
PART 3

LUXURY VEHICLES

TERMS OF REFERENCE

The TOR for this Review include the following:

3. *Alleged issues of money laundering and organized crime in the horse racing industry and luxury car industry, as identified in the recommendations from Dr. German's "Dirty Money" report*

Review records and contact individuals as required to identify current issues and, if necessary, make findings related to:

....

- b. Organized crime and money laundering activity in the luxury car industry.*

OVERVIEW

It is difficult to determine what is and what is not a luxury vehicle. As with so many things, you know it when you see it. Rather than settle upon an arbitrary dollar figure, which is problematic due to pricing issues discussed in the following chapters, we have chosen instead to concentrate on the vehicles used by organized crime. This can include their use as offence related property or as an instrument of the offence, but also, and importantly, as a means for money laundering; including using vehicles to park dirty money or as an item to be purchased with the profits of crime.

This Part is divided into the following chapters:

Chapter 3-1 – Domestic & International Laundering Through Vehicles

Chapter 3-2 - Crime Vehicles

Chapter 3-3 – Luxury Vehicles & Money Laundering

Chapter 3-4 – The Grey Market of Export Vehicles

Chapter 3-5 – Independent Luxury Vehicle Resellers

CHAPTER 3-1

DOMESTIC & INTERNATIONAL LAUNDERING THROUGH VEHICLES

FINDINGS

Vehicles are used both within Canada and internationally as conduits for the laundering of criminal proceeds.

The disproportionate number of luxury vehicles not recovered by police supports the belief that organized vehicle theft rings are stealing vehicles for export.

The need to address the export of stolen and fraudulently obtained vehicles from B.C. ports is a subset of the larger issue of criminal enforcement at ports.

INTRODUCTION

As we know from our earlier discussion of money laundering and organized crime, Canada and B.C. do not exist in isolation from the rest of the world. Instead, we are heavily influenced by trends elsewhere. This is very much the case in terms of vehicle theft, and the laundering of proceeds of crime through vehicle sales. Not only is there a connection to transnational organized crime but internationally, this form of crime and typology of criminal activity is used for the financing of terrorism. A big picture view will assist in placing our discussion in context.

A GLOBAL VIEW

Money laundering through automobiles is an international problem, which typically involves the purchase of vehicles in cash with the proceeds of crime, thereby converting the illicit cash into an asset, which will serve to disguise the origin of the money and can later be sold. This strategy is demonstrated in the examples below.

- In Orlando, Florida in 2012, the president of a car dealership was convicted of laundering the proceeds of narcotics trafficking on behalf of a Mexican cartel by providing vehicles for cash and sending the vehicles to members of the cartel in Texas and Florida.¹
- In Shreveport, Louisiana in 2012, following a multi-agency investigation, three car dealers were charged with multiple offences related to money laundering through the alleged sale and financing of vehicles to individuals who boasted

¹ U.S. ICE, "Car dealership president convicted of money laundering", Dec. 4, 2012. Accessed at <https://www.ice.gov/news/releases/car-dealership-president-convicted-money-laundering>.

that they derived significant income from drug trafficking. It was also alleged that the car dealers allowed vehicles to be purchased in the names of nominees, falsified records of payments, and provided false information to law enforcement to facilitate the release of vehicles seized from drug dealers.²

- In Raleigh, North Carolina in 2014, a marihuana trafficker laundered the proceeds of crime by purchasing luxury vehicles and residences. He used sham companies to disguise the source of funds, and laundered drug proceeds by utilizing straw buyers³ to purchase various assets, including 13 motor vehicles.⁴
- In San Diego, California in 2015, the former owner of a sports car dealership was sentenced to two years in prison after pleading guilty to assisting a drug trafficker to launder \$719,000 through cash purchases of exotic supercars.⁵
- In Colorado in 2015, the owner of a car dealership was sentenced to four years in federal prison for conspiring with others to structure currency and thereby evade reporting requirements. In four years, the offenders structured over 700 deposits totalling \$4,543,714, and were found to have laundered the proceeds of drug trafficking.⁶
- In Cincinnati, Ohio in 2015, the owner of a car dealership pleaded guilty to money laundering by selling a car for cash that was purported to be the proceeds from drug trafficking and failing to report a cash sale over \$10,000.⁷
- In Tampa, Florida in 2015, a car dealer pleaded guilty to a money laundering conspiracy in which he sold vehicles to straw buyers acting on behalf of drug traffickers and disguised the large cash payments. He placed liens on some of the vehicles, despite receiving full payment, in order that he could reclaim the

² Carolyn Roy, "Used car dealership operators accused of laundering drug money", *KSLA News12*, July 27, 2012. Accessed at <http://www.ksla.com/story/19132862/used-car-dealership-operators-accused-of-laundering-drug-money/>.

³ A straw buyer is not the true purchaser of an asset but represents himself or herself as such, in order to insulate the true purchaser from contact with the seller.

⁴ U.S. IRS, "Internal Revenue Service Examples of Money Laundering Investigations Fiscal Year 2015". Accessed at <https://www.irs.gov/compliance/criminal-investigation/examples-of-money-laundering-investigations-fiscal-year-2015>.

⁵ Tony Perry, "Ex-sports car dealer gets prison in money laundering case in San Diego", *Los Angeles Times*, Mar. 7, 2015. Accessed at <https://www.latimes.com/local/lanow/la-me-ln--money-laundering-20150307-story.html>.

⁶ U.S. Attorney's Office, District of Colorado, "Owner of Colorado Car Dealership Sentenced for Structuring and Money Laundering", Dec. 1, 2015. Accessed at <https://www.justice.gov/usao-co/pr/owner-colorado-car-dealership-sentenced-structuring-and-money-laundering>.

⁷ U.S. Attorney's Office, Southern District of Ohio, "Owner of Fairfield Ohio Car Dealership Pleads Guilty to Money Laundering", Dec. 16, 2015. Accessed at <https://www.justice.gov/usao-sdoh/pr/owner-fairfield-ohio-car-dealership-pleads-guilty-money-laundering>.

vehicles if they were seized by law enforcement, and then return them to the purchasers.⁸

- In Dallas, Texas in 2016, several people were convicted of conspiracy to commit money laundering and other offences in an elaborate scheme in which tax refunds were fraudulently obtained from unwitting victims. Using shell-company bank accounts, the refunds were converted into cash and cashier's cheques, and then used to purchase more than \$1 million in used luxury vehicles from wholesale vehicle auctions, exporting 204 cars to Nigeria.⁹
- In Latvia in 2016, four people were arrested for laundering money by purchasing expensive luxury vehicles worth at least €100,000 (~C\$152,000) in cash. The cars were registered to companies allegedly owned by people who turned out to be homeless. The group then purchased the cars from the companies at a low price.¹⁰
- In Jamaica in 2016, a money laundering scheme occurred in which vehicles were purchased for cash, circumventing the law which prohibits cash purchases involving amounts JMD\$1 million (~C\$10,245) or higher, by making purchases slightly below the threshold. Jamaican police noted that the "frequency of these cases is indicative of the whole process of intending to conceal criminal proceeds...It is deliberate because it is an opportunity to convert money or launder criminal proceeds through the used car industry or through the motor-vehicle sales industry."¹¹
- In Hong Kong in 2018, a car dealer received a five-year sentence for money laundering, involving approximately RMB 48 million (~C\$9.6 million). The scheme involved exporting left-hand drive vehicles from Hong Kong to Vietnam and laundering the proceeds back to Hong Kong.¹²

⁸ U.S. Attorney's Office, Middle District of Florida, "Tampa Auto Dealer Pleads Guilty to Money Laundering Conspiracy", Sept. 22, 2015. Accessed at <https://www.justice.gov/usao-mdfl/pr/tampa-auto-dealer-pleads-guilty-money-laundering-conspiracy>. This is similar to the use of legal tools in real estate law, such as builder's liens and mortgages, to enforce illegal obligations, as discussed in Chapter 2-2.

⁹ U.S. ICE, "Federal jury convicts Dallas woman in stolen identity refund scheme; some stolen identities belonged to incarcerated individuals", Oct. 20, 2016. Accessed at <https://www.ice.gov/news/releases/federal-jury-convicts-dallas-woman-stolen-identity-refund-scheme-some-stolen>.

¹⁰ Public Broadcasting of Latvia, "Police bust luxury car money laundering scam", Nov. 29, 2016. Accessed at <https://eng.lsm.lv/article/society/society/police-bust-luxury-car-money-laundering-scam.a212257/>.

¹¹ Corey Robinson, "999,999 Ways to Beat The System – Car Marts Being Used To Launder Dirty Money Below the \$1M Threshold", Jan. 17, 2016. Accessed at <http://w.jamaicagleaner.com/article/lead-stories/20160117/999999-ways-beat-system-car-marts-being-used-launder-dirty-money-below>.

¹² Hong Kong Special Administrative Region, "Car dealer jailed for money laundering", Press release, Apr. 6, 2018. Accessed at <https://www.info.gov.hk/gia/general/201804/06/P2018040600346.htm>.

MONEY LAUNDERING, LUXURY VEHICLES AND TERRORIST FINANCING

The U.S. Immigration and Customs Enforcement (ICE) Trade Transparency Unit notes that “Criminal and terrorist organizations frequently exploit global trade systems to move value around the world by employing complex and sometimes confusing schemes associated with legitimate trade transactions.”¹³ Some of these schemes have a connection to Canada.

For example, according to a report by the U.S. Committee on Foreign Affairs, Hezbollah “has expanded its own financing operations to include what has become known as the business affairs component, a transnational criminal network that engages in everything from narco-trafficking to money laundering”.¹⁴ The Committee heard evidence that Hezbollah laundered hundreds of millions of dollars through trade-based money laundering, “including used car dealerships in the U.S.”¹⁵ It was alleged that \$300 million was laundered in the U.S. through the purchase and shipment of used cars to Africa. Investigators identified over 300 used car businesses believed to be involved in the network.¹⁶ The cash was allegedly shipped from West Africa to Lebanon, safeguarded by Hezbollah security, routed through the Lebanese-Canadian Bank and other financial institutions, and wire transferred to the U.S. The cash was then used to purchase more vehicles for shipment to West Africa and resale to the benefit of Hezbollah,¹⁷ continuing the TBML loop.

Authorities targeted the Lebanese-Canadian Bank. In 2011, a principal associated with the bank was indicted by U.S. federal prosecutors in Virginia.¹⁸ In addition to other sanctions,¹⁹ the bank was designated under the *Patriot Act*²⁰ as an “entity of primary money laundering concern.”²¹ The U.S. Attorney in New York launched a civil suit seeking more than US\$480 million from Lebanese financial institutions and others, including 30 U.S. car buyers, for allegedly assisting Hezbollah to launder narcotics and other criminal proceeds through West Africa and into

¹³ US ICE, “ICE leads trade-based money laundering investigations”. Accessed at <https://www.ice.gov/trade-transparency>.

¹⁴ U.S. House of Representatives, Committee on Foreign Affairs, “Attacking Hezbollah’s Financial Network: Policy Options”, June 8, 2017 at p. 3 (Washington: U.S. Government Publishing Office). Accessed at <https://docs.house.gov/meetings/FA/FA00/20170608/106094/HHRG-115-FA00-Transcript-20170608.pdf>.

¹⁵ *Ibid.*, statement of Derek S. Maltz at p. 34.

¹⁶ U.S. House of Representatives, Homeland Security Committee, Subcommittee on Counterterrorism and Intelligence, Testimony of Dr. Emanuele Ottolenghi, Apr. 17, 2018. Accessed at <https://docs.house.gov/meetings/HM/HM05/20180417/108155/HHRG-115-HM05-Wstate-OttolenghiE-20180417.pdf>.

¹⁷ “Attacking Hezbollah’s Financial Network: Policy Options,” *supra*.

¹⁸ Dr. Emanuele Ottolenghi, Congressional Testimony, *supra* at p. 11.

¹⁹ Jo Becker, “Beirut Bank Seen as a Hub of Hezbollah’s Financing”, *New York Times*, Dec. 13, 2011. Accessed at <https://www.nytimes.com/2011/12/14/world/middleeast/beirut-bank-seen-as-a-hub-of-hezbollahs-financing.html>.

²⁰ *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism*, Pub. L. 107-56.

²¹ U.S. Department of the Treasury, *Treasury Identifies Lebanese Canadian Bank Sal as a “Primary Money Laundering Concern”*, Press release, Feb. 10, 2011. Accessed at <https://www.treasury.gov/press-center/press-releases/Pages/tg1057.aspx>.

Lebanon.²² Furthermore, in 2013, American authorities imposed a \$102 million forfeiture order on the Bank for its complicity in Hezbollah's money laundering scheme.²³ Despite these efforts, it was alleged that used cars remained an important part of Hezbollah's money laundering schemes in West Africa.²⁴

Since 2002, Public Safety Canada (PSC) has identified Hezbollah as a "Listed Terrorist Entity," and describes it as "one of the most technically capable terrorist groups in the world."²⁵ In 2008, Hezbollah was linked to a fraud and extortion scheme in Ontario, in which a woman of Lebanese decent was allegedly threatened by a purported Hezbollah member into fraudulently purchasing luxury cars, two of which were located in a shipping container in the Port of Montreal, destined for Lebanon. In his reasons for acquitting the woman of fraud, the trial judge found that the men who had threatened her were "serious felons with connections to a well-known and powerful terrorist organization".²⁶

ORGANIZED CRIME VEHICLE THEFT RINGS & MONEY LAUNDERING

The International Context

The theft of motor vehicles is a significant international problem for law enforcement and for the economies of some of the affected countries. The problem is relevant to the discussion of money laundering through the purchase of luxury and other vehicles because the pathways of theft and laundering often overlap, taking advantage of legislative regimes or lax enforcement that allows vehicles to be exported from ports with little scrutiny.

According to the Insurance Bureau of Canada (IBC), some stolen vehicles "are targeted as part of a trade-based money laundering scheme...and the proceeds are used to fund criminal activities."²⁷ Whether vehicles are purchased, obtained fraudulently or stolen for export, they may be used as part of a money laundering scheme, and as payment or credit for contraband, such as illicit drugs. According to Henry Tso, a former RCMP superintendent in charge of financial crime operations in B.C.:

"Canadian crime networks operate like criminal car dealerships. A broker working for a crime boss will get orders for vehicles in demand in different areas of the world. And a

²² U.S. Attorney's Office, Southern District of New York, "Civil Suit Seeks More Than \$480 Million from Entities That Facilitated Hizballah-Related Money Laundering Scheme", Dec. 15, 2011. Accessed at <https://archives.fbi.gov/archives/newyork/press-releases/2011/civil-suit-seeks-more-than-480-million-from-entities-that-facilitated-hizballah-related-money-laundering-scheme>.

²³ "Trade and money laundering – Uncontained", *The Economist*, May 3, 2014. Accessed at <https://amp.economist.com/international/2014/05/03/uncontained>.

²⁴ Dr. Emanuele Ottolenghi, Congressional Testimony, *supra* at p. 30.

²⁵ <https://www.publicsafety.gc.ca/cnt/ntnl-scr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx#2027>.

²⁶ Stewart Bell, "Ontario extortion racket has ties to Hezbollah", *National Post*, July 21, 2011. Accessed at <https://nationalpost.com/news/canada/ontario-extortion-racket-has-ties-to-hezbollah>.

²⁷ IBC, "Gone in 60 seconds: Canada's Top 10 Stolen Vehicles", Dec. 11, 2018. Accessed at <http://www.ibc.ca/on/resources/media-centre/media-releases/gone-in-60-seconds-canadas-top-10-stolen-vehicles>.

team of crooks in different roles throughout the auto supply chain helps fill the orders, and leak inside information to facilitate the process.

When new cars come into Canadian ports...crooked port workers delivering the cars from ships to trucks and trains, take pictures of VINs and also collect key fob information. A new car will go to a dealer and get sold. And when the vehicle is registered, corrupt employees share the gathered information with crime bosses.”²⁸

Tso observed that “[t]heft, fraud and money laundering are all related and fraud can be an indicator of money laundering. You can chase the commodity forever and find it, but if you can track the money, that will reveal the money laundering.”²⁹

Theft of vehicles is linked to transnational organized crime and may be associated with other serious crimes. Interpol has identified several hubs and routes for the international distribution of stolen vehicles and parts, including:

- Dubai, where stolen cars have been reassembled and exported;
- along routes through Poland and Lithuania in Eastern Europe and Central Asia;
- along routes from Spain to North Africa and further east; and
- from Germany to The Netherlands in the west, and through Rotterdam’s seaport to Africa.³⁰

Examples of such cases include:

- In Detroit and San Diego in 2011, four suspects were arrested in a scheme that transshipped stolen luxury sedans and SUVs through the Port of Montreal to Iraq.³¹
- In 2014, 22 people were arrested in New Mexico for money laundering, racketeering, and possessing stolen vehicles. They were alleged to be part of a major international car theft and drug trafficking group connected to the Sinaloa drug cartel. The group was accused of stealing hundreds of luxury cars,

²⁸ Sam Cooper, “Organized crime behind surge in Canadian vehicle thefts, auto insurance fraud: experts,” *Global News*, Dec. 31, 2018. Accessed at <https://globalnews.ca/news/4747217/organized-crime-vehicle-thefts-insurance-fraud/>.

²⁹ Meeting with Review team, Jan. 8, 2018.

³⁰ Interpol, “Analytical Motor Vehicle Crime in Global Perspective”, Jan. 24, 2014.

³¹ U.S. ICE, “13 arrested in international car theft ring”, Aug. 31, 2011. Accessed at <https://www.ice.gov/news/releases/13-arrested-international-car-theft-ring>.

providing them with new vehicle identification numbers (VIN), and then shipping them to Mexico as payment for drugs that were trafficked in New Mexico.³²

- In 2015, a New York multi-agency task force focused on disrupting border-related crime – including money laundering, drug smuggling, human trafficking, and other serious offences – seizing 249 luxury vehicles obtained by fraud and intended to be loaded on cargo ships destined for ports in West Africa.³³

The Canadian Context

Canada has suffered the impact of a significant auto theft for export problem linked to organized crime. IBC investigators identified countries in Africa as key destinations for Canadian vehicles, where the annual vehicular black market was estimated at US\$19 billion.³⁴ Canadian Intelligence Service Canada (CISC) has stated that, “[M]any of the luxury vehicles stolen each year by organized crime groups are destined for export. The vehicles are largely destined for Eastern Europe, Russia, the Middle East, South America, the Caribbean, Africa, and Southeast Asia.”³⁵

Statistics Canada believes that the number of vehicles not recovered by police is a good proxy for the many that are stolen by organized theft groups, given that those taken for other purposes (e.g., joyriding or to use in the commission of an offence) tend to be located by the police.³⁶

In 2002, it estimated that 20% of stolen vehicles were not recovered, a dramatic increase from the early 1970s when only about 2% were not recovered.³⁷ While the highest rates of vehicle theft in 2002 were in the western provinces – with the Vancouver Census Metropolitan Area being among the highest³⁸ – organized vehicle theft numbers also peaked in large urban centres in Quebec and Ontario, as well as in Halifax.³⁹

Many of the vehicles stolen by organized crime groups were loaded into shipping containers in Montreal, Halifax and Vancouver for shipment to countries in Europe, South America, Mexico,

³² U.S. ICE, “22 arrested in New Mexico for operating international car theft ring connected to Sinaloa drug cartel”, June 25, 2014. Accessed at <https://www.ice.gov/news/releases/22-arrested-new-mexico-operating-international-car-theft-ring-connected-sinaloa-drug>.

³³ U.S. ICE, “ICE HSI’s Border Enforcement Security Task Force disrupts a scheme to ship stolen luxury cars overseas”, Nov. 5, 2015. Accessed at <https://www.ice.gov/news/releases/ice-hsis-border-enforcement-security-task-force-disrupts-scheme-ship-stolen-luxury>.

³⁴ Matthew McCleam, “Hey, dude, where’s your car? Auto theft is global and growing”, *Canadian Business*, Sept. 22, 2006. Accessed at <https://www.canadianbusiness.com/business-strategy/hey-dude-heres-your-car-auto-theft-is-global-and-growing/>.

³⁵ *Ibid.*

³⁶ Marnie Wallace, “Exploring the involvement of organized crime in motor vehicle theft”, Statistics Canada, Canadian Centre for Justice Statistics, May 2004.

³⁷ *Ibid.* at p. 10.

³⁸ *Ibid.* at p. 8.

