLC's preliminary wants and needs, though there may be some clarification in other pre-transaction documents that have not yet been reviewed.

THE PROJECT

Novel Industry

SAS AML was previously installed and producing viable results at many financial institutions, but the software was not proven in the casino industry. This presented risk from a technical, budget and timing perspective.

Project Challenges

Many challenges arose during the Project; including the following:

- Misalignment on the degree to which SAS AML could integrate with the existing iTrack system
- Data quality issues
- Underestimation of the customization effort required to develop FINTRAC reports, especially casino disbursement reports (CDR)
- Poor scope management, especially relating to system requirements and design changes
- Resourcing challenges
- Questionable testing methodology and processes that may not have adequately included system end users

Responsibility for these challenges has not yet been reviewed and assessed.

Scope Changes

Project changes were numerous. One additional Statement of Work and approximately twenty (20) written Change Requests were executed by the parties. These formal Project changes resulted in combined additional fees of about \$600,000, bringing the total SAS services estimate to approximately \$1,900,000.

Some changes were made without following a formal process but may have been documented in other Project correspondence or artifacts which have not yet been reviewed. Significant additional work was completed by SAS at no charge.

As the Project evolved, the following important items were mutually agreed to be out of scope:

- Certain scenario types (for example, the 24 hour scenario)
- Data quality improvement (profiling, remediation and standardization)
- FINTAC reporting

Specific reasons for removing these items from scope is unclear, though technical complexity, timing, budget and overall project fatigue presumably played a large role.

The data quality issues impacted the reliability of the cases and alerts generated by the SAS AML software. The lack of comprehensive scenarios and the lack of automated reporting presumably influenced end-user adoption and approval.

Project Sign-Off

In late 2016 and early 2017 the reduced scope SAS AML software moved into final testing. It was accepted by BCLC and the Project was closed.

POST PROJECT SIGN-OFF

Until the recent publication of an article in the Vancouver Sun, SAS personnel believed SAS AML was meeting BCLC immediate needs. The batch jobs have been running and producing alerts with no known issues. FINTRAC reporting was thought to be under consideration for a later date. Various SAS representatives contacted BCLC for status checks in 2017, with either no response or no indication of issues. Nevertheless, it appears that end user adoption and approval has been unacceptably poor.

SAS has since contacted and met with BCLC personnel in an effort to understand current concerns and to explore options for improvement. That work is on-going.

APPENDIX E

PATRON GAMING



PATRON GAMING FUNDS (PGF)

DEPOSIT (Tables): *Bank Draft / Certified Cheque / Verified Win Cheque*

1. When a bank draft or certified cheque is received for deposit to PGF, Cage Supervisor and Tables Manager will verify the authenticity of the bank draft or certified cheque and completes a "Bank Draft Verification Checklist".
 - ☐ If a verified win cheque from another casino within Canada is received, Cage Supervisor will call the casino location where cheque was originally issued to confirm the name of guest, amount, cheque number and cheque date issued.
 - ☐ If a Verified Win Chq is presented from the same site, the cage shift manager will confirm thru the internal Chq log/list.
2. Guest will be asked for identification and surveillance will verify guest identity.
3. Cage Supervisor will inform surveillance of the amount for deposit and the amount withdrawn for play. Also, surveillance will be informed of the location of gaming table where guest will receive chips.
4. Declaration of Funds form, Source of Funds Form and VVIP Cash Transfer Form will be completed by Cage Supervisor.
5. On GMS (Gaming Management System), the Cage Supervisor will instruct the cashier to process CPV (Chip Purchasing Voucher) for the buy in at the table. Amount of funds for gaming will be received on the table where the guest will receive the chips for gaming.
6. Upon completion of all forms/slips, it will then be taken to the assigned table and guest will sign the necessary forms. CPV slips shall be confirmed by the table supervisor along with the chips to be issued to the guest. A copy of CPV slip will be dropped at the table box and the rest of the paperwork will be returned to the cage for filling.
7. A copy of the VVIP cash transfer (white copy) will be issued to the guests as receipt.
8. On GMS, the Cashier will process PGF Deposit and Withdrawal transactions to balance their cash desk.
9. Cage Supervisor will enter Deposit and Withdrawal transaction on TAS (GCGC Internal Trust Accounting System) a balancing system that keeps all PGF accounts information for accounting management.
10. PGF-LCT (Large Cash Transaction) form will be completed by the Cage Supervisor. LCT data will also be reported and scanned into iTrak-Fintrac.