³⁹ *Ibid.* at p. 5.

or East Africa.⁴⁰ It is estimated that international vehicle trafficking is among the most profitable of black market activities, given that the only significant expenses are for the actual theft of the vehicle and the shipping, which may account for less than 10% of what the vehicle will sell for on the black market.⁴¹

In more recent years, IBC statistics show that organized vehicle theft rings are increasingly focused on stealing (or obtaining by fraud) “the sort of luxury all-wheel-drive vehicles popular on the harsh terrain of Ghana or Lebanon,”⁴² with the Cadillac Escalade and the Hummer being among the most popular, and that luxury vehicles can be sold for two to three times their Canadian value in Africa and Asia.⁴³

The following are examples of this trend:

- In 2014, the Toronto Police Service (TPS) led a multi-agency investigation that resulted in eight arrests and the recovery of \$2.3 million in luxury cars, including a Bentley, BMWs, Mercedes SUVs, an Aston Martin and a Porsche.⁴⁴
- In 2015, TPS arrested 18 people alleged to be involved in a sophisticated auto theft ring that targeted high-end vehicles in Greater Toronto and shipped them overseas, to Nigeria and Ghana. It was alleged that the cars were “already maybe in a shipping container before they’re even reported stolen,” and that some of the cars had been “promised to black market buyers before they even reached the city...before it’s even delivered to the dealership”.⁴⁵

The TPS noted that more than 500 vehicles worth \$60,000 to \$80,000 each were stolen from driveways of homes in high-end neighbourhoods, and that stolen vehicles totalling \$30 million in value had been attributed to the auto theft ring members, who faced 640 criminal charges.⁴⁶

- In 2016, York Regional Police announced the arrest of 23 people, 137 charges, and the recovery of 60 stolen vehicles, including a Lamborghini Huracan and other high-value cars, as well as weapons, and cash valued at \$5 million. The

⁴⁰ *Ibid.* at p. 14.

⁴¹ *Ibid.*

⁴² Cathal Kelly, “Criminal gangs go for luxury”, *The Star*, Dec. 10, 2009. Accessed at https://www.thestar.com/business/2009/12/10/criminal_gangs_go_for_luxury.html.

⁴³ *Ibid.*

⁴⁴ James Armstrong, “Police seize \$2.3M in stolen high-end cars in international bust”, *Global News*, Aug. 28, 2014. Accessed at <https://globalnews.ca/news/1531663/police-conduct-raids-in-vehicle-home-break-in-investigation-in-toronto-niagara/>.

⁴⁵ Selena Ross, “How high-tech car theft became a billion-dollar Canadian racket”, *Globe and Mail*, Jan. 15, 2016. Accessed at <https://www.theglobeandmail.com/news/toronto/how-high-tech-car-theft-became-a-billion-dollar-canadianracket/article28226997/>.

⁴⁶ David Shum, “West African ‘Black Axe’ group targeted in major GTA-wide auto theft ring”, *Global News*, Dec. 11, 2015. Accessed at <https://globalnews.ca/news/2394862/toronto-police-execute-35-search-warrants-in-luxury-vehicle-trafficking-probe/>.

accused were alleged to have removed VINs from the stolen cars to avoid them being identified as stolen. They were alleged to have replaced the original VINs with others from cars that had been legally shipped overseas.⁴⁷

- In 2017, the West Vancouver Police Department (WVPD) arrested a man for “an alleged scheme to buy expensive vehicles using fraudulent credit cards, then quickly ship them offshore to Africa.”⁴⁸ The scheme involved trucks and luxury SUVs, each worth between \$70,000 and \$100,000, several of which were seized from a container terminal in Vancouver. The Canada Border Services Agency (CBSA) assisted WVPD and tracked three more vehicles held in a port in Shanghai, China, and an additional three vehicles in Cape Town, South Africa, for a total of 10 vehicles.

The accused, who came to Canada as a refugee from the Congo, was detained without bail, refused to speak to police, and pleaded guilty to the sophisticated scheme. His lawyer claimed he was only a “foot soldier” who had been recruited by someone in Quebec.⁴⁹

After years of decreasing auto thefts in Canada (which likely can be attributed in significant part to the introduction of electronic theft prevention devices), auto thefts have been trending upward for the past several years. In 2017, vehicle thefts in Canada increased by 6% from 2016 (to 85,020 vehicles stolen),⁵⁰ with about one sixth (16.7%) never recovered.⁵¹ In B.C., stolen vehicles increased by 2% in 2017 compared to 2016, with 14,373 vehicles stolen,⁵² and 18% not recovered.⁵³

In B.C., several initiatives have been implemented since the late 1990s to address multi-jurisdictional vehicle crime. In 1998, The Auto Theft Task Force (ATTF) was formed to combat what was then a growing trend in auto theft. It was comprised of police officers from municipal departments and the RCMP, as well as Insurance Corporation of B.C. (ICBC) investigators. In

⁴⁷ Nicole Thompson, “Ontario police bust luxury car theft ring that sold vehicles internationally”, *Canadian Press*, Nov. 25, 2016. Accessed at <https://globalnews.ca/news/3088981/york-police-bust-luxury-car-theft-ring-that-sold-vehicles-across-canada/>.

⁴⁸ Jane Seyd, “WVPD uncovers alleged \$750K fraud scheme”, *North Shore News*, May 30, 2017. Accessed at <https://www.nsnews.com/news/wvpd-uncovers-alleged-750k-fraud-scheme-1.20290458>.

⁴⁹ Jane Seyd, “Export fraud scheme involving high-end vehicles nets jail time”, *North Shore News/Squamish Chief*, Dec. 15, 2017. Accessed at <https://www.squamishchief.com/news/local-news/export-fraud-scheme-involving-high-end-vehicles-nets-jail-time-1.23123679>.

⁵⁰ Mary Allen, “Police-reported crime statistics in Canada, 2017” (Table 7, p. 42), *Juristat* (Ottawa: Statistics Canada, July 23, 2018). Accessed at <https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2018001/article/54974-eng.pdf?st=l3SY7h0n>.

⁵¹ Douglas Quan, “Many cars stolen in Canada end up smuggled to distant destinations like Asia, Middle East: study”, *National Post*, Dec. 11, 2018. Accessed at <https://nationalpost.com/news/canada/many-cars-stolen-in-canada-end-up-smuggled-to-distant-destinations-like-asia-middle-east-study>.

⁵² Mary Allen, “Police-reported crime statistics in Canada, 2017”, *supra*.

⁵³ B.C. stolen vehicle recovery statistics provided by IMPACT on Jan. 17, 2018. These figures include all stolen vehicles reported to police in B.C., not just those insured by ICBC.

2002, the ATTF was amalgamated with other “E” Division RCMP resources committed to auto theft, forming the Integrated Municipal Provincial Auto Crime Team (IMPACT). This team is comprised of “twenty-two specialized police auto theft investigators from seven police forces in the Greater Vancouver Area” and has a mandate to develop “innovative strategies to reduce auto crime in British Columbia.”⁵⁴

IMPACT provided us with statistics comparing the recovery rate of vehicles overall, compared to those of selected luxury car brands. The graphic below clearly indicates that the non-recovered rate for luxury cars (24%) is significantly higher than the non-recovered rate generally in B.C. (18%). This supports the hypothesis that luxury cars are being stolen for export.⁵⁵

Make	Pre 2007 Models			Post 2007 Models			All Models Total		
	# Stolen	# Unrecovered	% Unrecovered	# Stolen	# Unrecovered	% Unrecovered	# Stolen	# Unrecovered	% Unrecovered
BMW	52	21	40%	55	10	18%	107	31	29%
MERCEDES-BENZ	35	10	29%	59	10	17%	94	20	21%
AUDI	29	2	7%	47	10	21%	76	12	16%
LEXUS	9	2	22%	24	3	13%	33	5	15%
LAND ROVER	6	4	67%	18	6	33%	24	10	42%
PORSCHE	11	6	55%	10	2	20%	21	8	38%
JAGUAR	4		0%	4	1	25%	8	1	13%
FERRARI	1	1	100%	1	0	0%	2	1	50%
BENTLEY				2	1	50%	2	1	50%
TESLA MOTORS				1	0	0%	1	0	0%
TOTAL	147	46	31%	221	43	19%	368	89	24%

The total loss payouts by ICBC for all unrecovered stolen vehicles in B.C. from 2015 to 2018, inclusive, have averaged in excess of \$40 million annually, a significant cost to taxpayers.⁵⁶

IBC has raised concerns that there is so much focus on the Canadian border with what is being smuggled into Canada, such as fentanyl, that not enough attention is paid to exports, including stolen vehicles intended for the black market overseas.⁵⁷ CBSA officers have also raised concerns, noting in 2018 that when they located suspected stolen vehicles in the Port of Montreal, police were reluctant to investigate, citing a lack of resources or jurisdictional

⁵⁴ <https://www.baitcar.com/about-impact-bait-car-program>.

⁵⁵ Provided by IMPACT on Jan. 29, 2019 (the vehicles are divided between pre- and post-2007 because in 2007 electronic immobilizers became mandatory for cars sold in Canada and this initiative had a significant impact on auto theft rates).

⁵⁶ Data provided by ICBC Information Management. Also, see Mia Dauvergne, “Motor vehicle theft in Canada, 2007”, *Juristat* (Ottawa: Statistics Canada, Dec. 2008). Accessed at <https://www150.statcan.gc.ca/n1/pub/85-002-x/2008010/article/10744-eng.htm#r5>.

⁵⁷ Douglas Quan, “Many cars stolen in Canada end up smuggled...”, *supra*.

issues.⁵⁸ That situation in Montreal has now improved. According to Inspector Brian MacDonald, the Officer in Charge of IMPACT:

“CBSA has two agents who work the declarations looking for anomalies such as odd routing, etc. Once they have identified them they notify Montreal Police. Montreal Police and IBC examine the vehicles and determine whether they are stolen. If they are stolen they are removed from the container and held for examination. They seized over 300 cars last year including 29 in one weekend.”

Inspector MacDonald noted that in January 2019, as a result of information from CBSA in Vancouver, IMPACT located a container with three stolen vehicles inside. He remains concerned however that “no one is working our ports like they should be.”⁵⁹

We interviewed CBSA representatives who described the great challenges which they face in attempting to locate stolen vehicles in containers without unreasonably slowing down commerce and interfering with the legal shipment of goods. Furthermore, the CBSA is focused on the import of opioids and precursors, given the devastating impact of the fentanyl crisis in B.C. Its officers are responsible for multiple sites, including border crossings, airports, marine facilities, and the Canada Post mail centre.

The three officers assigned specifically to reviewing exports and related documentation in Vancouver are responsible for reviewing over 100,000 files a year. If there are indicators present (e.g., suspicious documentation) or they receive reliable information from police, CBSA officers will administratively detain containers to assist police investigations and will seize containers or vehicles in them if the VINs are listed on the Canadian Police Information Centre (CPIC) system as stolen.

They note that exporters of stolen vehicles engage in a number of strategies to thwart CBSA, including hiding stolen vehicles behind other products, placing them in containers with vehicles that are not stolen, and suspending vehicles with chains, which requires that the container be transported to a specialized facility to safely unload the vehicles for examination. In fiscal 2018, CBSA seized eight stolen vehicles in Metro Vancouver port facilities.

Adding to all of this, it has been alleged for many years that outlaw motorcycle gangs have a strong presence on Greater Vancouver waterfronts, particularly in terms of container traffic.⁶⁰

⁵⁸ Stewart Bell and Andrew Russell, “Border officers frustrated at police inaction over stolen cars being exported through Montreal”, *Global News*, June 28, 2018. Accessed at <https://globalnews.ca/news/4297929/stolen-cars-export-canada/>.

⁵⁹ E-mail conversation with review team on Feb. 2, 2019.

⁶⁰ Kim Bolan, “Organized crime and the port: part one of my series”, *Vancouver Sun*, May 8, 2015. Accessed at <https://vancouversun.com/news/staff-blogs/organized-crime-and-the-port-part-one-of-my-series>.

CRIMINAL ENFORCEMENT AT PORTS

Vehicle theft is increasing in Canada and B.C. The disproportionate number of luxury vehicles not recovered by police is compelling evidence of organized vehicle theft rings stealing cars for export overseas.

Canadian ports, including Vancouver, Surrey and Prince Rupert do not have a dedicated police presence. Since the demise of the Ports Canada Police in 1997, it has been left to municipal police to patrol docks and ports. In the post-911 world this is a serious gap in our law enforcement umbrella. The comparison to Seattle is stark, where the Port of Seattle Police Department has 150 staff to police SeaTac Airport and the Seaport, including numerous specialized units.⁶¹ In addition, U.S. federal authorities are present at the ports, including border patrol, customs officers, and others.

The need to address the export of stolen and fraudulently obtained vehicles from ports in Greater Vancouver is a subset of the larger issue of port enforcement. IMPACT has recommended a joint police-CBSA unit, with secondments from ICBC and IBC. Although an *ad hoc* arrangement such as that can target a specific commodity, without long-standing funding commitments and a permanent presence, it really is a temporary solution.

⁶¹ <https://www.portseattle.org/about/port-police>.

CHAPTER 3-2

CRIME VEHICLES

Life and Death in the Fast Lane – Gangsters and their Luxury Cars

FINDINGS

Vehicles are often used as a means by which to perpetrate crimes (i.e., offence related property)

Many criminals are attracted to a lifestyle of luxury and consumptive wealth, in which they invest their profits of crime. Luxury vehicles is an example.

INTRODUCTION

Gangsters in B.C. have often been associated, for good reason, with living a fast life of upscale restaurants, designer clothes, expensive jewellery, and luxury cars, funded and fuelled by drug trafficking and other crimes.⁶² Through their ostentatious lifestyle, they seek to portray power and wealth. One expert on gangs internationally wrote, “In none of the places that I visited did I see the same level of wealth on display by gang members that I have observed in B.C.”⁶³

British Columbia gangs are unlike territorial street gangs in other cities in the world that are a product of economic necessity or oppression; rather, they are motivated by the “ability to make quick money and enjoy a lifestyle of hedonism and decadence,”⁶⁴ and their girlfriends have “a desire to live in the upper echelon of society – fast cars, fast drugs and fast parties.”⁶⁵ In the words of gang expert, Sergeant Keiron McConnell:

⁶² One gangster’s seized jewellery was valued at over \$245,000. Most of it was forfeited to the province after he was murdered. See, “Gangster bling sought by B.C. Forfeiture Office”, *CBC*, accessed at <https://www.cbc.ca/news/canada/british-columbia/gangster-bling-sought-by-b-c-forfeiture-office-1.1176958>; and Mark Nielsen, “Dead gangster’s bling forfeited to government”, *Prince George Citizen*, Nov. 14, 2014. Accessed at <https://www.princegeorgecitizen.com/news/local-news/dead-gangster-s-bling-forfeited-to-government-1.1587420>.

⁶³ McConnell, Keiron, *The Construction of the Gang in British Columbia: Mafioso, Gangster, or Thug? An Examination of the Uniqueness of the BC Gangster Phenomenon*, Doctoral dissertation, 2015 at p. 172. Accessed at <https://kora.kpu.ca/islandora/object/kora%3A279/datastream/PDF/view>.

⁶⁴ *Ibid.* at p. 194.

⁶⁵ Gottenbos, N., et al., “Gangster Girlfriends in British Columbia: The Allure of Louboutin, Chanel, and Tiffany”, *Journal of Gang Research*, V26N1 (2018) at pp. 17-37. Accessed at <https://kora.kpu.ca/islandora/object/kora%3A544/datastream/PDF/view>.

“The main ingredient and uniqueness of B.C. gangsters is the sheer money involved. In Chicago, you see gang guys making minimum wage selling drugs on the corner because as soon as an employer sees their zip code, they can’t even get a job at McDonald’s. It’s a rational choice in an irrational situation. It’s the same in London, England, Los Angeles and other cities. Here, it’s irrational choices to rational situations – they are *choosing* to get into gangs; it’s not about being born into it, protecting your friends, neighbourhoods, territory. They don’t care about any of that other stuff except money. Over 50 percent of our kids who enter gangs are coming from middle or upper class homes but they want more and want it quicker. With our proximity to the Pacific Rim and Mexico, the money available is so huge.”⁶⁶

Notwithstanding the flamboyant displays of apparent wealth, the truth can be somewhat different than outward appearances suggest, as many gangsters, at least those not in the highest echelons, tend to live for the moment, spending their cash as quickly as they make it, leasing vehicles and upscale condominiums without accumulating any real wealth.

Gangsters in B.C. are well-known to have either purchased, leased, or rented expensive luxury vehicles, and on those occasions when gangsters are murdered, the incidents often occur in or near their vehicles. For example, in its 2014 Report to the Community, CFSEU-BC noted that of a sample of 139 homicides of gangsters, almost 31% took place inside a vehicle, and almost 4% occurred outside or near a vehicle.⁶⁷ Furthermore, on many occasions, gangsters’ vehicles have been seized pursuant to criminal investigations and subsequently been made the subject of civil forfeiture applications. Media reports about many of these incidents provide a rich source of information about the vehicles in which gangsters live and die (see Schedule “A”).

Sometimes, criminals purchase vehicles using cash with the intention of laundering criminal proceeds. They often have no legitimate source of income and wish to avoid the oversight regime which regulates most financial institutions.

Police Investigations

In October 2008, the *Vancouver Sun* reported that a car lot in Coquitlam, B.C. leased more than a dozen high-end cars to leaders of the UN gang, associates of the Red Scorpions, and to an accused drug trafficker, among others. The story noted that “police and regulators say many gangsters are leasing cars as an easy way to unload some of their illicit cash on big-ticket luxury vehicles” and that gangsters were leasing vehicles to “more easily avoid having vehicles seized by the government” under civil forfeiture. Inspector Dean Robinson noted that his gang task

⁶⁶ Interview with Sergeant Keiron McConnell, PhD, long-time Vancouver Police Department member and gang expert, on Jan. 21, 2018.

⁶⁷ CFSEU – BC, “BC’s Anti-Gang Police 2014 Community Report: Prevention and Public Engagement”, 2015, at p. 4. Accessed at https://www.cfseu.bc.ca/wp-content/uploads/2014/09/Combined_Forces_Special_Enforcement_Unit_CFSEU-BC_British_Columbia_BC's_Anti_Gang_Police_2014_Community_Report_On_Prevention_and_Public_Engagem ent1.pdf.

force officers were stopping gangsters in their “expensive rides, often modified with bullet-proof Kevlar and secret gun compartments.”⁶⁸

Several senior police investigators interviewed for this Review have advised that they are aware of several recent cases (including some currently before the courts) in which gangsters have purchased or leased expensive vehicles in Greater Vancouver using cash.

The VPD and Surrey RCMP Detachment are the two largest municipal police agencies in B.C. They each police a municipality where significant organized crime/gang activity occurs, and they are the only municipal police agencies that have asset forfeiture teams (AFT). The VPD team noted that gangsters are increasingly leasing vehicles rather than purchasing them, likely in the hope of suffering less financial impact when vehicles are seized by police.

The trend for gangsters to lease vehicles has resulted in a steady reduction in the number of vehicles referred for civil forfeiture proceedings, with 103 vehicles referred by the VPD in 2016, 72 in 2017, and 66 in 2018. The VPD indicated that the vast majority of vehicles were seized as offence related property, such as vehicles used by traffickers in the sale of drugs, sometimes with hidden compartments to hide drugs and other contraband.

Surrey’s AFT was created in 2001 and supports the drug unit as well as frontline officers. Historically the team was focused on the seizure of residences used for cannabis grow-ops, but more recently it has focused on the vehicles and cash being seized as a result of the street level drug trade. Currently, more than 90% of their referrals to the Civil Forfeiture Office are for seized vehicles and cash related to drug offences. Proceeds of crime investigations were found to be too resource-intensive to justify the results, although certain cases are referred to FinTRAC and to CRA.

Since 2014, the Surrey AFT has referred 278 vehicles to the CFO, with only 35 cases declined or discontinued by the CFO. The majority of the vehicles are worth \$10,000 or less and are almost always seized as offence related property (e.g., a car used for drug trafficking), and not as the proceeds of crime. The method of purchase is not investigated.

Surrey AFT advised that it is currently seeing a trend in ‘fly-by-night’ companies renting luxury cars to gangsters, as well as nominee owners, such as drug addicts without jobs who ostensibly own numerous cars, with the true owner being a drug trafficker seeking to disguise his ownership and/or guard against seizure.

“E” Division RCMP has a provincial AFT that supports RCMP detachments around the province and is the “gatekeeper” for all RCMP referrals to the CFO. A representative advised that in 2018, the total files referred by the RCMP to the CFO was 861, of which 287 involved vehicles. Similar to the VPD and Surrey RCMP, almost all the vehicles were seized as offence related

⁶⁸ Kim Bolan, “Gangsters find rides at four star auto lease”, *Vancouver Sun*, Oct. 25, 2008. Accessed at <https://www.pressreader.com/canada/vancouver-sun/20081025/281732675314915>.

property because they were used in crimes, such as by a dial-a-doper, with very few being the actual proceeds of crime.

In October 2014, the CFO announced that in the previous eight years, “approximately 250 vehicles had been forfeited, most with links to drugs, gangs or organized crime,” examples being a Nissan 350Z, a BMW SUV, and a Hummer.⁶⁹

Investigators from several police agencies noted that the Public Prosecution Service of Canada (PPSC or Federal Crown) preferred to proceed on the primary offence alleged, generally drug trafficking, and is less likely to approve proceeds of crime prosecutions for vehicles or even cash when seized from an alleged drug trafficker. It was also noted that obtaining evidence sufficient to meet the burden of proof for a criminal charge was high, the return on investment of scarce resources was low, and because a case could typically take two years to conclude in court, the storage costs for the vehicles seized could exceed their value and “then there’s a fight over who pays the storage costs”. A referral to the CFO was seen as more efficient and effective.

⁶⁹ Peter Meiszner, “More forfeited gangster vehicles to end up in hands of police”, *Global News*, Oct. 7, 2014. Accessed at <https://globalnews.ca/news/1603048/more-forfeited-gangster-vehicles-to-end-up-in-hands-of-police/>.

SCHEDULE "A"

- In November 2007, well-known gangster Ali Abhari and his associate, Ronal Shakeel Raj, were shot to death in Abhari's leased Mercedes on Granville Street in Vancouver's Marpole neighbourhood. Abhari was reported to have co-owned a house assessed at \$802,000 and to have leased a Cadillac Escalade and a Mercedes.⁷⁰ A VPD Deputy Chief who attended the scene of the murders later commented to the media, "Those who think the gang lifestyle is appealing, looking at these two men, full of bullet holes, they didn't look glamorous at all."⁷¹
- In January 2008, reputed hitman-for-hire Ricardo Scarpino and another person were murdered in a Range Rover as it approached the upscale Gotham Steakhouse, where Scarpino was about to celebrate his engagement.⁷²
- In May 2008, an innocent car stereo installer, Jonathan Barber, was killed by gunfire from an AK-47. He was the victim of mistaken identity while driving a black Porsche Cayenne, in which he was hired to install a stereo. The Porsche was owned by gangsters who were being hunted by rivals.⁷³
- In February 2009, Nicole Marie Alemy was shot and killed after being mistaken for her alleged gangster-husband while driving his Cadillac with her four-year-old son in the back seat.⁷⁴
- Also in February 2009, the media reported that police seized a fully armoured luxury BMW 745i leased by Bacon brothers Jamie, Jarrod and Jonathan from Four Star Auto Lease in Coquitlam, B.C. The agency had reportedly leased a number of vehicles to the Bacons and their associates. The same article noted that Jamie Bacon had been shot at the previous month while driving his armoured Mercedes.⁷⁵

⁷⁰ Kim Bolan and Neal Hall, "Police vow to get tough on gangs", *Vancouver Sun*, Nov. 7, 2007. Accessed at <http://www.vancouversun.com/touch/news/metro/police+tough+gangs/9799588/story.html>.

⁷¹ Mark Hume, "Gang conflict claims two more lives in Vancouver", *Globe and Mail*, Nov. 7, 2017. Accessed at <https://www.theglobeandmail.com/news/national/gang-conflict-claims-two-more-lives-in-vancouver/article1089123/>.

⁷² Jon Woodward, "Vancouver men targeted in steakhouse shooting", *CTV News Vancouver*, Jan. 23, 2008. Accessed at <https://bc.ctvnews.ca/vancouver-men-targeted-in-steakhouse-shooting-1.272018>.

⁷³ Kim Bolan, "UN gang twins sentenced to two years for roles in Metro Vancouver murders", *Vancouver Sun*, Sept. 28, 2016. Accessed at <https://vancouversun.com/news/crime/un-gang-twins-sentenced-to-two-years-for-roles-in-murders>.

⁷⁴ "Police identify White Rock mother killed in Surrey shooting", *CBC News*, Feb. 17, 2009. Accessed at <https://www.cbc.ca/news/canada/british-columbia/police-identify-white-rock-mother-killed-in-surrey-shooting-1.861787>.

⁷⁵ "Police holding armoured car belonging to Bacon brothers", *CBC News*, Feb. 27, 2009. Accessed at <https://www.cbc.ca/news/canada/british-columbia/police-holding-armoured-car-belonging-to-bacon-brothers-1.857597>.

- In September 2009, a well-known former UN gang member, David Tajali, was shot to death in Calgary while driving his luxury BMW.⁷⁶ He was believed to have been the target of a murder plot in Richmond, B.C. in 2007, in which an innocent man driving an identical vehicle to Tajali's was murdered.
- In August 2011, Red Scorpion gang member Jonathan Bacon was murdered, and three others seriously injured, when gunmen opened fire on a white Porsche Cayenne outside a Kelowna hotel.⁷⁷
- In August 2013, gangster Albert Arrance was fatally shot while sitting in a luxury SUV in Coquitlam, B.C.⁷⁸
- In October 2017, Taqdir Singh Gill and Walta Abay, along with five others, were arrested for conspiracy to commit murder and other offences.⁷⁹ They were driving a rented Mercedes.⁸⁰ A director of the rental agency denied knowingly renting to gangsters.⁸¹ In December 2018, Gill pleaded guilty to conspiracy to commit arson, conspiracy to discharge a firearm, and possession of a loaded prohibited gun. He was sentenced to six years in prison. Abay was sentenced to an additional four years for being in a vehicle with Gill knowing there was a loaded firearm inside.⁸²
- Also in October 2017, former B.C. Hells Angel Jamie Holland was shot to death in Toronto. He was well known to police in B.C., lived in an expensive condo and drove a Lamborghini. Reportedly he had also owned an armoured BMW.⁸³

⁷⁶ "Former B.C. gangster shot to death in Calgary", *CTV News Vancouver*, Sept. 7, 2009. Accessed at <https://bc.ctvnews.ca/former-b-c-gangster-shot-to-death-in-calgary-1.431947>.

⁷⁷ Andrea Peacock, "Three men plead guilty in gangster's shooting death outside B.C. hotel in 2011", *Kelowna Daily Courier*, May 1, 2018. Accessed at http://www.kelownadailycourier.ca/news/national_news/article_76e54668-c723-55e3-87e2-caa90f1952a0.html.

⁷⁸ Mark Nielsen, "Dead gangster's bling forfeited to government," *supra*.

⁷⁹ Kim Bolan, "Vancouver police's anti-gang operation leads to seven arrests", *Vancouver Sun*, May 17, 2018. Accessed at <https://vancouversun.com/news/local-news/live-vancouver-police-say-they-dismantled-violent-crime-group>.

⁸⁰ Interview with a VPD senior investigator on Jan. 25, 2019.

⁸¹ Kim Bolan, "B.C. gangsters take the wheel of rental cars to commit crimes", *Vancouver Sun*, Oct. 7, 2015, accessed at <http://www.vancouversun.com/news/gangsters+take+wheel+rental+cars+commit+crimes/11419278/story.html>; and Keith Fraser, "Another forfeiture lawsuit filed against Vancouver car rental agency", *Vancouver Sun*, May 12, 2016, accessed at <https://vancouversun.com/news/local-news/another-forfeiture-lawsuit-filed-against-vancouver-car-rental-agency>.

⁸² Kim Bolan, "Young Lower Mainland gangsters sent to prison on arson conspiracy, gun charges", *Vancouver Sun*, Dec. 14, 2018. Accessed at <https://vancouversun.com/news/crime/young-gangsters-sent-to-prison-on-arson-conspiracy-gun-charges>.

⁸³ Kim Bolan, "Former B.C. Hells Angel gunned down outside Toronto strip mall", *Vancouver Sun*, Oct. 16, 2017. Accessed at <https://vancouversun.com/news/crime/ex-b-c-hells-angel-gunned-down-outside-toronto-strip-mall>.

- In August 2018, a multi-agency police task force investigation into gang activity in Greater Vancouver arrested members of the “Kang/Latimer Group”; including seizing 93 firearms, an improvised explosive device, 59 prohibited devices, 9.5 kilograms of fentanyl, almost 40 kilograms of other illicit drugs, \$833,000 in cash, \$800,000 in jewellery, and \$350,000 in collector cars, all of which became the subject of civil forfeiture proceedings.⁸⁴ Fourteen individuals were charged with 92 criminal offences.⁸⁵
- The next week, the Delta Police Department announced additional drug trafficking and weapons charges against seven men linked to the Red Scorpion gang, including Kyle Latimer, who had recently been arrested in the case described above. In relation to this set of charges, four luxury vehicles were seized along with \$82,000 in cash.⁸⁶
- In December 2018, Langley RCMP announced that a high-performance Mercedes Benz C63 AMG seized from an alleged drug dealer would be used for anti-gang programs in Langley.⁸⁷

⁸⁴ Kim Bolan, “Police probe leads to dozens of charges against Red Scorpion, Kang gangsters”, *Vancouver Sun*, Aug. 18, 2018. Accessed at <https://vancouversun.com/news/crime/police-probe-leads-to-dozens-of-charges-against-red-scorpion-kang-gangsters/>.

⁸⁵ VPD, “Joint Forces Police Operation Brings Down Major Crime Groups”, Press release, Accessed at <https://mediareleases.vpd.ca/2018/08/10/joint-forces-police-operation-brings-down-major-crime-groups/>.

⁸⁶ Kim Bolan, “Delta Police announce more charges against Red Scorpions”, *Vancouver Sun*, Aug. 15, 2018. Accessed at <https://vancouversun.com/news/crime/delta-police-announce-more-charges-against-red-scorpions/>.

⁸⁷ Matthew Claxton, “New Langley anti-gang vehicle was seized from drug trafficker”, *Langley Advance*, Dec. 5, 2018. Accessed at <https://www.langleyadvance.com/news/new-langley-anti-gang-vehicle-was-seized-from-drug-trafficker/>.

CHAPTER 3-3

LUXURY VEHICLES & MONEY LAUNDERING

FINDINGS

Organized crime figures are unhindered in their ability to launder the proceeds of crime through high-end, luxury vehicle purchases within Greater Vancouver.

Some vehicle dealers have accepted large sums of cash from suspicious individuals, to pay for high-end, luxury vehicles.

The fact that dealers deposit the cash proceeds of vehicle sales (including bank drafts) in mainstream financial institutions fails to provide any visibility on the transaction at the point of sale, including the purchaser's source of funds.

There is no ability to determine the source of wealth of luxury vehicle purchasers when foreign credit and other payment systems are used.

The absence of financial reporting by vehicle dealers to FinTRAC leaves this sector largely unregulated from a financial crime perspective.

Vehicle auction house are also not a reporting sector to FinTRAC. The degree to which money is laundered through B.C. vehicle auctions is unknown.

The provincial regulator of vehicles is focused on consumer protection and not money laundering.

Vehicle industry associations do not view cash-based sales as a significant concern.

Canada would benefit from universal cash reporting of cash sales over a threshold, as exists in the U.S. and applies to vehicle dealers.

Geographic Tracking Orders would be a valuable supplement to cash reporting, by placing additional reporting requirements on business within a geographic area of concern.

INTRODUCTION

Vancouver has been dubbed the "luxury car capital of North America"⁸⁸ and UBC has been dubbed the "University of Beautiful Cars for the student-owned fleet of Lamborghinis, Aston

⁸⁸ Jon Azpiri, "Metro Vancouver the luxury car capital of North America", *Global News*, Jan. 11, 2016. Accessed at <https://globalnews.ca/news/2447804/metro-vancouver-the-luxury-car-capital-of-north-america/>.

Martins and Porsches parked in campus lots.”⁸⁹ Greater Vancouver even has its “first luxury car condo” being constructed in Richmond, designed to house luxury cars in style.⁹⁰ Nevertheless, ‘supercars’ and extreme luxury vehicles are still a small proportion of vehicles sold in B.C. There are also many other high-value vehicles attractive to both organized theft rings, gangsters and money launderers, as evidenced by the types of vehicles recovered in major police investigations.

There are no laws or regulations prohibiting the cash purchase of vehicles and, unlike banks and casinos, car dealerships are not required to report large cash transactions or suspicious transactions to FinTRAC. In fact, there is no mechanism for them to do so because they are not designated as reporting entities under the *POCMLTFA*.

INTERVIEWS OF NEW CAR DEALERS

There is no better way to describe what is occurring than through the words of auto dealers.

A new car dealer assured us that their business has a policy of not accepting cash in an amount exceeding \$9,999. This is a curious figure as it corresponds with the maximum amount that a FinTRAC reporting entity can receive without filing an LCTR. As auto dealers are not reporting entities, it may reflect dealers not wishing to have LCTRs filed by financial institutions on their deposits.

Another new car dealer told a very different story, describing large cash sales occurring on a monthly basis. The employee candidly stated. “I’m right in the thick of money laundering here”. He noted that they can and do accept cash. Several years ago, a young person purchased a vehicle for in excess of \$200,000. For safety, a few employees of the dealership took the money, in a bag, to the dealer’s bank. The bank asked what it was for? An employee replied that it was from the sale of a car and the bank employee said that was fine.

A new car dealer provided some background on cash transactions:

“Sales with physical cash have become a lot less frequent in the last few years, I think with all the publicity, but I would say it happens now about once a month. Usually it’s 40, 50, or 60 thousand dollars.

I think cash is going further away with all the publicity recently. One of the reasons they were paying cash is because they couldn’t get financing because they couldn’t show a legitimate source of income. Traditionally for financing, the bank would need a T4 or a pay stub or something like that to show there was a job with income. Until a few years ago you had to substantiate income or have a really good credit history, like have paid

⁸⁹ Natalie Obiko Pearson, “Rich Moms and Millennials Make Canada Hot for Rolls-Royce”, *Bloomberg*, June 6, 2018. Accessed at <https://www.bloomberg.com/news/articles/2018-06-06/rich-moms-millennials-make-canada-a-hot-market-for-rolls-royce>.

⁹⁰ Stephanie Mitchell, “Sneak Peek: Vancouver’s First Luxury Car Condo”, *Vancouver Magazine*, Sept. 20, 2017. Accessed at <https://vanmag.com/city/sneak-peek-vancouvers-first-luxury-car-condo/>.

off mortgages and loans. Or they would want to verify their job. Now the banks are willing to allow us to show the bank a bank statement of money going in and out of multiple accounts through wire transfers 10 or 20 or 30 thousand a month and the bank will accept that as income for the purposes of financing. That will negate the need for cash because the bank will give them the loan and then they're paying for it with money wired into their [bank] accounts from overseas.

About 10 times a month we'll get a foreign student with zero credit, zero job income, but proof of income through incoming wire transfers and the bank will provide financing because they are accepting the wire transfers and bank statements as proof of income.

It's unequivocally money laundering. People who are not employed, don't pay tax, showing bank statements with large sums being wired frequently into their accounts... Why is it multiple transfers being wired into accounts in relatively small amounts [to] several accounts? These are people who aren't paying income tax, who don't work, but can buy expensive cars with money coming from out of the country.

[In my discussion with colleagues in the high-end auto business], if there wasn't the money laundering...we are selling way too many luxury and premium cars for this economy, for what people earn here. They're telling me five or six years ago these guys were buying these supercars with cash, but now they lease them. There would be a fairly substantial down payment, like 20 percent, then that vehicle would stay registered in the lease company's name and then the leaser would be wiring in \$5,000 a month on this very expensive car...it makes me sick because these guys aren't paying income tax on this income coming in."

The employee also described an incident in which a gangster purchased a limited production high performance vehicle for cash:

"The [individual] came and paid cash for that car, physical cash, it was \$[six figures].... He showed up with the cash in a bag. When we took that money to the bank they just said, what's it for? And we said a car, and they said fine and that was it.

I don't know what you do. We used to have to fill in a form for cash over \$10,000 but that went away, that was the late 1990s. If I have the ability to say yes or no to filling out the form and I have to tell that guy and he thinks I'm getting him into trouble or starting an investigation on him by reporting the cash sale, that's not a good spot to be in.

We have WeChat Pay⁹¹ and UnionPay.⁹² These are some kind of direct debit or credit card to China that they pay for cars with and the money comes out of China. There's not a dealership in [city] that doesn't take payment like that. They're not buying on Canadian Visa cards and paying bills here.

As a dealership operator, I see these young kids driving these super cars and super luxury cars, and no one has looked at the source of income and audited this. Some of these cars are a half million dollars. It's so blatant. It seems like it's a norm here now. As a citizen I see a young person bringing funds in from China and driving cars like that as a norm and someone should be doing something about it...

Making cash payments reportable fixes the problem from 10 years ago but not now and it puts us in a hard spot... I want a rule that says no cash transactions period on cars because I don't want to have to deal with it and tell the buyer I have to report the cash sale...

In talking with other dealers, I don't think physical cash transactions are that common anymore; you're 8 years behind the game because they've found other ways to do it, like getting financing based on bank statements of cash wired in from China and then they're paying for the financing or the lease with money that comes in and the source is not being looked at. So I don't think the big problem is cash sales anymore, it's how the cash gets here...I think the problem is that so much cash is coming into the country through suspicious means, that's what needs to be dealt with.

But don't put us between the government and [gangsters] because that's not fair...We should require people to substantiate their income is coming from a valid source. I would target people who claim no income and buy a \$500,000 car and make \$5,000 a month payments. How can that fly under the radar? How is a 19-year-old kid driving a \$500,000 car that he's making huge payments on, yet I get a letter from CRA because I forgot to report one T5 with \$60 interest?"

Another dealer of high-end vehicles provided the following:

"Anything above \$10,000 I ask them to sign a declaration form and I take the cash to the bank. I've taken cash three times in the last 12 months. But when I say I won't take

⁹¹ According to its website, WeChat Pay is used by hundreds of millions of users every day and is one of the most popular payment methods in China, allowing payment by Quick Pay, QR Code, In-APP Web-Based or Native In-App Payments and allows cross-border settlement across foreign currencies. Accessed at <https://pay.weixin.qq.com/index.php/public/wechatpay/home>.

⁹² According to the UnionPay website, "UnionPay cards can be smoothly used at 174 countries and regions worldwide...more than 10 million overseas online merchants accept UnionPay Online Payment...UnionPay online payment has the characteristics of convenient, and other characteristics, through multiple security technology and risk monitoring, to ensure the safety of cross-border online payment." Accessed at <http://www.unionpayintl.com/en/servicesProducts/products/innovativeProducts/onlinePayment/>.

more than \$10,000 unless they sign a declaration, then they always say ok, ok and then they don't try to pay in cash anymore so it's never more than \$10,000.

...Our leasing company doesn't take cash. But I know of small independent dealers and leasing companies that will take cash. Just the fact that they use an independent leasing company is suspicious because there's no reason to involve multiple parties because those transactions add cost. So on an [expensive car], that's going to be three or four thousand a month payment which doesn't attract a lot of attention and is less noticeable than a large amount. If they come in and they have made arrangements with one of these independent leasing companies, I'll deal with them. If they don't have a leasing company, we have several reputable ones that we can refer them to. Sometimes I'm approached by a small independent leasing company who say they have a client, and it just smells fishy... Real business people are really tight with their money. But the hoods, they just walk in and say I want that and don't even care about the price. And I deal with independent leasing companies who give me the feeling their client doesn't care about the cost, they just want the car.

I feel like where the money laundering is happening is in the independents. I'm not going to risk my franchise agreement...with a few sales to bad people because our reputation is everything.

The guy who has no job and making the big lease payments, he doesn't deal with me, he's dealing with a leasing company. Sometimes they're students and mom and dad don't live here and they're just depositing money in their accounts here, so it could be legit...But who knows with some of these students here from Asia.

There are a lot of small independent car dealers in [city] who I'd be looking at. If [another high-end new car dealer] has one of my cars it makes sense, to resell as a used car. But when a small fly-by-night company is all of a sudden selling \$300,000 or \$400,000 cars, where does he get the means to do that?

Any luxury car that isn't leased through the luxury car company itself is suspicious because if they have the means to buy the car, they should be able to prove their source of income to the manufacturer's leasing company or who the dealership uses. Why are these [small independent leasing companies] getting this business to lease high end vehicles? ...it just doesn't feel right to me.

... we'll get guys come in here with a bank draft for a car and they just drive away. We'll hear their parents own a factory in Guangzhou or work for the Chinese government and it sounds solid....The gangsters who have the means to drive my cars keep a lower profile than the ones who are in your face and have a profile in the media.

It's not as prevalent as it used to be. But I sold [a murdered gangster] a [high-end luxury car], and he leased it through [a leasing company],.... I used to sell a lot of [luxury/performance cars] to known gangsters...It doesn't feel like that anymore. So

they're getting better at covering up. And some of these guys will send someone in and only come in to sign the paperwork.

[A leasing company] was investigated for illegal consignments and fined \$300. They weren't licensed to do consignments. A \$300 fine for someone moving \$400,000 or \$500,000 cars is a joke.

I had a guy who owned a [business] and he insisted on paying \$200,000 cash and I said ok, well you meet me at the bank and you pay them and they can count it. He said it was a cash business and I told him straight out I knew he wasn't paying tax on a third of his income... and I didn't care, I wasn't going to take the cash. He was all mad about it but he brought me a draft. I have too much at stake with [the manufacturer], it's not worth it. But I can see the smaller dealers and independents being willing to take cash [for purchase or lease]...I think it's more often about avoiding paying income tax on income, not laundering money that's proceeds of crime...so they'll deal with someone where "a guy" is making the decision about whether to lease, not banks with rules about showing source of income, debt/income ratios, that kind of thing."