WITHDRAWAL (Tables): CPV (Chip Purchasing Voucher)

1. Upon guest's arrival, GS (guest service) will be informed that a PGF Withdrawal is requested by the guest.
2. GS will acquire the guest identification and will fill up a VVIP Guest Inquiry Request Form which included the guest's name, Encore/VVIP number, PGF number and table number for gaming.

3. Cage supervisor will verify the guest account through the guest PGF file folder and TAS (Trust Account System).
4. Cage Supervisor will inform surveillance of the amount of withdrawal and location of gaming table where guest will receive chips.
5. VVIP Cash Transfer Form and LCT form will be completed by Cage Supervisor.
6. On GMS, the Cage Supervisor will instruct the cashier to process CPV transactions for the buy in at the table. Amount of funds for gaming will be received on the table where the guest will receive the chips for gaming.
7. Upon completion of all forms/slips, it will then be taken to the assigned table and Patron will sign the necessary forms. CPV slips shall be confirmed by the table supervisor along with the chips to be issued to the guest. A copy of CPV slip will be dropped at the table box and the rest of the paperwork will be returned to the cage for filling.
8. A copy of the VVIP cash transfer (white copy) will be issued to the guests as receipt.
9. PGF-LCT (Large Cash Transaction) form will be completed by the Cage Supervisor. LCT data will also be reported and scanned into iTrak-Fintrac.

DEPOSIT (Slots): Slot Jackpot / Bank Draft / Certified Cheque / Verified Win Cheque

1. When a bank draft or certified cheque is received for deposit to PGF, Cage Supervisor and Slots Manager will verify the authenticity of the bank draft or certified cheque and completes a "Bank Draft Verification Checklist".
 - ☐ If a Verified Win Slot Jackpot is requested to be deposited into PGF, Slots supervisor will verify the winning and inform cage supervisor.
 - ☐ If a verified win cheque from another casino within Canada is received, Cage Supervisor will call the casino location where cheque was originally issued to confirm the name of guest, amount, cheque number and cheque date issued.
 - ☐ If a Verified Win Chq is presented from the same site, the cage shift manager will confirm thru the internal Chq log/list.
2. Guest will be asked for identification and surveillance will verify guest identity.
3. Cage Supervisor will inform surveillance of the amount and type of deposit. (Slot jackpot, Bank Draft, certified cheque)
4. Declaration of Funds form, Source of Funds Form and VVIP Cash Transfer Form will be completed by Cage Supervisor.
5. Upon completion of all forms/slips, Slot supervisor/Slot attendant will take it to the guest for signatures.
6. A copy of the VVIP cash transfer (white copy) will be issued to the guests as receipt.
7. On GMS, the Cashier will process PGF Deposit transaction to balance their cash desk.
8. Cage Supervisor will enter Deposit transaction on TAS (GCGC Internal Trust Accounting System) a balancing system that keeps all PGF accounts information for accounting management.
9. A photocopy of the slot request form and slots jackpot slip will be attached to the LCT and the included in the PGF file folder as a supporting document.