We recognize the fact that there can be animosity between new car dealers and resellers, and that this could influence comments which we received. At the very least, it is apparent that the luxury car industry is home to a wide range of dealers, some of whom are quite prepared to express concerns about their competitors in related markets.

A dealer reported being defrauded of a high-end vehicle by a gangster providing an altered bank draft at the end of a Friday before a long weekend. Before the bank draft could be verified the following week, the gangster had already sold the car to a luxury car reseller. A police officer involved in the subsequent investigation confirmed to us that the reseller had paid \$120,000 less for the vehicle than its purchase price the day before. The cash proceeds were placed in a safe on the premises. He promptly advertised the car for \$120,000 more than he had just paid, but he refused to disclose to police the source of the cash. Police did not seize the vehicle. By the time they located it, the new car dealer's insurance on the fraudulently obtained vehicle had already been paid out. The matter never came to trial because the original purchaser/fraudster was subsequently murdered in another jurisdiction.

Another car dealer who sells luxury vehicles reported making cash sales about once every month or two. He also advised that his dealership tries to avoid leasing vehicles to gangsters because of the numerous times that the cars have been seized by police, creating costs for the dealership. He advised that each time this occurred, the lessee would be blacklisted from leasing in the future.

A common money laundering scheme reported by a new car dealer and confirmed by police was described as follows. The suspect attends a dealership to test drive a vehicle. He then makes a large cash deposit ranging from \$10,000 to \$25,000 to hold a vehicle for a possible sale and advises that he will come back the next day to discuss and finalize the sale. The suspect returns the next day and claims he "changed his mind" about purchasing the vehicle. He

requests the return of his deposit. Since the dealership has already deposited the cash in its bank, it issues a cheque to refund the deposit. The owner of one dealership advised that he only became aware of this being a money laundering scam because he recognized the same name on refund cheques issued from four different dealerships.

A police investigator advised us that the same scheme also occurs through groups of straw buyers organized by a drug trafficker. For example, a drug trafficker seeking to launder money will hire ten, low-level criminals at a cost of a few hundred dollars each, or as payment for a drug debt. Each will go to a dealership and make a \$9,500 cash deposit on a vehicle, then return a few days later once the cash has been deposited and advise the dealer that he or she has changed their mind. The deposit will be returned by cheque, effectively laundering the drug trafficker's \$95,000 at very little cost.

We appreciate the candor of some new car dealers interviewed during this Review. Their stories provide a perspective from the sales floor. Unfortunately, some other luxury car dealers refused to acknowledge our requests for interviews.

OVERSIGHT OF MOTOR VEHICLE SALES IN BRITISH COLUMBIA

The Vehicle Sales Authority (VSA) of B.C. is an independent, non-profit, regulatory agency that oversees the retail sales of personal-use motor vehicles in British Columbia. It was incorporated in July 2003 as the Motor Dealer Council and became the VSA in 2007. It was given authority to administer the *Motor Dealer Act*,⁹³ parts of the *Business Practices and Consumer Protection Act*⁹⁴ and associated regulations through a delegation agreement with the province. The VSA has an 11-member Board of Directors, which includes six vehicle sales industry appointees, three members of the general public, and two government appointees.⁹⁵ According to a representative of the VSA, the issue of money laundering through the purchase of vehicles at dealerships has not been a regular topic for discussion at Board meetings.

In February 2016, the provincial government announced amendments to the *Motor Dealer Act* through the *Motor Dealer Amendment Act*, which received Royal Assent on May 19, 2016.⁹⁶ Changes included:

- vehicle wholesalers, brokers, and broker agents were added to the regulatory scheme;⁹⁷

⁹³ *Motor Dealer Act*, RSBC 1996, c. 316, accessed at http://www.bclaws.ca/civix/document/id/complete/statreg/96316_01; and *Motor Dealer Act Regulation*, BC Reg 447/78, accessed at http://www.bclaws.ca/civix/document/id/complete/statreg/447_78.

⁹⁴ *Business Practices and Consumer Protection Act*, SBC 2004, c. 2. Accessed at http://www.bclaws.ca/civix/document/id/lc/statreg/04002_00.

⁹⁵ Further information about the VSA can be found on its website: <https://mvsabc.com/>.

⁹⁶ SBC 2016, c. 6. Accessed at <https://mvsabc.com/v1/wp-content/uploads/2018/02/Bulletin-5.18-MDA-Amendments-Part-2-1.pdf>.

⁹⁷ PS&SG, "New Motor Dealer Act rules to protect consumers", Press release, Feb. 18, 2016. Accessed at <https://news.gov.bc.ca/releases/2016PSSG0041-000242>.

- a strengthened prohibition on motor dealers using an unlicensed salesperson;
- the ability of a dealer or a person licensed under the *Act* to advertise that they are licensed by the VSA, subject to terms and conditions set by the Registrar; and
- new licence categories were added for consumer compensated broker-agents and broker-agent representatives, as well as vehicle wholesalers.⁹⁸

Other changes required regulations to be developed and came into force on January 1, 2018, including:

- Motor Dealer Customer Compensation Fund changes;
- amended *Motor Dealer Act* administrative penalties; and
- wholesaler, broker agent and broker agent representative licensing was required, effective April 1, 2018.⁹⁹

Importantly, the amendments addressed unregulated vehicle auction sales in which curbers (i.e., unlicensed individuals or businesses “selling vehicles for profit, often while posing as a private seller”)¹⁰⁰ could buy and sell vehicles. Curbers take advantage of unwitting consumers, act in defiance of municipal bylaws by failing to obtain a business licence and evade income tax. Anyone selling more than five vehicles per year is automatically deemed to be a dealer under the *Motor Dealer Act*, but the sale of even one vehicle to a retail consumer as a business activity may require a licence.¹⁰¹

The New Car Dealers Association (NCDA) represents an estimated 97% of all new car dealers, or 392 new car dealers throughout the province. The dealers collectively generate more than \$16B in economic activity, inject \$2.9B net GDP directly into B.C.’s economy, and employ more than 30,000 individuals in over 50 communities. The NCDA speaks on behalf of B.C.’s new car industry to the public, media, and government, and deals with the legal, environmental, and consumer issues relating primarily to new vehicle sales in B.C. The NCDA also provides services, products, consultants and benefit partnerships to its dealer members.¹⁰² It is a member of the Canadian Auto Dealer Association (CADA), a national association representing new car and truck dealers. CADA is a federation of dealer associations and provides services to provincial dealer associations. It also engages in government and industry relations, legal affairs, and acts as the voice of dealers at the national level, serving as “an advocate to government, industry and the public.”¹⁰³

⁹⁸ <http://mvsabc.com/v1/wp-content/uploads/2016/05/Bulletin11.16.pdf>.

⁹⁹ <https://mvsabc.com/v1/wp-content/uploads/2018/02/Bulletin-5.18-MDA-Amendments-Part-2-1.pdf>.

¹⁰⁰ <https://mvsabc.com/consumers/how-to-spot-a-curber>.

¹⁰¹ *Ibid.*

¹⁰² <https://www.newcardealers.ca/>.

¹⁰³ <https://www.cada.ca/web/cada/>.

According to a recent submission by CADA to the House of Commons Standing Committee on Finance, “large transactions involving large sums of physical cash are very rare in our sector” and cash sales of vehicles in “excess of \$10,000 represent less than one percent of sales.”¹⁰⁴ This estimate is based on the number of vehicles sold that involve bank financing. A vehicle purchased partially with cash (e.g., \$50,000 cash with \$50,000 in financing), would not be captured in the 1% estimate. Nevertheless, CADA has asserted that physical cash (versus a cheque or bank draft) is at an “insignificant level”.

Michael Hatch, the chief economist for CADA, stated that:

“between 2010 and 2017, the share of new vehicle sales that were fully cash purchases decreased from 17% of the market to 8%. That share of cash transactions has gone down, and the portion of that share that’s physical cash has also gone down, in our view.”

He explained that a cash sale does not mean physical cash, just a purchase without financing, and that a sale using physical cash “just doesn’t happen”.¹⁰⁵

An official representative of the NCDA provided a similar perspective during this Review, suggesting that the sale of a car for physical cash is extremely rare and advising that he had only heard of it occurring once. In that case he said it involved a long-time customer of the dealership who insisted on paying cash, so the dealer walked him to the dealer’s bank to deposit it: “I’ve asked our people how many cash deals they do and they say very few, particularly with the ones over \$200,000. Most deals are financed and that’s good business for the dealers.” The NCDA does not, however, track the number of cars financed, purchased without financing, or purchased with physical cash.

The Canadian Automobile Association (CAA) advised the Finance Committee that only 8% of new vehicle sales in 2017 were concluded without formal leasing or loan arrangements, so in theory 92% of new auto transactions would be subject to some oversight by financial institutions (and thereby included in *POCMLTFA* reporting). Of the 8%, only a fraction of 1% involved cash payments.¹⁰⁶ This fails to consider the fact that there is no reporting at the transactional level and that third-party financial institutions have no visibility, and likely are not terribly interested, in what occurs at the dealership in terms of the point of sale transaction.

AUCTION HOUSES

Vehicle auctions are big business in B.C. This is typically where dealers send used vehicles which they have taken in on trade. Many of the auction sales occur in cash or by cheque. Auction houses, like vehicle dealerships, do not report to FinTRAC under the *POCMLTFA*. In the course

¹⁰⁴ Canada, House of Commons Canada Standing Committee on Finance, Evidence, *supra*, April 16, 2018 at p. 2. Accessed at <https://www.ourcommons.ca/Content/Committee/421/FINA/Evidence/EV9768497/FINAEV142-E.PDF>.

¹⁰⁵ *Ibid.* at p. 6.

¹⁰⁶ *Ibid.* at <http://www.ourcommons.ca/DocumentViewer/en/42-1/FINA/meeting-142/evidence#Int-10048613>.

of this Review, we attempted to speak with officials of a large vehicle auction sales house in B.C., in order to obtain their perspective on this issue. We were initially informed that they would have to seek authority from legal counsel in Toronto before speaking to us. Follow-up calls went unanswered. Time did not permit further follow-up with other, smaller auction houses.

SUMMARY

Greater Vancouver is home to thousands of luxury vehicles. Dealers we spoke to were quite comfortable disclosing the interactions they had with gangsters and persons with unknown sources of income wishing to purchase vehicles. At the transactional level, dealers are faced with clients who have lots of money and wish to buy a vehicle. Nothing prevents them from selling the vehicle to the individual and nothing prevents them from accepting the total amount in cash, by bank draft, by overseas wire, or on a credit card.

When the *POCMLTFA* was enacted in 2000, vehicles were simply not considered to be of sufficient value to be used as tools for laundering the proceeds of crime. The situation today is quite different. It is hard to draw a distinction between bags of cash arriving in a casino and bags of cash arriving at a car dealership, although our current financial reporting does create a distinction.

The current situation provides an excellent opportunity for the federal government to include auto sales in the *POCMLTFA* and to create Geographic Tracking Orders, which can be used to require reporting of luxury vehicle sales in this province. In the event that the federal government chooses not to include luxury vehicles in the financial regulatory environment, the province has that opportunity through its provincial oversight of the auto industry.

Canada's current situation is in stark contrast to the United States, where "any person in a trade or business who receives more than \$10,000 in cash in a single transaction or related transactions must complete a Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business."¹⁰⁷

Auto dealerships are included among the businesses required to comply with this obligation.¹⁰⁸ We have already referred to this filing requirement in the context of U.S. law firms. Form 8300 is jointly issued by the U.S. Internal Revenue Service (IRS) and FinCEN and is used to track individuals who evade taxes or profit from crime. Guidance is provided by the IRS for various

¹⁰⁷ <https://www.irs.gov/businesses/small-businesses-self-employed/report-of-cash-payments-over-10000-received-in-a-trade-or-business-motor-vehicle-dealership-gas>.

¹⁰⁸ *Ibid.*

industries, including the auto industry.¹⁰⁹ The failure of a car dealer suspected of laundering to comply with the law can result in a charge.¹¹⁰

¹⁰⁹ U.S. IRS, *Report of Cash Payments Over \$10,000 Received in a Trade or Business – Motor Vehicle Dealership Q&As*. Accessed at <https://www.irs.gov/businesses/small-businesses-self-employed/report-of-cash-payments-over-10000-received-in-a-trade-or-business-motor-vehicle-dealership-qas>.

¹¹⁰ See, for example, U.S. Attorney's Office, District of Colorado, "Owner of Colorado Car Dealership Sentenced for Structuring and Money Laundering", Press release, Dec. 1, 2015. Accessed at <https://www.justice.gov/usao-co/pr/owner-colorado-car-dealership-sentenced-structuring-and-money-laundering>.

CHAPTER 3-4

THE GREY MARKET OF EXPORT VEHICLES

FINDINGS

Grey market vehicle exports are a well known and effective trade-based money laundering strategy.

In B.C., the 'grey market' in the sale of luxury vehicles for export to China is huge; involving straw buyers, dealers, and exporters.

The grey market is unregulated from a financial crime perspective, resulting in very little being known about the persons and companies involved, the source of funds of purchasers, and their methods of payment.

The grey market has resulted in considerable expense to the Province of B.C., due to the refund of sales tax to straw buyers who export vehicles.

In 2016-17, Provincial Sales Tax refunds totaling \$55 million were made on 7,980 vehicles, with a total purchase value of \$555 million.

Provincial employees identified numerous red flags of money laundering; including 4,108 unique straw buyers, with 48 making in excess of 11 transactions, one making in excess of 25 purchases, and 1,000 apparently linked to one exporter.

INTRODUCTION

Trade-based money laundering has been defined by the FATF as "the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimize their illegal origins or finance their activities."¹¹¹ Quite simply, it is "the misuse of commerce to move money across borders."¹¹²

The FATF considers TBML as one of the principal methods by which criminal organizations and terrorist financiers move money for the purpose of disguising its origin and integrating it into the formal economy."¹¹³ TBML typologies identified by the FATF include:

¹¹¹ FATF, *Best Practices on Trade Based Money Laundering*, Guidance Document, June 2008 at p. 1.

¹¹² "Trade and money laundering – Uncontained", *Economist*, May 3, 2014. Accessed at <https://amp.economist.com/international/2014/05/03/uncontained>.

¹¹³ FATF *Best Practices on Trade Based Money Laundering*, *supra* at p. 1.

- the purchase of high-value goods using the proceeds of crime, followed by the shipment and re-sale of goods overseas; and
- using the proceeds of crime to purchase goods for legitimate re-sale, with payment for goods made to drug traffickers/distributors by legitimate business owners.¹¹⁴

Money laundering through exporting vehicles purchased for domestic use, known as the vehicle grey market, is an example of TBML. It is estimated to be “responsible for sending as many as 25,000 new luxury cars a year to China from the United States.”¹¹⁵ A grey market exists where a brand owner or manufacturer’s products are purchased and then resold outside of their approved distribution networks. Due to the tax structure and soaring demand that exists for high-end cars in China, dealerships charge much higher prices in that marketplace than they do in North America. This has created an arbitrage opportunity in the form of a grey market for people willing to purchase these vehicles in North American locations and ship them to China for a significant profit.

A *New York Times* report described authorities in several states targeting straw buyers who are paid a few hundred dollars to purchase a car but quickly turn it over to the true owner for export, as well as other deceptive practices required to complete the transactions. Both criminal and civil actions have been launched in the U.S.¹¹⁶ A related scheme in the U.S. involves the purchase of new vehicles from legitimate dealerships, which are then shipped to China as used vehicles.

The funds for these transactions are often routed through a shell company located in a high-risk jurisdiction. Numerous straw buyers are used to make the actual purchases, in order to circumvent directives from manufacturers to dealers that they may not sell a vehicle for export. These straw buyers advise the dealerships that the vehicles will not be registered in the state of purchase, which is a strategy to evade the state’s taxes. The vehicles are then taken to a port for export.¹¹⁷

Don Semesky, retired Chief of the DEA’s Office of Financial Operations and an expert witness for the United States at the trial of Sinaloa Cartel kingpin Joaquin “El Chapo” Guzman¹¹⁸, provided the following statement for this Review:¹¹⁹

¹¹⁴ FATF, *Professional Money Laundering*, *supra* at p. 30.

¹¹⁵ Matthew Goldstein, “U.S. Targets Buyers of China-Bound Luxury Cars”, *New York Times*, Feb. 11, 2014. Accessed at <https://dealbook.nytimes.com/2014/02/11/u-s-targets-buyers-of-china-bound-luxury-cars/>.

¹¹⁶ *Ibid.*

¹¹⁷ John Wintrow, “Transnational Trade-Based Money Laundering”, *AML RightSource*, Dec. 28, 2016. Accessed at <https://amlrightsource.com/posts/transnational-trade-based-money-laundering/>.

¹¹⁸ *United States v. Joaquin Archivaldo Guzman Loera*, Criminal Docket No. 09-466 (S-4) (BMC). On Feb. 12, 2019, Guzman was convicted of all 10 counts on the indictment.

¹¹⁹ Mr. Semesky was speaking for himself and not on behalf of the DEA in his Jan. 2018 E-mail to the review team.

“New, and particularly used cars are a favorite vehicle for repatriating value of drug proceeds to foreign jurisdictions. As DEA saw in Operation Titan, used cars were also a mechanism for increasing drug profits and thus increasing terrorist financing revenues for Hezbollah. In that particular case, European drug profits were laundered through Lebanese FX [foreign exchange] businesses in Beirut, then wired into the US through Lebanese Canadian Bank to purchase used cars that were then shipped to Benin and sold for an estimated 30% profit on top of the already huge profit generated by the drug trafficking. We've also had many cases where West African drug traffickers have repatriated their profits to countries like Nigeria through the purchase and export of used cars. Like the Mexican and Colombian BMPE models, countries like Nigeria and Ghana have their share of money brokers who work with Nigerian and Ghanaian fraudsters and drug traffickers, who are generating illicit proceeds abroad, to buy these proceeds which they then sell on their informal/black FX markets to businesses who need the FX to pay off their foreign trade debts.”

The grey market export of vehicles in B.C. is a significant and rapidly growing problem. There has been an explosion in the number of grey market vehicles exported to China since 2013, growing from less than 100 vehicles in 2013 to over 4,400 vehicles in 2018.¹²⁰

These vehicles are purchased for domestic use by straw buyers, working for a fee or commission on behalf of exporters, who then rapidly ship the vehicles overseas where international price differentials ensure huge profits. B.C.'s unique geographic location and ethnography make it an incredibly attractive venue for this activity.

A straw buyer is not the true purchaser of an asset but represents that he or she is. An exporter of luxury cars will employ networks of family, friends, or sometimes people recruited online or via word of mouth. These straw buyers or agents will sign the paperwork at dealerships, buy cars, and then drop them off to be exported. In return, they receive a small commission on the vehicle, typically ranging up to a few thousand dollars and corresponding to less than 5% of the vehicle's value.

Because the grey market vehicles are being exported with appropriate taxes paid and are not stolen, CBSA has neither the mandate nor the authority to detain or seize the vehicles prior to export, even if trade-based money laundering is suspected.

CTV News in Edmonton investigated a similar scheme in Alberta and found “multiple ads posted on public job sites that offer thousands of dollars in commission to outsource cars at dealerships using exporter cash.”¹²¹ An anonymous vehicle exporter interviewed by CTV

¹²⁰ Based on B.C. Ministry of Finance PST data.

¹²¹ “Luxury car dealerships are targets of growing multi-million dollar export businesses”, *CTV News*, Apr. 14, 2017. Accessed at <https://www.ctvnews.ca/business/luxury-car-dealerships-are-targets-of-growing-multi-million-dollar-export-businesses-1.3368819>.

claimed that the more popular the vehicle, the more commission would be paid. He would pay up to \$8,000 to \$9,000 commission for a Mercedes GLS 450.¹²²

To combat the grey market, some auto manufacturers have responded by requiring dealers to include clauses in purchase agreements which state that the buyer may not export the vehicle. In turn, the dealer will require the purchaser, as part of the sales contract, to confirm that a vehicle is not being purchased for export. This is almost impossible to enforce.

If a manufacturer subsequently identifies a vehicle which has been exported in violation of its dealer agreement, it will penalize the dealership. This may consist of a monetary penalty or disruptions to future inventory. We learned of one new car dealer who had received a substantial penalty from a manufacturer. It refused to acknowledge our request for an interview.

As a result of concern with manufacturers, dealerships will not sell luxury vehicles in large quantities to an individual party, giving rise to an industry of straw buyers.

Another strategy employed by dealerships is to require a deposit of up to \$50,000 on top of the purchase price of the vehicle, which is only refundable if the purchaser can demonstrate that he or she still owns the vehicle one year later. Considering the extraordinary profit made by exporting luxury cars to China, even this may not be a sufficient deterrent.¹²³

As noted in the U.S. example above, in some cases the straw buyers book the transfer of the vehicle as a “resale” to the exporter. This does two things:

- it distances the actual exporter from the restrictive purchase clauses, shielding them from civil action, as the agent has not exported the vehicle but rather engaged in a domestic sale; and
- in B.C., it permits the Provincial Sales Tax (PST) portion of the sales tax, paid by the original buyer to the dealership, to be reclaimed from the province.

There are several financial typologies demonstrated in these transactions:

Incoming transactions

- Funds are wired from China by either the actual purchasers of the cars or from local dealerships in China which purchase in large volume.

¹²² *Ibid.* In a 2015 Ontario case, a salesperson/business manager at a Markham, Ontario BMW dealership was charged under the *Motor Vehicle Dealers Act*, S.O. 2002, c. 30, Sched. B, for allegedly creating false bills of sale using the identification of unwitting dealership customers to facilitate the purchase of vehicles for export to China (Ontario Motor Vehicle Industry Council, “Salesperson Charged in Elaborate Vehicle Export Scheme”, Aug. 25, 2015. Accessed at <https://www.omvic.on.ca/portal/NewsPublications/NewsReleases/2015/tabid/426/aid/288/Default.aspx>).

¹²³ *Ibid.*

- Funds are deposited with a bank via a negotiable instrument such as a draft or a cheque by an individual or entity participating in an informal remittance system to repatriate revenue from China and circumvent currency controls.
- The PST portion of the vehicle purchase price is refunded and deposited following the “resale” of the vehicle from the straw buyer to the exporter.

Outgoing transactions

- The exporter purchases a draft payable to a dealership and one of its straw buyers gives it to the dealership at the time of purchase, filling out their own name on the paperwork. Agents are paid a commission via cash, bank transfer, or cheque.
- A draft or transfer is sent to the straw buyer’s own bank account, and then a draft or cheque payable to a dealership is drawn from the account with a small percentage remaining as the commission.
- Funds are sent through multiple entities before being issued to a dealership via the first two methods.

AVOIDANCE OF PROVINCIAL SALES TAX AND FEDERAL INCOME TAX

The grey market for the export of luxury vehicles takes advantage of current legislation to avoid paying provincial sales tax, which is not payable if the vehicle is purchased with the intent to resell.¹²⁴ The exporters are legally entitled to have the PST refunded, generating a significant increase in Ministry of Finance workload and costing B.C. tens of millions of dollars in lost PST revenue. On luxury vehicles in B.C., the PST amounts to 10% of the purchase price of vehicles worth \$57,000 to \$124,999.99, 15% on vehicles \$125,000 to 149,999.99, and 20% on vehicles \$150,000 and above.¹²⁵

The number of applications for refunds of PST on vehicles is a strong indication of the size of the grey market for exported vehicles from B.C. Data from the B.C. Ministry of Finance demonstrates that the market has rapidly increased in size during the past five years.

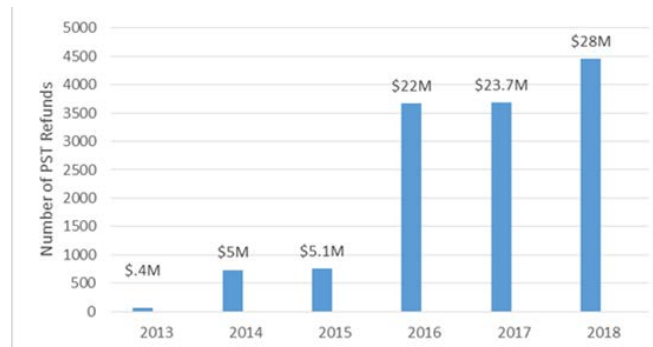
Prior to 2014, the number of applications was negligible – less than 100 per year – but the number grew dramatically to over 700 in 2014 and 2015, and then multiplied by 500% to 3,674 in 2016.

The number of applications has continued to grow since then, reaching 4,452 in 2018, as described in the chart below. Also depicted are the yearly PST refund totals, averaging

¹²⁴ *Provincial Sales Tax Act*, SBC 2012, c. 35. Accessed at http://www.bclaws.ca/civix/document/id/complete/statreg/12035_00.

¹²⁵ British Columbia, PST Bulletin, rev. Apr. 2018 at p. 3. Accessed at <https://www2.gov.bc.ca/assets/gov/taxes/sales-taxes/publications/pst-308-vehicles.pdf>.

approximately \$6,300 per refund, and totalling \$28 million in 2018. Since 2013, Finance staff have processed almost 14,000 refunds totalling about \$85 million.



Ministry of Finance staff have also raised concerns about several red flags for possible money laundering activity, including:

- vehicle registration documents which appear to have been altered;
- the type of cars, including Mercedes, Ferrari, Lamborghini, and other less exotic but still high-value cars;
- generic-looking export documents with suspicious inconsistencies;
- straw buyers struggling to explain anomalies in documents;
- the same straw buyers showing up in multiple transactions;
- PST refunds are going directly to vehicle exporters, rather than the purchasers of the vehicles, who are clearly straw buyers receiving a fee or commission; and
- the straw buyers often do not speak English and are “clearly just a signature”.

Finance staff gathered the following statistics for the 2016/2017 fiscal year:

- one straw buyer made in excess of 25 purchases;
- 48 straw buyers made in excess of 11 transactions;
- 4,108 unique straw purchasers were identified;
- 4,060 buyers were involved in the purchase of one to 10 vehicles;
- 1,000 straw buyers were apparently linked to one exporter;
- in many cases, the identification provided by the straw purchaser is a PRC passport, not a B.C. driver’s licence;

- most vehicles are purchased via bank drafts, not physical cash, but the exporter is not identified on the bank drafts; and
- PST refunds were at least \$55 million on 7,980 vehicles with a total purchase value of \$555 million.¹²⁶

Incidental to the money laundering implications of this grey market are the following negative consequences.

- If the vehicles purchased by straw buyers are resold to the exporters within seven days of purchase, then the provincial government refunds the PST. Not only is this a net loss of revenue, but the exponential growth in such refunds has required significant increases in provincial Finance staff to process the transactions.
- As part of their legitimate duties, provincial civil servants are assisting straw buyers and exporters to maximize their profits through the provision of administrative support in arranging PST refunds. The civil servants that we spoke to found this very concerning.
- There is reason to believe that millions of dollars in fees to straw buyers are not being reported as income. It is equally possible that exporters are not declaring the income which they pay to straw buyers.
- Although the vehicles purchased by straw buyers are clearly being purchased for business purposes, they are purported to be purchases by private individuals, who are not required to pay federal Goods and Services Tax (GST).

THE RISK FOR MONEY LAUNDERING POSED BY THE VEHICLE EXPORT GREY MARKET IN CANADA

The transactions described above create a money laundering risk in B.C. through placement, layering, and integration, as follows:

Placement

As the people buying the cars are essentially acting as nominees, they provide a convenient channel for the proceeds of crime to be placed in the financial system if the car dealerships are willing to accept cash payments. The identity of the cash provider is not recorded. Furthermore, as this trade-based activity involves large dollar sums leaving China, it generally requires the services of an underground banker to repatriate revenue and purchase new inventory. Some of these unregulated banking channels accrue large amounts of illicit cash and dealing with it

¹²⁶ The amount of GST refunded was estimated by Ministry of Finance staff based on the assumption that the value of the vehicles reached the 10% luxury tax threshold of \$57,000. Vehicles purchased for at least \$125,000 or at least \$150,000 would generate larger PST refunds.

raises the risk that exporters may be receiving a portion of their revenue from the proceeds of crime.

Layering

As any trade-based activity involving shipping products to China typically requires the use of nominees to transfer funds from that country, layering would be difficult to distinguish from completely legitimate activity. Once the funds arrive in Canada they move through one or more entities into the possession of individuals, who use the funds to acquire additional vehicles. As various nominees may be involved in the money trail, it becomes difficult to distinguish layering from ordinary business operations.

Integration

The purchase and disposition of luxury assets has always been a method used to integrate illicit funds back into the economy. The grey market in vehicles provides lucrative profits for anyone seeking to integrate funds through large vehicle purchases, which are then shipped to China, or resold domestically to an exporter.

SUMMARY

In summary, the export of grey market vehicles is of considerable concern for a number of reasons. It is an underground market, which seeks to avoid regulatory and industry directives. It provides a wonderful opportunity for large-scale money laundering, with very little chance of detection. The trade is supported by a nuance of provincial legislation which also co-opts civil servants to assist straw buyers and exporters in their scheme to federal tax authorities and some vehicle dealerships. There is a loss in revenue to the provincial government from sales tax rebates and an increase in costs due to staff requirements to process the thousands of claims.

Ministry of Finance staff co-operated fully with our Review and we thank them for their able assistance. The province possesses data which identifies the repeat straw buyers and the export companies involved. Furthermore, the province possesses data regarding dealerships which repeatedly engaged with the same straw buyers. Although Finance staff provided extraordinary assistance to this review, they considered themselves bound by legislation not to release data to us that would identify the straw buyers, dealerships or exporters.

The absence of financial reporting by luxury vehicle dealers to FinTRAC is a huge gap which allows the grey market to operate without detection. As noted earlier, this can be remedied by including the sector under the *POCMLTFA*. Geographic Tracking Orders would also be a useful adjunct. In addition, there are options for the provincial government to consider, including those listed below in Schedule “A”.

SCHEDULE “A”

GREY MARKET OPTIONS

1. Currently, many motor vehicle purchase agreements contain a clause in which the purchaser agrees that the vehicle is “not for export”. These agreements could be amended to insert a time frame of, for example, one year during which the purchaser would commit to not export the vehicle. Then the refund regulation could be amended to exclude vehicles exported within a year from eligibility for the PST refund, and to require the person seeking the refund to demonstrate that the vehicle had not been exported within the year.
2. Require straw purchasers of vehicles for export to provide a copy of the purchase agreement. If the purchaser has committed to not purchasing the vehicle for export (i.e., a contract between the purchaser and the new car dealer), there should be no PST refund. This should not impact the tax-exempt status of *bona fide* purchasers, provided that they state their intention to export the car or resell the car at the time of original purchase. If the dealer agrees to sell the vehicle, the purchaser would qualify for a PST exemption at the time of the original purchase. This would require an amendment to the refund regulation.
3. Another way to accomplish the foregoing would be to provide Ministry of Finance staff with the ability to track vehicles within Canada by way of a VIN search (e.g., through a subscription to “CARFAX Canada”¹²⁷). If a vehicle was not registered in Canada for one year, it would not be eligible for a refund. This would serve as a deterrent to purchasing vehicles for export, because there would be no PST refund; and exporters would have a significant amount of money committed for at least one year.
4. If agreement could be reached with CBSA, create a requirement that all vehicles exported be subject to a cursory review by CBSA to confirm ownership by way of a VIN search. CBSA clearance could be required for a PST refund, and it would have to be demonstrated that the vehicle was registered and insured in Canada for one year. In the U.S., Customs and Border Protection officers are actively involved in enforcement action against grey market exporters where fraud is suspected.¹²⁸
5. Amend the refund regulation to require that straw buyers applying for a PST refund demonstrate that they owned and registered the vehicle for one year prior to it being exported and provide evidence of tax being paid in the jurisdiction to which it was exported.

¹²⁷ <https://www.carfax.ca/>.

¹²⁸ See, for example, Eric Kulisch, “Scams and schemes create enforcement morass at ports”, *AutoNews*, Nov. 12, 2018. Accessed at <https://www.autonews.com/article/20181112/LEGALFILE/181119953/scams-and-schemes-create-enforcement-morass-at-ports>.

6. Impose an export fee for grey market vehicle exports, equivalent to a percentage of the PST refund. This would preclude the need to amend the refund regulation. Provided that the export fee was not too high, it would still be worthwhile applying for a refund. A by-product of this process would be the acquisition of useful data on the size of the market, the straw purchasers, and exporters. The export fee should at least cover the cost of PST processing expenses.
7. Alternatively, charge an administrative fee for PST refunds. The Province of Manitoba charges a \$25 processing fee for each application.¹²⁹ Other publicly funded organizations impose similar charges.¹³⁰ The fee could also be a percentage of the purchase price of the vehicle. As it is a fee and not a tax, there would be no eligibility for a refund.
8. Many straw buyers appear to be “students” from overseas and are likely not Canadian citizens or permanent residents. Policy could require that refund cheques be mailed to the address of the straw buyer, not the third-party representative’s address or the exporter’s address. Unfortunately, various workarounds could occur in this scenario.
9. Require that the straw buyers provide proof of payment via their bank account. Almost all funds come from the exporter’s bank account and/or an exporter’s credit card. This would require the exporter to trust the straw buyer with large amounts of money and create more risk for the exporter.
10. Conduct a scan of legislation in other provinces and foreign jurisdictions, which might serve as a model to emulate (or to avoid). For example, in California, because of manufacturers taking action against new car dealers selling vehicles that were exported, the state vehicle code was amended in 2014 to make it illegal for a manufacturer or distributor to:¹³¹

“...take or threaten to take any adverse action against a dealer pursuant to an export or sale-for-resale prohibition because the dealer sold or leased a vehicle to a customer who either exported the vehicle to a foreign country or resold the vehicle in violation of the prohibition, unless the export or sale-for-resale prohibition policy was provided to the dealer in writing prior to the sale or lease, and the dealer knew or reasonably should have known of the customer’s intent to export or resell the vehicle in violation of the prohibition at the time of sale or lease. If the dealer causes the vehicle to be registered in this or any other state, and collects or causes to be collected any applicable sales or

¹²⁹ Based on the 4,452 PST refunds in 2018 for vehicles purchased for ‘grey market’ export, a \$25 administrative fee would have generated \$111,300, which is likely the approximate cost of salary and benefits for one Finance Ministry employee, far less than the staff resources required to process all the refunds.

¹³⁰ For example, municipal police agencies will charge a fee for criminal records checks, and the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165 permits the collection of fees to cover the cost of processing certain applications.

¹³¹ Joseph E. Berberich, “California franchise law helps dealers resist export and resale claims chargebacks”, *Manning Leaver Attorneys at Law*, July 24, 2014. Accessed at <https://manningleaver.com/resources/articles-alerts/california-franchise-law-helps-dealers-resist-export-and-resale-claims-cha>.

use tax due to this state, a rebuttable presumption is established that the dealer did not have reason to know of the customer's intent to export or resell the vehicle."

Before exploring any amendments to the refund regulation, there should be a legal/policy analysis of why the PST exemption for exported vehicles was created in the first instance. The policy objective must be understood in order to mitigate any unintended consequences that amendments discussed in the options above might create.

Despite the foregoing proposals, the grey market may still continue to flourish, as a loss of the PST may not have a sufficiently deleterious impact on luxury car shipments. For this reason, we re-emphasize that the key is transparency and ensuring that the export market is not a convenient means by which organized crime can launder its ill-gotten gains.

CHAPTER 3-5

INDEPENDENT LUXURY CAR RESELLERS

FINDINGS

Certain resellers of high-end, luxury vehicles have sullied the reputation of resellers generally, due to their willingness to deal with individuals involved in organized crime.

Certain high-end, luxury vehicles dealers are known to police, including for serious drug and other offences.

The absence of financial reporting to FinTRAC is a serious impediment with respect to resellers as it is with new car dealers.

B.C. could consider amending the *Motor Dealer Act* to prevent the acceptance of over \$10,000 as a deposit on, or payment for a vehicle.

B.C. could also consider prohibiting cash leases of vehicles where the yearly accumulated lease payments equal or exceed \$10,000.

B.C. could empower the VSA to superintend luxury car resellers and require that the principals obtain criminal record and background checks.

INTRODUCTION

Independent luxury car resellers and lease companies purchase new or near new vehicles, often from new car dealerships and resell them. Luxury car resellers do not have the same concern as new car dealers with respect to consequences from manufacturers. Resellers can be successful for several reasons, including:

- dealerships sell to them because they will pay ‘top dollar’ for a car;
- customers buy from them because they do not have to wait for desirable models if there is a waiting list;
- some resellers add significant customizations that appeal to a certain wealthy segment of the market; and
- some resellers offer alternative financing options, including accommodating students and visitors to Canada.

In the course of this Review, new car dealers, other industry insiders, police investigators, and tips from the public have repeatedly pointed to some small independent resellers and

associated independent lease companies displaying highly suspicious business practices. Furthermore, both a police investigator and a confidential source in the auto industry indicated that significant money laundering occurs via certain independent auto resellers, lease companies, and vehicle auction companies. Keeping a showroom full of high-end cars requires significant capital. While some luxury auto resellers and automobile auction companies have been in business for many years and are no doubt reputable, others are not.

For example, the principal of a luxury car reseller was recently convicted of an integrity-related offence under the *Motor Dealer Act* and principals in the same dealership are the subject of two recently-launched lawsuits. The first alleges fraudulent conversion of a high-end performance vehicle. The second claim is for well over \$1M and alleges breach of contract, conspiracy, and fraud related to luxury cars.

Not only have new car dealers raised suspicions that some resellers are accepting large amounts of cash from criminals, police investigators have confidentially provided specific examples of investigations that corroborate these suspicions.

LAW ENFORCEMENT CASES

We cross-referenced publicly available information and learned that a number of luxury car resellers are operated by individuals with serious criminal histories, typically for drug trafficking.

Police investigated a high-level drug trafficker who had worked for a luxury auto reseller, essentially as a broker to steer potential buyers to the company. He leased luxury vehicles from the reseller, including top-of-the-line Mercedes autos. As a money laundering strategy, he would make a large cash deposit of between \$50,000 and \$100,000 on a car and sign a lease for several years. Within six months he would return and ask to trade up to a more expensive vehicle. He would lease the higher-end car with an additional \$100,000 deposit and instruct the reseller to roll over the deposit from the previous car. This happened repeatedly, allowing the purchaser to accumulate the equivalent of a large savings account in his lease account. He would then return to the dealership when he needed money and ask for some of his accumulated deposits to be refunded by company cheque, effectively laundering the money. He pleaded guilty to drug trafficking, but no proceeds of crime charges were approved.

Police identified a luxury car reseller owned by a well-known gangster. Money laundering was a concern: “He wouldn’t be able to get a liquor or casino licence, but he can own a car dealership.”¹³² This individual’s business model was to buy luxury vehicles, particularly ones that were typically on waiting lists, at new car dealerships, and add fancy wheels and other customizations. According to the police investigator, his “target audience [was] the super-rich Asian students. They can get the car right there on the spot without waiting, tricked out, the car

¹³² Interview with police investigator.

company will have upped the price...and then they'll come back and trade them in again. And who knows where the money came from.”¹³³

In various investigations, it was observed that drug trafficking rings performing dial-a-dope sales will have a ‘manager’ for multiple drug lines working below a ‘boss’. The boss will arrange for the lease of vehicles for the manager and the street traffickers, partly as a reward and partly to facilitate the drug trade. In one investigation, police learned that the boss had a friend in a dealership who set up the leases. The boss would pay the friend in cash, who would deposit the money for the leases, without the boss ever entering the dealership: “They’ll meet for coffee and he’ll give an envelope full of cash and then the friend takes care of it.”¹³⁴

Police described an investigation in which police learned that an alleged drug trafficker was in possession of a high-end vehicle purchased from a luxury vehicle leasing company with a cash down payment well in excess of \$30,000. We identified the leasing company, but the general manager, after agreeing to be interviewed, failed to meet as arranged and would not reschedule.

In an investigation into a highly organized drug trafficking gang, a high-end performance car was seized. By tracking the sales history of the vehicle over the past several years, police determined that it had been gifted between gangsters. It was then sold for cash to a luxury car reseller, who leased it to another known gangster. The gangster kept the car for a few months, then returned it to the dealer who sold it for cash to a person believed to be a proxy owner, and who was also a known gangster. A year later, that person gifted it to the gangster who had originally leased it. The dealership had a “reputation for questionable business practices” and a principal of the business had been convicted of importing a huge shipment of narcotics.¹³⁵

According to both a police expert and a confidential source in the auto sales industry, “pop-up” lease businesses are the “major source of [vehicles associated] money laundering in B.C.”, along with some small independent dealers selling luxury vehicles. The police investigator and the confidential source both described a scam in which an individual with criminal ties opened a high-end leasing company. Lessees, often straw persons with a money or drug debt, would place a large deposit on a vehicle, the cars were registered in someone else’s name (such as a wife or girlfriend), and the deposit and lease payments made with dirty cash. The lessees kept the cars for six months to a year before either passing the lease on to someone else or obtaining a “dealer buy back”. In this fashion, they are refunded their initial deposit, or sell the vehicle; in either case, the laundering is complete.

A police investigator described a case in which a B.C. gangster opened a leasing company in another province which he used to purchase exotic vehicles, then sell or lease them to B.C. gangsters. Some vehicles were sold below cost as a method to launder money.