10. PGF-LCT (Large Cash Transaction) form will be completed by the Cage Supervisor. LCT data will also be reported and scanned into iTrak-Fintrac

WITHDRAWAL (Slots): TITO Tickets (Ticket In Ticket Out - Slot Tickets)

1. Upon guest's arrival, slot attendant supervisor will be informed that a PGF Withdrawal is requested by the guest.
2. Slot attendant supervisor will acquire the guest identification and will inform the cage supervisor of the amount of withdrawal.
3. Cage supervisor will verify the guest account through the guest PGF file folder and TAS (Trust Account System).
4. Cage Supervisor will inform surveillance of the total amount of withdrawal and the form of payment by TITO Tickets.
5. VVIP Cash Transfer Form and LCT form will be completed by Cage Supervisor.
6. On GMS, the Cage Supervisor will instruct the cashier to print TITO Tickets.
7. The TITO tickets will be tracked on a spreadsheet (TITO Ticket Buy-In Sheet) with the date, time, guest name, total amount of tickets issued and last 4 digits of each ticket.
8. TITO Tickets will be issued to the Slot attendant and given to the guest along with the completed forms to be signed.
9. A copy of the VVIP cash transfer (white copy) will be issued to the guests as receipt.
10. PGF-LCT (Large Cash Transaction) form will be completed by the Cage Supervisor. LCT data will also be reported and scanned into iTrak-Fintrac.

Required FORMS for PGF Deposit or Withdrawal:	SIGNED BY:				
	Cage Supervisor / Manager	Tables Manager	Cashier	Guest	Slots Supervisor / Manager / Attendant
Bank Draft Verification Checklist Form	X	X		X	X
Declaration of Funds Form	X	X		X	X
Source of Funds Form (SOF)	X			X	X
VVIP Cash Transfer Form	X	X	X	X	X
CPV Slip	X	X			
GMS Slip	X		X		
PGF-LCT	X				
Slot Request			X		X
Slot Jackpot Slip	X		X	X	X

Software	USED for DATA ENTRY by:				
	Cage Supervisor / Manager		Cashier		
Bally Cage Application (for CPV and GMS slips)			GMS (Gaming Management System) - BCLC		
Bally Cage Application (for TITO Tickets and Slot Jackpot Slip)			GMS (Gaming Management System) - BCLC		
TAS - Trust Accounting System	PGF (Front Money) - Accounting Balancing				
iTrak - Fintrack (BCLC)	PGF-LCT (Patron Gaming Fund - Large Cash Transaction)				

APPENDIX F

INTERIM RECOMMENDATION FROM NOVEMBER 2017

November 29, 2017

Hon. David Eby, Q.C.
Attorney General of British Columbia
Parliament Buildings,
Victoria, B.C.

Dear Mr. Eby:

Re: Independent Review of Alleged Money Laundering in Lower Mainland Casinos

The Terms of Reference for the captioned review invite me to provide recommendations in advance of the final report due on March 31, 2018. The understandable concern is that interim measures be taken to reduce or eliminate ongoing criminal or overtly suspicious activity. With this in mind, I offer two Interim Recommendations for your consideration.

First, I recommend that Gaming Service Providers (GSPs) complete a source of funds declaration for cash deposits and bearer monetary instruments which exceed the FinTRAC threshold for Large Cash Transactions of \$10,000. At a minimum, the declaration must outline a customer's identification and provide the source of their funds, including the financial institution and account from which the cash or financial instrument was sourced. In the case of new customers, after two transactions, cash should only be accepted from the customer if the veracity of the previous answers has been confirmed and is not considered suspicious.

Second, it is important that the regulator be seen on site and available to the GSPs. As a result, I recommend that a GPEB investigator be on shift and available to the high volume casino operators in the Lower Mainland, on a 24/7 basis. The presence of the regulator will allow for the increased vigilance required in casinos. In particular, it will assist with source of fund issues, third party cash drops, and general support for GSPs and BCLC.

As the foregoing recommendations will require time to implement, I recommend that they come into effect as soon as practicable.

I trust the foregoing meets with your approval and am available to answer any questions which may arise.

Respectfully,

Peter German, Ph.D.