¹³³ *Ibid.*

¹³⁴ *Ibid.*

¹³⁵ Interview of confidential source, public VSA records and media reports.

A police investigator described a recent case that began as a surveillance-based investigation into a criminal organization from outside B.C., which trafficked women in the sex trade. This organization formed connections with organized criminals in Greater Vancouver and frequented the premises of a luxury car reseller, the owner of which was connected to the criminal organization from outside B.C.

The investigation revealed that gangsters who were selling large amounts of cannabis to illegal cannabis dispensaries in Vancouver for cash were then leasing luxury cars with the cash. But rather than making lease payments, they would pay up front in cash for the entire lease costs, and eventually the lease would be bought out and the car sold at auction.

Nominees were also used as part of various complicated money laundering scams using high-value vehicles, in which the true owner would sell the car to himself through a nominee who would sometimes pay an inflated price for the car, based on it allegedly appreciating in value because it was rare or exotic.

Gangsters were also involved in the 'outcall' escort business, which generates large amounts of cash that must be laundered. The purchase and lease of exotic cars through a complicit luxury car reseller was one method used.

We received a tip concerning a luxury car resale business operated by a drug trafficker. By cross-referencing publicly available sources of information, we determined that the dealership is currently operated by a person who was convicted in a sophisticated inter-provincial cocaine trafficking scheme. The cocaine was shipped to Alberta from B.C. During the investigation, police intercepted a package containing a large amount of cash intended to be delivered to the suspect. He is currently licensed by the VSA to sell vehicles in B.C.

Many money laundering strategies involve vehicles. These include repeat cash deposits at unsuspecting dealers where there is no real intention to purchase a car; creating a hidden bank account with a complicit dealer by making cash deposits on lease vehicles that can be refunded by cheque, fraudulent selling or gifting of luxury cars between gangsters, the use of nominees, and so many more. There seems to be no lack of imagination.

SUMMARY

Gangsters want to live the gang lifestyle, including an ostentatious display of their apparent wealth, by driving luxury vehicles. The vehicles are purchased or leased with the proceeds of crime. There is no other explanation because most mid-level gangsters do not have jobs and have no legitimate source of income other than crime.

Without a legitimate source of income, a person cannot obtain bank financing. Furthermore, organized criminals do not make large deposits of cash into bank accounts, for fear of being reported to FinTRAC, thereby alerting police or tax authorities. Using luxury car sales and leases is an ideal route to place money in an asset, even if the asset does depreciate over time (some supercars actually appreciate). In any event, it is the cost of doing business, not much different

from losing a percentage of your ill-gotten gains in a casino or paying a fee to an underground banker or professional money launderer.

It is bad enough that organized crime is able to launder the proceeds of its crimes through luxury vehicles. It is much worse when dealers themselves are corrupt. This clearly elevates the risk to the public and inevitably breeds further corruption.

Once again, the principal issue is the lack of financial reporting to FinTRAC. As noted in the previous chapter, adding auto dealers as reporting entities, supplemented by GTOs, will afford FinTRAC an ability to analyze LCTRs and STRs and refer them to law enforcement.

At a provincial level, consideration could be given to amending the *Motor Dealer Act* to prevent cash sales of vehicles for \$10,000 or more, as well cash deposits on vehicles of \$10,000 or more. Similarly, the province could consider legislation to prohibit cash leases of vehicles where the yearly accumulated lease payments equal or exceed \$10,000.

The province could empower the VSA to superintend luxury car resellers and could require that the principals of vehicle dealerships obtain criminal record and background checks.

PART 4

HORSE RACING

CHAPTER 4

HORSES, TRACKS AND BETS

Money Laundering Vulnerability & Horse Racing

FINDINGS

In B.C., the horse racing sector is in decline, propped up financially by government and the co-location of slot machines.

Vulnerabilities to money laundering exist, although they are much less of a concern than in other sectors.

The lack of uniform currency reporting across sectors in Canada leaves some parts of the economy vulnerable to money laundering.

The Source of Funds Declarations, now in use within casinos, should also be used at horse racing venues and for the purchase of horses that race.

Training on AML should be provided to all current staff and to new staff who work at live horse racing and teletheatre venues.

Regulation of the horse racing sector should transition from GPEB to the proposed independent regulator for gaming in B.C.

Legislative amendments which are intended to provide the regulator with a mandate to deal with AML should also include the horse racing industry.

Horse racing in B.C. should be added to the mandate of the proposed designated policing unit for casino policing.

TERMS OF REFERENCE

The TOR for this Review include the following:

3. *Alleged issues of money laundering and organized crime in the horse racing industry and luxury car industry, as identified in the recommendations from Dr. German's "Dirty Money" report*

Review records and contact individuals as required to identify current issues and, if necessary, make findings related to:

- a. *Organized crime and money laundering activity in the horse racing industry;*

INTRODUCTION

Internationally, horse racing attracts a fascinating mix of people, from royalty to rogues, from the wealthy to petty criminals. It has endured scandals related to cheating in both racing and betting, as well as sophisticated criminal enterprises, including money laundering, which is our focus.

Money laundering in the industry can occur in many ways; including by converting cash through corrupted pari-mutuel tellers, through the purchase and sale of race horses with proceeds of crime, and by rigging races as part of a broader criminal scheme, to name but a few.

British Columbia's horse racing industry has suffered financially in recent decades and has only recently stabilized but is a mere shadow of its former glory days. It cannot survive without support from the provincial government, including sharing in profits from slot machines in casinos co-located at B.C.'s two operating racecourses. They are Hastings Racecourse (Hastings), where thoroughbred racing occurs, and Fraser Downs, which hosts standardbred (harness) racing. Slot machines were introduced to Hastings in the late 2000s amid considerable controversy. There are now 536 at the Hastings casino and over 500 at the Fraser Downs casino.

Stakeholders in the industry, although confident that money laundering is not occurring, told us that they welcome reasonable changes to reduce the risk and increase public confidence that appropriate measures are in place to prevent it from occurring, as long as the changes will not unduly burden the struggling industry.

GAMING – A BRIEF HISTORY

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.

At common law, wagering was not against the law, except in regard to cock fighting. Common gaming houses¹³⁶ 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. 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.¹³⁷

¹³⁶ The term 'casino' is today considered synonymous with a legal betting house. The word is sometimes referred to as a 'false friend', due to it having different meanings in different languages.

¹³⁷ G.E. Glickman, "Our gaming laws: conditions dicey, to say the least", 3 *Can. Law.* 11, Mar. 1979.

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.¹³⁸ 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”.¹³⁹ Betting at horse races, the sport of the aristocracy, received preferential treatment and was allowed to continue with little interference.

Canada’s *Constitution* granted exclusive jurisdiction to enact criminal law to the federal government.¹⁴⁰ Provincial governments have jurisdiction over the maintenance of charitable institutions,¹⁴¹ business licensing,¹⁴² and property and civil rights.¹⁴³ Provinces can impose sentences for any matter coming within their authority.¹⁴⁴

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.¹⁴⁵

THE CRIMINAL CODE

Over time, the *Criminal 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.¹⁴⁶ The bulk of gaming remained illegal in the early Twentieth Century as 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.¹⁴⁷

Gambling did develop 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

¹³⁸ *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.

¹³⁹ *Ibid.*

¹⁴⁰ *The Constitution Act, 1867* (UK), 30 & 31 Victoria, c. 3, s. 91(27).

¹⁴¹ *Ibid.* at s. 92(7).

¹⁴² *Ibid.* at s. 92(9).

¹⁴³ *Ibid.* at 92(13).

¹⁴⁴ *Ibid.* at 92(15).

¹⁴⁵ See Part V of the *Criminal Code*, RSC 1985, c. C-46, entitled “Disorderly Houses, Gaming and Betting”.

¹⁴⁶ 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.

¹⁴⁷ 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.

church fairs likely produced the opposite result. In the end, the economics of gaming persuaded governments to open the doors.

A *Criminal Code* amendment in 1969¹⁴⁸ granted the federal and provincial governments an exemption from the prohibition against commercial gaming, provided that government is responsible for its conduct and management.¹⁴⁹ The provinces could therefore “run approved lottery schemes, including casinos”.¹⁵⁰

In 1985, the federal and provincial governments agreed that the *Criminal Code* should be amended again, leaving gaming to the provinces. In exchange, the provinces agreed to make payments to the federal government.¹⁵¹

A BRIEF HISTORY OF MODERN HORSE RACING

Horse racing, commonly known as “the Sport of Kings” (and also much loved by HRM Queen Elizabeth II), has existed in one form or another since horses were first domesticated in Central Asia, thousands of years B.C. By the 12th century, English knights were returning from the Crusades, bringing with them fast Arabian horses, which were bred with English mares to produce horses for both endurance and speed (and almost all thoroughbreds in the world are reputed to be descendants of three of these horses). Members of the noble class would wager on horse races. These private races were the origin of professional horse racing in England, which began during the reign of Queen Anne (1702-1714), when wagering on multi-horse races became commonplace, and racecourses emerged throughout England.¹⁵²

The rapid growth of the sport led to the creation of the U.K.’s Jockey Club, in 1750, by “a group of gentlemen brought together by a shared passion for horse racing.”¹⁵³ This group of influential citizens was first described in a racing publication in 1752 when it was noted there would be a race for “horses the Property of the Noblemen and Gentlemen belonging to the Jockey Club.”¹⁵⁴ The Jockey Club continues to be responsible for English horse racing to this day.

Modern horse racing emerged in many other countries, including the United States, Australia, and Canada. There are very significant horse racing operations in Hong Kong, where the Hong Kong Jockey Club (HKJC) was formed in 1884,¹⁵⁵ and more recently in Macau, where the Macau Jockey Club was formed in 1989.¹⁵⁶

¹⁴⁸ *Criminal Law Amendment Act*, 1968-69, S.C. 1968-69, c. 38.

¹⁴⁹ *Now Criminal Code*, s. 207(1)(a) and (g).

¹⁵⁰ *Ibid.* at s. 190.

¹⁵¹ *Criminal Code (Lotteries) Amendment Act*, S.C. 1985, c. 52.

¹⁵² “Horse Racing History”, Winning Ponies.com. Accessed at <https://www.winningponies.com/horse-racing-history.html>.

¹⁵³ www.thejockeyclub.co.uk/about/our-heritage.

¹⁵⁴ *Ibid.*

¹⁵⁵ <https://corporate.hkjc.com/corporate/english/history-and-reports/index.aspx>.

¹⁵⁶ http://www.mjc.mo/race_en/info/i_pages.php?id=83.

In the United States, horse racing began in New York's Long Island, where the first track was created in 1665. However, organized horse racing did not begin until after the Civil War, in 1868, and then rapidly expanded to more than 300 race courses in the U.S.¹⁵⁷ But without a governing body, criminal elements rapidly infiltrated horse racing. This led to the creation of the American Jockey Club in 1894, which provided strong governance intended to "establish racing on such a footing that it may command the interests as well as the confidence and favourable opinion of the public".¹⁵⁸ It reportedly eliminated much of the corruption.¹⁵⁹ By 1908, however, horse racing was drastically reduced to only a few dozen racecourses by an anti-gambling sentiment that swept the nation. The sport was saved by the introduction of "pari-mutuel" betting on its most famous race, the Kentucky Derby.¹⁶⁰

Since then, the popularity of the sport has waxed and waned in the U.S., with upswings tied to the fortunes of extraordinary racehorses such as Secretariat (ridden to Triple Crown victory in 1973 by Canadian jockey Ron Turcotte) and other Triple Crown winners,¹⁶¹ whose incredible feats of athleticism captured the public's imagination and made them household names. But a long period of decline for the sport began as the result of a 27-year drought of Triple Crown winners from 1978 until American Pharoah won in 2015.¹⁶² An article in *Forbes* magazine commented on the U.S. industry:¹⁶³

"Horse racing is in a long-term decline...betting totals peaked at \$15.2 billion in 2003; today they barely crack \$11 billion. Racing's core demographic is aging – they're 56 years old and up – and questions over drug use and horse treatment have tainted the sport for younger fans. Almost one fifth of America's tracks have closed in the past decade, and those that remain open are hosting far fewer races."

There are jurisdictions, however, where horse racing remains a popular sport. Ontario is the heart of horse racing in Canada and accounts for 69% of all betting on horse racing in Canada. It boasts 15 horse racing tracks and 929 racing days annually. Ontario customers wagered a total of \$235.3 million on live races at Ontario tracks in the 2017/2018 season, compared to the \$7.4 million wagered on live races in B.C. This represents approximately 3% of the amount wagered

¹⁵⁷ "Horse Racing History", Winning Ponies.com, *supra*.

¹⁵⁸ <http://www.jockeyclub.com/default.asp?section=About&area=0>.

¹⁵⁹ "Horse Racing History", Winning Ponies.com, *supra*.

¹⁶⁰ In pari-mutuel betting, bets are pooled and those who have bet on the winners share in the total amount wagered minus a percentage taken by the operator in the form of a commission or fee.

¹⁶¹ Triple Crown winners are three-year-old thoroughbreds who have won the three premier races – the Kentucky Derby, the Preakness, and the Belmont Stakes – in a single racing season.

¹⁶² "Horse Racing History", Winning Ponies.com, *supra*.

¹⁶³ Maggie McGrath, "Kentucky Derby Special: How 143-Year-Old Churchill Downs Keeps Betting – And Winning – On A Dying Sport", *Forbes.com*, May 3, 2018. Accessed at <https://www.forbes.com/sites/maggiemcgrath/2018/05/03/churchill-downs-doubles-down-on-the-success-of-the-kentucky-derby/#9dd6d3d1c80b>.

in Ontario, where horse racing is apparently also struggling and relies on government subsidies for its survival.¹⁶⁴

When we compare Canada's \$1.24 billion in annual wagering on horse racing to international venues, the results are stark. In 2016/2017, bets made during 88 days of horse racing in Hong Kong totalled HK\$115 billion (~C\$19.55 billion),¹⁶⁵ for a population of only 7.4 million.¹⁶⁶ In an average day of betting on horse races in Hong Kong, ~C\$222 million is wagered, about 30 times as much as the yearly total on horse races in B.C. The annual wagers on horse racing in Hong Kong are more than 15 times that for all Canadian tracks and online combined. It is important to note, however, that Hong Kong does not have casinos, making betting on horse racing and soccer (also overseen by the HKJK) as its primary avenue for legal gaming.¹⁶⁷

Another dramatic comparator is the amount wagered on horse racing in the U.K. In 2017/2018, 4.3 billion British pounds (C\$7.18 billion)¹⁶⁸ was wagered on horse races, in a population of about 66 million people.¹⁶⁹

Wagering on Thoroughbred horse races alone in Australia in the 2016/2017 season totalled AUD\$32.6 billion (C\$31.6 billion),¹⁷⁰ with a population of 24.9 million, substantially smaller than Canada's 36.7 million.¹⁷¹ Clearly, the horse racing industry in Canada and B.C. is small when compared internationally.

HORSE RACING IN CANADA

Horse racing in Canada began before Confederation.¹⁷² Although the sport was generally associated to the wealthy, it always had "a shady side". By 1771, authorities in Halifax banned horse racing because the associated gambling was considered immoral. The ban did not last for long, however. Turf Clubs soon opened in Quebec (1789), Halifax (1825) and Upper Canada (1837). The industry continued to grow, and other courses were established elsewhere.

Ontario has always dominated the industry. The Queen's Plate, introduced in 1860 in Toronto and named for Queen Victoria, was an attempt to improve the breeding stock. The organizers sought to accomplish this with a large purse and by associating the event with British Royalty.

¹⁶⁴ See <http://www.agr.gc.ca/eng/about-us/partners-and-agencies/canadian-pari-mutuel-agency/pari-mutuel-betting/?id=1362070544860>.

¹⁶⁵ <https://www.scmp.com/news/hong-kong/education-community/article/2109235/hong-kong-jockey-club-has-record-breaking-year>.

¹⁶⁶ <https://www.censtatd.gov.hk/hkstat/sub/so20.jsp>.

¹⁶⁷ <https://football.hkjc.com/football/english/index.aspx>.

¹⁶⁸ <https://www.statista.com/statistics/469783/gambling-turnover-horses-in-great-britain-betting-uk/>.

¹⁶⁹ <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates>.

¹⁷⁰ <https://responsiblegambling.vic.gov.au/about-us/news-and-media/australian-racing-fact-book-20162017-edition-published/>.

¹⁷¹ <https://www150.statcan.gc.ca/n1/pub/12-581-x/2018000/pop-eng.htm>.

¹⁷² The main sources for this section were <https://www.gamblinginsider.ca/casino-news/history-of-horse-racing-in-canada/>; <http://www.canadianhorseracinghalloffame.com/sample-page/the-way-we-were/>; and <https://www.thecanadianencyclopedia.ca/en/article/thoroughbred-racing>.

In doing so, they hoped to entice breeders with exceptional horses from the U.S. and Great Britain. The Queen's Plate is the oldest continuously run stakes horse race in North America. Members of the Royal Family were attracted to the Queen's Plate, giving it respectability, and very wealthy families, such as the Seagrams of distiller fame, became prominent figures in horse racing. In 1881, some of Toronto's elite formed the Ontario Jockey Club "to lift horse racing out of the mire", in reference to some of the more unsavoury elements involved.

Since the amendments to the *Criminal Code* which introduced legal gaming alternatives, the horse racing industry in Canada has struggled to survive. When slot machines¹⁷³ were first introduced to Canada in 1998, the new revenue source helped keep segments of the horse racing industry alive, but in those locations where slots were not permitted or were removed, the local horse racing industry suffered greatly.¹⁷⁴

While online betting on horse races has provided additional revenue, it has further reduced the live fan base.¹⁷⁵ As the *Globe and Mail* reported, "those fans are gone. If they bet, they're betting on computers at home. If they like sports, they're watching something that provides an hour and a half of continuous thrills..."¹⁷⁶ Nevertheless, a considerable amount of money is still wagered on horse races, albeit much of it online.

THE HORSE RACING INDUSTRY IN BRITISH COLUMBIA

Hastings Racecourse

The horse racing industry has existed in B.C. for over 125 years. Horse races were first held in Vancouver on a track near Howe and Nelson Streets, near the original site of the Hotel Vancouver. In 1888 the provincial government granted 160 acres of provincial property (not then part of the City of Vancouver) for a new "East Park" for the "enjoyment of the public." In 1890, the City of Vancouver received a request from a group of citizens to use 16 acres of the park, renamed Hastings Park, for horse racing, and subsequently approved a lease to the fledgling British Columbia Jockey Club, comprised of prominent citizens. In 1892, the Jockey Club opened Hastings Racecourse. It has been in continuous use since, as a site for thoroughbred horse racing, making it Vancouver's longest running sports facility.

When the Pacific National Exhibition (PNE), an annual agricultural fair, opened at Hastings Park in 1910, along with a streetcar line, the track's popularity increased rapidly. Horse racing pioneer S.W. (Sam) Randall entered the racing business in 1919 and for 35 years directed the

¹⁷³ 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: Thompson Reuters, 2017 at p. 5).

¹⁷⁴ Elizabeth Renzetti, "Canadian horse racing industry desperate for a comeback", *Globe and Mail*, July 5, 2013. Accessed at <https://www.theglobeandmail.com/sports/canadian-horse-racing-industry-desperate-for-a-comeback/article13048229/>.

¹⁷⁵ "The History of Horse Racing in Canada", *Canadian Gambler Insider*, June 29, 2016. Accessed at <https://www.gamblinginsider.ca/casino-news/history-of-horse-racing-in-canada/>.

¹⁷⁶ Elizabeth Renzetti, "Canadian horse racing industry desperate for a comeback", *supra*.

Ascot Jockey Club of Vancouver and the Vancouver Thoroughbred Association. He was a long-time operator of Exhibition Park (the renamed Hastings Park), and also built Lansdowne Park in Richmond (the current site of Lansdowne Center Mall), the Willows track in Victoria, and several others in B.C.¹⁷⁷ By the 1930s, “Hastings on a race day back then was the equivalent of the Granville Strip now on a Saturday night” and was described as a “hub for socialites, sports enthusiasts and Vancouver’s well-to-do.”¹⁷⁸

During World War II, races normally held outside Vancouver at the Brighthouse (Richmond) and Lansdowne tracks were transferred to Hastings, apparently to accommodate gas rationing.¹⁷⁹

In the 1950s, the racing oval at Hastings was increased in size to five-eighths of a mile and has remained that size ever since (much smaller than the common one-mile size). Sam Randall retired due to illness in 1955, but was succeeded by his son, W.A. Randall. With his brothers Robert and John, he managed horse racing activities at several tracks in B.C. through “Ascot Jockey Club Ltd”. The current 5,000-seat grandstand was constructed in 1965, and in 1968 lighting was added so that night racing events could be held.

In the 1970s, W.A. Randall and his partner, Jack Diamond, a prominent Vancouverite, directed the B.C. Jockey Club, which operated Exhibition Park. When their lease expired in 1993, the provincial government stepped in “to save racing in the province”, which was suffering from the advent of legal gaming, and a deteriorating track and facilities. A non-profit organization, the Pacific Racing Association, took over operations.¹⁸⁰ Some long-time horse industry insiders interviewed for this Review had a different perspective on what occurred, somewhat bitterly viewing the transition as an unwelcome “expropriation” by government and “the worst thing that ever happened to racing in B.C.”

In March 2003, the province entered into an agreement with the City of Vancouver to transfer the PNE to the city and created legislation allowing the City to conduct and manage gaming events, which included slot machines.¹⁸¹ In January 2004, Vancouver City Council rescinded its prohibition on the machines and approved their installation at the Edgewater Casino in Vancouver, subject to numerous conditions. A City of Vancouver Council Report from May 31, 2004 noted that:¹⁸²

“... the Great Canadian Gaming Corporation announced that it had completed the purchase of Hastings Entertainment Inc. (HEI) through a wholly-owned subsidiary

¹⁷⁷ Canadian Horse Racing Hall of Fame. Accessed at

<http://www.canadianhorseracinghalloffame.com/1978/01/01/s-w-sam-randall/>.

¹⁷⁸ <https://www.vancouverheritagefoundation.org/place-that-matters/hastings-park-race-course/>.

¹⁷⁹ Stevie Wilson, “You Should Know: About the History Of Vancouver’s Iconic Hastings Racecourse”, *Scout Vancouver*, Jul 25, 2012. Accessed at <http://scoutmagazine.ca/2012/07/25/you-should-know-about-the-history-of-vancouver-its-iconic-hastings-racecourse/>.

¹⁸⁰ Andrew Beyer, “Hastings Park is on Track”, *Washington Post*, Sept. 1, 1995.

¹⁸¹ *Hastings Park Conservancy v. Vancouver (City)*, 2008 BCCA 117 at para 7.

¹⁸² City of Vancouver, “Hastings Racecourse Updated Information”, Memorandum, May 31, 2004. Accessed at <https://council.vancouver.ca/20040608/ub1i.htm>.

(686486 BC Ltd). The HEI had been operating the Hastings racetrack since May 1, 2002. It was also announced that the Wall Financial Corporation has agreed to acquire a 40% interest in 686486 B.C. Ltd. The investment by Wall Financial is subject to the approval of the Gaming Policy and Enforcement Branch of British Columbia.”

The 40% share acquired by Wall Financial was reported to have been purchased for \$5.4 million,¹⁸³ but Wall Financial sold its share in the racetrack within months of the purchase, reportedly for a \$17 million profit.¹⁸⁴ Since then, Hastings has been wholly owned by Great Canadian Gaming Corporation (GCGC).

On October 4, 2005, Vancouver Council enacted a bylaw to permit the use of slots at Hastings Park.¹⁸⁵ Despite Council’s approval, neighbourhood activists and anti-gambling advocates, represented by the “Hastings Park Conservancy”, challenged the decision in the BCSC, but lost.¹⁸⁶ Following the decision, 150 “temporary” slots were installed, but not until November 27, 2007.¹⁸⁷ The BCSC decision was appealed by the Hastings Park Conservancy and, in March 2008, the B.C. Court of Appeal found that “the City had the power to authorize the use of slot machines at Hastings Park and to enter into the Operating Agreement with the Racetrack Operator.”¹⁸⁸ The matter was put to rest in August 2008 when the Supreme Court of Canada refused leave to appeal, clearing the way for expansion to 600 permanent slot machines.¹⁸⁹

Fraser Downs Racetrack

B.C.’s second significant race track, Fraser Downs at Elements Casino in Surrey, the site of Standardbred harness racing, has had a much shorter and less storied history than the Hastings track, but significant nonetheless. It began as Cloverdale Raceway in 1976, but was renamed Fraser Downs.¹⁹⁰ On April 5, 2004, the Fraser Downs Gaming Centre opened with 200 slot machines.¹⁹¹ In 2015, the Gaming Centre was replaced by Elements Casino Surrey following a multi-million dollar renovation¹⁹² and now boasts over 500 slot machines, as well as table

¹⁸³ “The Legacy of Peter Wall”, *Vancouver Magazine*, June 2, 2012. Accessed at <http://vanmag.com/uncategorized/the-legacy-of-peter-wall/>.

¹⁸⁴ *Ibid.*

¹⁸⁵ *Hastings Park Conservancy, supra.*

¹⁸⁶ *Ibid.*

¹⁸⁷ City of Vancouver, “Slots at Hastings Recourse – Report Back on Public Benefits...”, Administrative report, July 9, 2009, RTS No.: 04458. Accessed at <http://former.vancouver.ca/ctyclerk/documents/penv4.pdf>.

¹⁸⁸ *Hastings Park Conservancy, supra.*

¹⁸⁹ “Top court won’t hear appeal over slots at Hastings Park”, *CBC News*, Aug. 14, 2008. Accessed at <https://www.cbc.ca/news/canada/british-columbia/top-court-won-t-hear-appeal-over-slots-at-hastings-park-1.730918>.

¹⁹⁰ Gord Goble, “Fraser Downs celebrates 40 years of harness racing”, Oct. 5, 2016. Accessed at <https://www.surreynowleader.com/sports/fraser-downs-celebrates-40-years-of-harness-racing/>.

¹⁹¹ City of Vancouver Memorandum, “Hastings Racecourse Updated Information”, *supra*.

¹⁹² <https://gcgaming.com/history/>.

games.¹⁹³ Fraser Downs is currently the only racetrack in B.C. where harness racing occurs, under the auspices of Harness Racing B.C. Its racing season runs from September to April.

HOW WAGERING ON HORSE RACING WORKS

Wagering on the outcome of horse races has been the main appeal of the sport since the beginning and is the sole reason horse racing has survived as a major professional sport.

All betting at Canadian tracks (and elsewhere) is done using a pari-mutuel wagering system, which was developed by a French citizen, Pierre Oller, in the late Nineteenth century. With this system, a fixed percentage (usually 14% to 25%) of the total amount wagered is taken out for racing purses, track operating costs, and taxes. The remaining sum is divided by the number of individual wagers to determine the payoff on each bet. The projected payoff, or 'odds', are continuously calculated and posted on the track 'tote board' during the open betting period before each race. For example, odds of '2-1', means that the bettor will receive a \$2 profit for every \$1 wagered (\$3 total returned) if his or her chosen horse wins.

Bettors may wager on a horse to win (finish first), place (finish first or second), or show (finish first, second, or third). Other popular wagers are the daily double (picking the winners of two consecutive races), exactas (picking the first and second horses in order), quinellas (picking the first and second horses in either order), and the pick six (picking the winners of six consecutive races).¹⁹⁴

Unlike gambling in a casino, where the players are playing against the 'house', in the pari-mutuel system, the players are betting against each other and so the more that is bet on a particular horse, the lower the odds are and the less the potential winnings.

Wagerers on horse races can buy tickets with cash through an on-track account established at a particular race track; at a 'theatre' or site other than the race track where the odds, results and payout prices of each race are displayed; and through a telephone account, which allows a wagerer to make bets via a telephone or computer to a racetrack where the patron has an account.¹⁹⁵

CRIME, CORRUPTION AND MONEY LAUNDERING IN HORSE RACING

Horse racing has always attracted an eclectic audience from all walks of life – blue collar, white collar, and the wealthy. It has also attracted an unsavoury criminal element; petty criminals who find menial work at race courses and engage in criminality there (e.g., drug trafficking); corrupt race course employees and officials; and criminals engaged in sophisticated schemes to make money. For some criminals, gambling and betting on horse races is simply part of their lifestyle. For example, notorious gangster Al Capone was a well-known fan of betting on horse

¹⁹³ <https://elementscasinosurrey.com/gaming/>.

¹⁹⁴ <https://www.winningponies.com/horse-racing-history.html>.

¹⁹⁵ <http://www.agr.gc.ca/eng/about-us/partners-and-agencies/canadian-pari-mutuel-agency/pari-mutuel-betting/?id=1362070544860>.

races, although he apparently was not very successful.¹⁹⁶ Other criminals saw gambling, including on horse races, as another opportunity to exploit the industry for profit. This has occurred most notably by rigging races through various strategies, including doping and poisoning horses, disguising one horse as another, manipulating betting, holding back horses, and conspiracies between jockeys.¹⁹⁷ Horse racing, like other forms of gambling, has also been associated with money laundering and corruption, examples of which are described below.

THE PURCHASE AND SALE OF RACEHORSES AND RACING-ASSOCIATED PROPERTY

A criminal seeking to launder the proceeds of crime can purchase a valuable race horse with cash. Their subsequent winnings from races would be legitimate. Examples include the following.

- Authors Margaret Beare and Stephen Schneider documented a case involving a Toronto drug dealer who purchased seven harness race horses for more than \$180,000 in total.¹⁹⁸
- In Texas and Oklahoma, 15 suspects were arrested in an alleged money laundering and drug trafficking ring. The allegations included using horse sales to evade income reporting requirements.¹⁹⁹
- In an extraordinary case in New Mexico, the Federal Bureau of Investigation (FBI) uncovered a massive money laundering case in which the Zetas drug cartel from Mexico had laundered millions of dollars through the purchase of more than 400 “narco horses”.²⁰⁰

¹⁹⁶ Berger, Meyer, “Bookmakers Recite Big Capone Losses”, *New York Times*, Oct. 15, 1931 at p. 48, as quoted in Eliza McGraw, “Al Capone, No Great Bettor”, *Raceday 360*, Feb. 14, 2014. Accessed at <http://www.raceday360.com/2014/02/14/al-capone-no-great-bettor/>.

¹⁹⁷ See for example, “The Most Shocking Horse Racing Scandals in History”, accessed at <https://betoclock.com/most-shocking-horse-racing-scandals/>; “Top 10 Horse Racing Scandals”, accessed at <http://www.manspacemagazine.com.au/top-ten-horse-racing-scandals/#prettyPhoto>; “Horse trainers guilty in Australia’s ‘biggest’ racing scandal”, *BBC News*, May 8, 2018, accessed at <https://www.bbc.com/news/world-australia-44035667>; and “Horse-racing doping scandal: eight found guilty of taking part in Aquanita ‘conspiracy’”, *Guardian*, May 8, 2018, accessed at <https://www.theguardian.com/sport/2018/may/08/horse-racing-doping-scandal-eight-found-guilty-of-taking-part-in-aquanita-conspiracy>.

¹⁹⁸ Margaret E. Beare and Stephen Schneider, *Money Laundering in Canada*, *supra* at p. 134.

¹⁹⁹ “Arrests Made in Money Laundering Ring Tied to Quarter Horse Sales”, *Paulick Report*, June 22, 2016. Accessed at <https://www.paulickreport.com/news/the-biz/arrests-made-money-laundering-ring-tied-quarter-horse-sales/>.

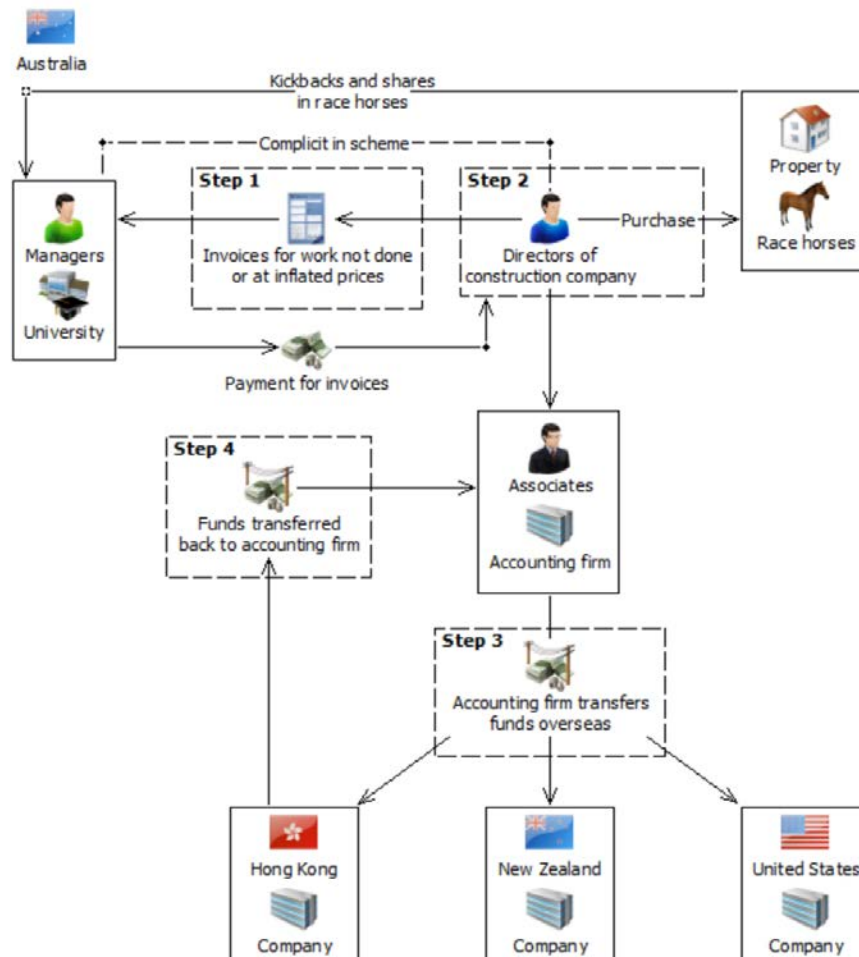
²⁰⁰ Ioan Grillo, “A True Tale of Drug Cartels, Money Laundering and Horse Racing”, *New York Times*, Sept. 22, 2017. Accessed at <https://www.nytimes.com/2017/09/22/books/review/bones-joe-tone-trevino-brothers.html>.

- In Australia, where trackside criminals have “long been a feature of horse racing”, the 1990s and 2000s saw the Mokbel drug trafficking syndicate use horse racing to launder drug proceeds through bookmakers as well as by purchasing top race horses.²⁰¹
- In another Australian case, AUSTRAC reported in 2013 that it had assisted in unravelling an AUD\$30 million fraud on a university, in which the proceeds were laundered through the purchase of property and racehorses, paying the corrupt university managers with kickbacks or shares in the horses. The indicators were a large number of horses purchased by customers with unexplained wealth and links to the horse racing industry, outgoing funds transfers sent to overseas entities matched by incoming funds transfers in similar amounts from different entities located in the same countries, and a sudden increase in the purchase of properties inconsistent with customers’ established transaction / wealth profiles. The fraud had international aspects, with laundered funds being sent mainly to companies linked to horse racing, including in Canada. Eventually, law enforcement laid more than 2,000 charges, and subsequent convictions resulted in sentences ranging from fines to multi-year prison terms.²⁰² The diagram below gives some sense of the sophistication of the scheme.²⁰³

²⁰¹ Richard Baker, “Trackside criminals long a feature of horse racing”, Sydney Morning Herald, Oct. 26, 2015 at <https://www.smh.com.au/sport/racing/trackside-criminals-long-a-feature-of-horse-racing-20151026-gkiky7.html>.

²⁰² AUSTRAC, *Annual Report 2013-2014* at p. 51. Accessed at <http://www.austrac.gov.au/sites/default/files/documents/austrac-ar13-14-web-full.pdf>; and AUSTRAC, *Typologies and Case Studies Report, 2013* at pp. 36-37. Accessed at http://www.austrac.gov.au/sites/default/files/documents/typ13_full.pdf.

²⁰³ AUSTRAC, *Typologies and Case Studies Report, ibid.*



CORRUPTING PARI-MUTUEL TELLERS

Small denominations bills (e.g., \$20) can be converted to larger bills (or vice versa) through wagering. While this activity should raise suspicion and result in some form of intervention, it can be accomplished by criminals corrupting and colluding with betting clerks. For example, in 2000, after a New York State Police investigation into a complex money laundering scheme at several race tracks, more than a dozen pari-mutuel clerks pleaded guilty to various charges, including money laundering and tax evasion.²⁰⁴

In a variation of this scheme, several Hastings Racecourse insiders reported hearing historical anecdotes about criminals purchasing winning tickets from the actual winners as a method of laundering cash. One long-time horse owner, a successful businessman who has attended Hastings Racecourse since the 1970s and worked as a pari-mutuel teller for many years, recalled that 25 or 30 years ago, "if someone won \$20,000, a shady character might try to buy

²⁰⁴ Tom Precious, "New York Revokes Licenses in Money Laundering Case", Feb. 21, 2003. Accessed at <https://www.bloodhorse.com/horse-racing/articles/183545/new-york-revokes-licenses-in-money-laundering-case>.

their ticket from them to show a legitimate source of income, but that was the local hood, guys on the margins, pimps, a drug dealer, that kind of thing.” Echoing that observation, award-winning author Kevin Chong, who wrote a memoir about his experiences at Hastings Racecourse as a horse owner in 2009/2010, reported, “I once heard a story about how someone with a winning pick-six ticket in the five-figures was offered something like 125% of the value of the payout in cash by a shady person...”²⁰⁵

MULTIPLE CASH BETS ON THE FAVOURITE

To avoid having to corrupt a teller or otherwise draw attention to themselves, money launderers can place numerous small cash bets on the favourite to win, reducing the risk of losing money, or can further reduce the risk by betting on the favourite to place (come first or second) or show (come first, second, or third). Even though the net winnings would be very small, the money wagered is eventually ‘cleaned’.²⁰⁶

FIXING RACES

Races can be fixed to benefit a gambling operation and to launder money. For example, in 2005, 17 people were charged in New York as part of a gambling ring that had fixed a race. Implicated, among others, were a thoroughbred trainer, a harness racing driver, and a horse owner. Allegations included doping a horse, conspiracy, wire fraud and money laundering.²⁰⁷

Beare and Schneider note that a jockey in the U.K. claimed that up to one in ten jockeys had been “corrupted by criminal syndicates in Britain to facilitate money laundering by rigging horse races...and said his life had been threatened by a gangster who told him not to finish in the first six.”²⁰⁸

In Australia, the “Glamour couple” of Australian harness racing, Amanda Turnbull and Nathan Jack, were arrested in 2015 for allegedly fixing a race that benefited associates in the sum of \$30,000. Irregular betting patterns were observed and reported to the Victoria Police Sporting Integrity Intelligence Unit. Mr. Jack, the driver during the race, was convicted but charges were dismissed against Turnbull in November 2018.²⁰⁹

In 2004 in England, *The Guardian* newspaper reported a number of examples in which horse races had been fixed through various scams, including corrupted jockeys, trainers substituting horses, and horses being doped or otherwise tampered with. *The Guardian* reported that the

²⁰⁵ E-mail correspondence with review team, Dec. 5, 2018.

²⁰⁶ Margaret Beare and Stephen Schneider, *Money Laundering in Canada*, *supra* at p. 134.

²⁰⁷ Joe Drape and William K. Rashbaum, “Suspension of Licenses Follows Indictments”, *New York Times*, Jan. 15, 2005. Accessed at <https://www.nytimes.com/2005/01/15/sports/othersports/suspension-of-licenses-follows-indictments.html>.

²⁰⁸ Margaret Beare and Stephen Schneider, *Money Laundering in Canada*, *supra* at p. 134.

²⁰⁹ “Cobram Crew receive verdict and consequences”, *National Trotguide - Harness Racing Weekly*. Accessed at <https://nationaltrotguide.com.au/cobram-crew-receive-verdict-and-consequences/>.

phenomenon of online betting exchanges in recent years has transformed the horse racing industry and facilitated profit-making by those who wager on horses to lose.²¹⁰

In Hong Kong, a top Australian jockey, Chris Munce, was disqualified from racing worldwide for 30 months in 2008 and served a 20-month jail sentence after pleading guilty to 36 criminal charges laid by the Hong Kong Independent Commission Against Corruption (ICAC).²¹¹ The criminal offences related to providing “tips for bets” and were laid as the result of a surveillance operation.²¹² In a similar and more recent case, another champion Australian jockey, Nash Rawiller, was banned by the HKJC for 15 months after being accused of accepting money or gifts in exchange for race tips.²¹³

In Canada, beginning in 2009, a six-month investigation conducted jointly by police and racing authorities in Michigan and Ontario, assisted by the Canadian Pari-Mutuel Agency (CPMA), resulted in several harness racing drivers being handed lengthy suspensions in both Ontario and Michigan, and large fines in Ontario for conspiring with others to affect the outcome of races at tracks in both jurisdictions. There were allegations that drivers had been paid to fix races, and that one had taken gifts of liquor and cigars from a gambler in exchange for inside information about horses and drivers that could influence the outcome of races, an illegal practice known as “touting”.²¹⁴

Two of the alleged conspirators appealed their suspensions and fines and succeeded in having them overturned by the Ontario Racing Commission finding in 2011 that the evidence failed “to meet the standard as clear and convincing support for a finding on a balance of probability that [they] participated in the claimed conspiracy.”²¹⁵

INSURANCE FRAUD

Much has been written about various insurance fraud schemes associated with horse racing. One of the most notorious was an alleged multi-million dollar insurance fraud relating to the 1990 death in Kentucky of a champion race horse, Alydar, “one of the greatest sires in Thoroughbred history”. Believed at first to have accidentally broken his leg, resulting in the horse being euthanized, Lloyd’s of London paid out on a multi-million dollar policy. But six

²¹⁰ Paul Kelso and Ken Oliver, “A fair race?” *Guardian International Edition*, Mar. 10, 2004. Accessed at <https://www.theguardian.com/sport/2004/mar/10/horseracing.kenoliver>.