APPENDIX G

INTERIM RECOMMENDATION FROM MARCH 2018

March 19, 2018

Hon. David Eby, Q.C.
Attorney General of British Columbia
Parliament Buildings,
Victoria, B.C.

Dear Minister:

Re: Independent Review of Alleged Money Laundering in Lower Mainland Casinos

The Terms of Reference for the captioned review invite me to provide recommendations in advance of the final report due on March 31, 2018. As you will recall, I provided two Interim Recommendations on November 29, 2017. I am advised that both have been implemented and are proceeding satisfactorily. In advance of my final report, I am now providing one additional Interim Recommendation for your consideration.

I recommend that the Province of British Columbia make representations to the House of Commons Standing Committee on Finance with respect to a public consultation underway regarding amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

In furtherance of this Interim Recommendation, I am enclosing a brief note that provides background.

I trust the foregoing and the attached meets with your approval and am available to answer any questions which may arise.

Respectfully,

Peter M. German, QC, PhD

SELECTED BIBLIOGRAPHY

- BC Gaming Commission, "Report on the Status of Gaming in British Columbia" (Victoria: Province of B.C., Jan. 1, 1988).
- Beare, Margaret E. and Stephen Schneider, *Money Laundering in Canada – Chasing Dirty and Dangerous Dollars* (Toronto: Univ. of Toronto Press, 2007).
- Bourgeois, Donald J., *The Law of Charitable and Casino Gaming* (Toronto: Butterworths, 1999).
- "Gaming in British Columbia", conference materials (Vancouver: Pacific Business & Law Institute), March 3, 1999).
- "Gaming Policy and Enforcement Branch Review" (Victoria: Ministry of Finance, Sept. 18, 2014).
- German, Peter M., *Proceeds of Crime and Money Laundering* (Toronto: Thomson Reuters, 1998, 2016 and current service).
- Glickman, G.E., "Our gaming laws: conditions dicey, to say the least" (March 1979) 3 Can. Law. 11.
- Kleiman, Kerry E., "Keeping Casinos Clean: The Problem with Dirty Money and International Differences in Anti-Money Laundering Regulations for Casinos", unpub. paper, William S. Boyd School of Law.
- Kroeker, Robert and Jeffrey Simser, *Canadian Anti-Money Laundering Law: Gaming Sector* (Toronto: Thomson Reuters, 2017).
- Langdale, John, "Impact of Chinese Transnational Crime on Australia: Intelligence Perspectives", unpub., Nov. 2017.
- Malysh Associates Consulting Inc., "Client Due Diligence in BC Casinos", unpub., Sept. 15, 2014.
- Meekison, J. Peter, O.C., "Relocation of and Changes to Existing Gaming Facilities in British Columbia: Report and Recommendations" (Jan. 31, 2000).
- National Council of Welfare, *Gambling in Canada* (Ottawa: Gov't. of Canada, Winter 1996).
- Osborne, Judith A. and Campbell, Colin S., "Recent Amendments to Canadian Lottery and Gaming Laws: The Transfer of Power between Federal and Provincial Governments", *Osgoode Hall Law Journal* 26.1 (1988): 19-43.
- "Report of the Gaming Policy Review" (Victoria: Ministry of Government Services, Oct. 1994).

Rhodes, Frank A., *Gaming Policy Recommendations* (Victoria, Province of B.C., Feb. 1998).

Rillotta, Joseph, "Beyond the SAR-C: Best Practices for Gaming Companies to "Know Your Customer" and Avoid Organizational Money Laundering Liability in the Post-Sands Climate", *UNLV Gaming Law Journal*, Vol. 5:145.

Seelig, Michael and Julie Seelig, "'Place Your Bets!' On Gambling, Government and Society" *Canadian Public Policy*, 24:1 (1998).

Shoolbred, C.F., *The Law of Gaming and Betting* (London: Pitman & Sons, 1932).