²¹¹ See <https://www.icac.org.hk/en/home/index.html>.

²¹² John Schell, “Munce hit with ban on top of jail term”, *Sydney Morning Herald*, Dec. 2, 2008. Accessed at <https://www.smh.com.au/sport/racing/munce-hit-with-ban-on-top-of-jail-term-20081202-gdt4zu.html>.

²¹³ Michael Cox, “Top Australian jockey Nash Rawiller banned for betting offences by Hong Kong Jockey Club”, *South China Morning Post*, Apr. 25, 2018. Accessed at <https://www.scmp.com/sport/racing/article/2143285/top-australian-jockey-nash-rawiller-banned-betting-offences-hong-kong>.

²¹⁴ Bob Duff, “Three harness drivers banned for race fixing”, *Windsor Star*, Sept. 4, 2010 at pp. A1 and A4. Accessed at <https://www.pressreader.com/canada/windsor-star/20100904>.

²¹⁵ Ontario Racing Commission, Ruling Number Com SB 036/2011. Accessed at <http://standardbredcanada.ca/files/2011%20COM%20SB%20036%20WALLIS%20Kevin%20and%20PIROSKI%20Gene.pdf>.

years later, through the perseverance of a suspicious prosecuting attorney, working in concert with the FBI, multiple criminal charges were laid. After a trial that occurred almost 10 years after Alydar died, the prime suspect was convicted of bribery and sentenced to four years of imprisonment. The judge concluded there was insufficient evidence to also find him responsible for the horse's death.²¹⁶

MANIPULATING OFF-TRACK BETTING SYSTEMS

One of the most significant betting scandals in horse racing history occurred at the Breeders Cup World Thoroughbred Championships in Toronto, in 2002. Three men, fraternity brothers from Drexel University in the 1990s, were alleged to have hacked an automated phone betting system allowing them to change bets after some races were over and while data was still being processed. This allowed them to pick multiple winners, including a 41-1 long-shot, earning more than \$3 million.²¹⁷ But the highly unlikely wagering success immediately drew attention and the payout was withheld, pending an investigation. Although they initially denied wrongdoing, all three eventually pleaded guilty, receiving sentences of one year and a day, two years, and 37 months, respectively.²¹⁸ After the charges, racing officials hired a consulting firm led by former New York City Mayor Rudolph Giuliani to develop a plan to improve security "and protect the \$14.5 billion bet annually in the United States. The firm concluded that the scam appeared to be an isolated event."²¹⁹

THE LEGAL FRAMEWORK FOR HORSE RACING IN B.C.

Horse racing in Canada is subject to a bifurcated legal regime, involving both federal and provincial legislation, as depicted below and explained following the graphic.²²⁰

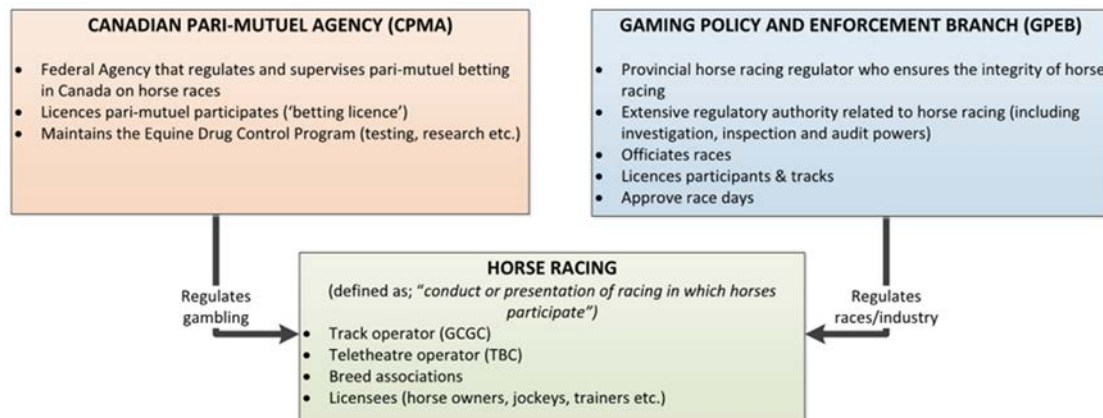
²¹⁶ Skip Hollandsworth, "The Killing of Alydar", *Texas Monthly*, June 2001. Accessed at <https://www.texasmonthly.com/articles/the-killing-of-alydar/>.

²¹⁷ Greg S and oval, "3 Friends, 3 Bets And Millions in Question", *Washington Post*, Nov. 12, 2002. Accessed at https://www.washingtonpost.com/archive/politics/2002/11/12/3-friends-3-bets-and-millions-in-question/6aa65d78-dc48-46c9-bd2e-15859fd99463/?utm_term=.b87013876683.

²¹⁸ James Christie, "Horse racing rocked by 'Fix Six' bet scandal", *Globe and Mail*, Oct. 31, 2002. Accessed at <https://www.theglobeandmail.com/sports/horse-racing-rocked-by-fix-six-bet-scandal/article4140113/>.

²¹⁹ "Horse Racing; 3 Sentenced in Breeders' Cup Betting Plot", *New York Times*, Mar. 21, 2003. Accessed at <https://www.nytimes.com/2003/03/21/sports/horse-racing-3-sentenced-in-breeders-cup-betting-plot.html>.

²²⁰ Graphic provided courtesy of Rachel M. Cheng, GPEB.



FEDERAL OVERSIGHT

At the federal level, horse racing is subject to section 204 of the *Criminal Code*, which sets forth the legal requirements. Section 204 provides an exemption for horse racing from the general prohibition on commercial gaming in Canada that remained in place until 1969. Until *Criminal Code* amendments in that year, wagering on horse races was the only legal betting that could occur in Canada, other than "occasional games of chance for charitable or religious purposes; and certain games at agricultural fairs and exhibitions."²²¹

Section 204 is also the enabling legislation for the CPMA, created in 1991 as a special operating agency within Agriculture and Agri-Food Canada (AAFC). Prior to the creation of the CPMA, it was known as the "Racetrack Division" of the AAFC. In one form or another, the federal Agriculture Minister has been responsible for pari-mutuel betting on horse racing since the 1920s.

The CPMA regulates and supervises pari-mutuel betting in Canada to ensure fairness through a regulatory framework and the enforcement of national standards. Services include, but are not limited to, permits, licences and authorizations for racetrack and betting theater operators; auditing and monitoring of pari-mutuel betting; testing of horses for prohibited substances; enforcing the *Pari-Mutuel Betting Supervision Regulations*; ²²² and compiling statistical information on betting. ²²³

The CPMA, which was created about 100 years ago when betting on horse racing was the only legal form of gambling, has shrunk dramatically with the decline of the industry. It is funded by removing 8% of every dollar wagered, making it dependant on the declining revenue from track betting. Until the 1970s, the CPMA had a Memorandum of Understanding (MOU) with the RCMP in which RCMP officers did on-track monitoring of betting. A decade ago, there were

²²¹ Osborne, Judith A. and Campbell, Colin S., "Recent Amendments to Canadian Lottery and Gaming Laws", *supra* at pp. 19-43.

²²² *Pari-Mutuel Betting Supervision Regulations*, SOR/91-365.

²²³ <http://www.agr.gc.ca/eng/about-us/partners-and-agencies/canadian-pari-mutuel-agency/?id=1204043533186>.

approximately 120 CPMA staff. Today there are only 32, however the agency does have the benefit of new technology and algorithms to alert them to suspicious betting patterns.

While the CPMA has a window on how much is bet and on what, including anonymous cash bets, it does not have access to the identities of those making bets online through wagering accounts, as that information is held provincially. The CPMA views itself as an organization analogous to OSFI, which audits regulatory compliance by banks. The CPMA monitors betting patterns to guard against cheating, however according to senior staff, the agency does not have the mandate nor the capacity to investigate or audit for money laundering.

PROVINCIAL OVERSIGHT

In addition to federal legislation, each province also has provincial legislation in place to govern gaming. Following the *Criminal Code* amendments in 1969, B.C.'s legislation and governance of gaming activities was eventually consolidated in the *Gaming Control Act (GCA)*.²²⁴ Parts 2.1 and 7 of the *Act* focus on horse racing.

To enforce the *GCA*, the Gaming Policy and Enforcement Branch has a Compliance Division that is responsible for regulatory compliance with the *GCA*, the *Gaming Control Regulation* and the *Criminal Code*. There are now two units with responsibilities relevant to horse racing. The first is the Racing Unit, which develops and enforces rules and policies for horse racing, regulates horse racing events, and registers all racing participants. The second is an Intelligence and Investigations Unit, which has recently been restructured. According to GPEB's annual report, the intelligence role is intended to provide government and police agencies with intelligence regarding organized crime and illicit activity impacting the integrity of gaming. The investigations role is designed to investigate *GCA* offences, as well as to assist police regarding reports of illegal gambling activity.

In addition, five GPEB staff are assigned to the RCMP-led Joint Illegal Gaming Investigation Team, which has a mandate to investigate organized crime involvement in illegal gaming, as well as to investigate money laundering in B.C. gambling facilities.²²⁵

To meet its mandate, the Compliance Division relies in part, on the obligation of registrants and licensees under the *GCA* to notify the General Manager of GPEB, immediately, concerning any conduct, activity or incident occurring in connection with a lottery scheme or horse racing, if the 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 the *GCA*.²²⁶

²²⁴ S.B.C. 2002, c. 14.

²²⁵ GPEB. *Annual Report 2017-2018* (Victoria: Province of B.C., 2018).

²²⁶ *GCA*, s. 86(2).

The Racing Unit relies on the Stewards at Hastings and the Judges at Fraser Downs, who are responsible for ensuring fair play in horse racing, to remain vigilant and to report rule infractions and suspicious conduct to the Unit.

In 2017, the Racing Unit registered 679 horse racing workers. It also conducted numerous investigations regarding various infractions. As a result, 104 rulings were made, with the highest number (50) being for “racing or driving infractions committed during a race”, the second most frequent infraction (20) being “inappropriate behaviour in the backstretch area of a racetrack”, and the third being 14 incidents of drug or alcohol infractions involving either horses or registered horse racing workers. This is a large number of infractions considering the size of the industry, which may be indicative of systemic problems and/or aggressive and effective enforcement.

Until recently, GPEB had a manager in charge of horse racing investigations, with several investigators assigned, but when the JIGIT was formed in 2016, the position was eliminated and the investigators were seconded to JIGIT.

THE IMPACT OF LEGAL GAMING ON HORSE RACING IN B.C.

Prior to the 1969 amendments to the *Criminal Code*, there was little legal competition for gaming dollars and the horse racing industry prospered. Other forms of legal gaming soon became available, beginning in 1974 when Manitoba, Saskatchewan, Alberta and B.C. formed a partnership to conduct lotteries in Western Canada. The national “6/49” lottery was introduced in 1982, with a jackpot reaching 13.9 million in 1984, spawning ‘jackpot fever’. In 1985, BCLC began operations, introducing many new lottery options.

In 1997, BCLC introduced “SuperStar Bingo”, and was given approval to bring slot machines into the province. A year later, it assumed responsibility for casino gaming in B.C., with the first destination casino opening in 1999. In 2004, BCLC introduced a secure gaming website which provides online play and sales of some lottery products. More casinos opened and in 2010, B.C. became the first jurisdiction in North America to offer legal, regulated online casino games on “PlayNow.com”.²²⁷

The horse racing industry suffered after lotteries were introduced and then as faster-paced casinos, online gaming, and other options became ubiquitous. By 1997, in person wagering at horse races and wagers by residents betting on live races in B.C. via simulcast, was in a virtual free-fall, declining from \$100 million in 1997 to less than half that number, \$42 million, five years later. The sharp decline continued unabated, dropping to \$29 million in 2007, \$12 million in 2012, and levelling off at \$7.4 million in 2017.²²⁸

However, wagering on “import” horse racing (i.e., on races taking place outside B.C. via simulcast at “racebook” or “teletheatre” venues, or online through “HorsePlayer Interactive”)

²²⁷ <https://corporate.bcl.com/who-we-are/our-history.html>.

²²⁸ Data provided by the B.C. HRIMC.

fared much better, fluctuating between \$126 million in 1997 and \$140 million in 2017, with a peak in 2007 of \$172 million wagered.²²⁹

Long-running racetracks outside the Lower Mainland, four in the Interior of B.C. and one each in Vernon, Princeton, and Kamloops, were no longer viable. Desert Park in Osoyoos introduced horse racing again in 2013 after a 10-year hiatus. It was the only Interior racetrack to host live horse racing in 2016 (for only one day). By 2017, only Hastings and Fraser Downs hosted races.²³⁰

By 2000, the horse racing industry was in serious trouble and facing an uncertain future; the rapid decline in wagering meant a corresponding reduction in breeding and available horses, further imperiling the industry, which was riddled with disputes within and between stakeholders for the two breeds (Thoroughbreds and Standardbreds). Organizational dysfunction was also blamed on the governance model and the existing B.C. Racing Commission.

In 2001, the Ministry of Public Safety and Solicitor General (PS&SG) announced a restructuring of gaming in the province. Five agencies were consolidated into two: GPEB and BCLC. The B.C. Racing Commission was replaced by three senior government staffers chaired by the Acting Deputy Solicitor General.²³¹ Although it was announced in September 2001 that BCLC would assume responsibility for horse racing, that decision was not implemented.²³²

The *Gaming Control Act*, which received Royal Assent in April 2002, and its regulations issued in August 2002 reflected this new structure. Also proclaimed in August 2002 were the “Rules of Thoroughbred & Standardbred Horse Racing in British Columbia”.

In 2003/4, GCGC purchased both Hastings Racecourse and Fraser Downs, and continues to operate both, as well as their associated casinos.

In a 2005 report to government by George Morfitt, it was noted that in 2001, horse racing stakeholders in B.C. operated seven horse racing tracks and 21 operational teletheatre outlets. Morfitt also reported that gross revenues from pari-mutuel betting on horse racing represented \$210 million of the \$2 billion in total gaming revenue in B.C. At that time, he reported the horse racing industry employed approximately 5,000 licensed jockeys, drivers, trainers, grooms and exercise persons and that there were approximately 200 days of live horse racing per year.

²²⁹ Fees are paid to import broadcast signals to B.C., in order for bettors to place bets and watch foreign races. B.C. exports its broadcast signals to other racing jurisdictions and earns a fee of approximately 2.5% of the wagering “handle” (i.e., the total amount wagered).

²³⁰ Stephanie Mercier, “Is it the final stretch for small town horse racing in B.C.?” *CBC News*, Aug. 21, 2016. Accessed at <https://www.cbc.ca/news/canada/british-columbia/interior-bc-horse-racing-down-to-one-day-1.3727236>.

²³¹ Randy Goulding, “B.C. Disbands racing commission”, *Daily Racing Forum*, Sept. 14, 2001.

²³² George L. Morfitt, *Horse Racing in British Columbia: A Consideration of Organizational and Operational Issues*. Government of British Columbia, unpub., July 15, 2005.

Morfitt's 2005 review of organizational and operational issues in horse racing made numerous recommendations respecting:

- the independence and objectivity of horse racing officials;
- registration and licensing (determining licensing eligibility and post-registration and -licensing background investigations and protocol);
- investigations, inspections, and security; and
- qualifications and training of personnel.

In December 2006, GPEB provided a detailed matrix outlining Morfitt's recommendations and demonstrating that they had been acted upon, with the majority fully implemented. Despite improvements to various accountability processes, the industry continued its decline. To quote one key stakeholder, "the industry was a hot mess".

In 2009-2010, the Minister responsible for Gaming responded to industry concerns by creating the B.C. Horse Racing Industry Management Committee. The Committee was intended to act as a single supervising body with authority over all financial and operational aspects of the industry. Major industry stakeholders were represented, and each signed an MOU setting forth the mandate of the Committee and the various parties.

A key stakeholder we interviewed for this Review gave credit to then Minister Rich Coleman for his leadership in revamping the governance structure of the industry, which provided a basis for stakeholders to take action to stabilize and sustain the industry. These actions included eliminating unprofitable race days, cutting costs, developing an equitable funding model and a satisfactory governance model, and reaching an agreement with the provincial government to share in the profits from slot machines installed at race track casinos, first at Fraser Downs and then at Hastings. The agreement provided that 25% of the profits from onsite slots would be returned to the industry.

VULNERABILITY OF THE HORSE RACING INDUSTRY IN CANADA TO MONEY LAUNDERING

In its February 2018 consultation paper on the five-year review of the *POCMLTFA*, Finance Canada commented as follows on the horse racing industry:²³³

"This sector presents money laundering vulnerabilities similar to the casino sector, given that the methods used to launder money through horse racing are similar to those used in casinos, which have been covered by the *PCMLTFA* since 2007. For example, criminals can convert small denominations of cash generated from criminal activities into larger bills through pari-mutuel betting. Similarly, funds can be deposited into player accounts, either in person or online, in exchange for cashier's cheques or wire transfers. The FATF

²³³ Dept. of Finance, *Reviewing Canada's AML and ATF Regime*, *supra* at p. 26.

has found that there is significant money laundering risk through this type of activity in Canada.”

The paper also noted that unlike casino gaming, which is regulated provincially, oversight of horse racing is split between the CPMA and the provinces. On September 5, 2018, the Alcohol and Gaming Commission of Ontario (AGCO), Ontario’s regulator for horse racing, responded to Finance Canada’s comments. It expressed support for the federal government’s efforts to combat financial crime in the horse racing and pari-mutuel betting industries, noting that: “the horse racing industry has several factors that are similar to casinos (which are currently subject to federal anti-money laundering requirements); namely: being a generally cash-intensive business and the use of online and/or remote wagering.”²³⁴

“Racetracks of Canada” provided an eight-page submission to the Standing Committee on Finance.²³⁵ It noted several anti-money laundering strategies adopted by race tracks in Canada, as follows.

- The maximum amount of cash wagered at tellers cannot exceed \$100.
- The maximum transaction at self-serve terminals cannot exceed \$1,000.
- The 50% of pari-mutuel betting done through registered online account betting is “safeguarded by having identification authenticated via a secure third-party platform, as approved by CPMA”, thereby tracking all transactions and making them auditable.
- Anti-fraud software flags activity consistent with potential money laundering.
- Requests for disbursements over \$10,000 from an account or through cashing a voucher are investigated to ensure the request is the result of a winning bet, not a ‘cash in and out’ transaction, and all cheques are issued with a verified name and address.
- EFTs are subject to the foregoing procedures and anti-fraud measures and may not be sent internationally.

The submission also noted that most online wagering is “funded using credit or debit cards (not cash), and is therefore already subject to the FINTRAC requirements at the bank level.” The submission conceded, however, that it is:

“possible for patrons to establish anonymous player card accounts for use at the physical racetrack locations. Such accounts are set up to protect the identity of the

²³⁴ Derek Ramm, AGCO, Letter, Sept. 5, 2018.

²³⁵ Woodbine Entertainment Group (on behalf of Racetracks of Canada). *Response to the Review of Canada’s Anti-Money Laundering and Anti-Terrorist Financing Regime with Respect to Pari-Mutuel Wagering*, 2018. Accessed at <https://www.fin.gc.ca/consultresp/amlatfr-rpcfata/mlatfr-rpcfata-32.pdf>.

account holder, but still require age information to verify that the patron is of legal age to wager in Canada and are subject to financial limits. Anonymous accounts can only be set up and used at physical racetrack locations, and cannot be used to wager online.”

The Racetracks of Canada submission claimed that it was not able to implement additional AML detection and prevention procedures due to a lack of resources in the struggling industry (e.g., real-time transaction tracking for cash wagering activities, and monitoring security cameras at all betting terminals), and there would be a decrease in wagering activity “due to time constraints based on the condensed timeframes involved in horse racing wagering transactions...” The submission noted that the horse racing industry is already “largely dependent on government funding for survival.”

In its November 2018 report, *Confronting Money Laundering and Terrorist Financing: Moving Canada Forward*, the Standing Committee on Finance made no specific mention of horse racing. There was, however, a generic recommendation:²³⁶

“That the Government of Canada expand FINTRAC oversight to ensure that all casino operators, employees, and *frontline gaming personnel* [emphasis added] are trained in anti-money laundering legislation.

Finance Canada has advised us that the horse racing sector is, in fact, “currently being examined as part of the broader work being undertaken to update our [POCMLTFA] legislative framework.”²³⁷

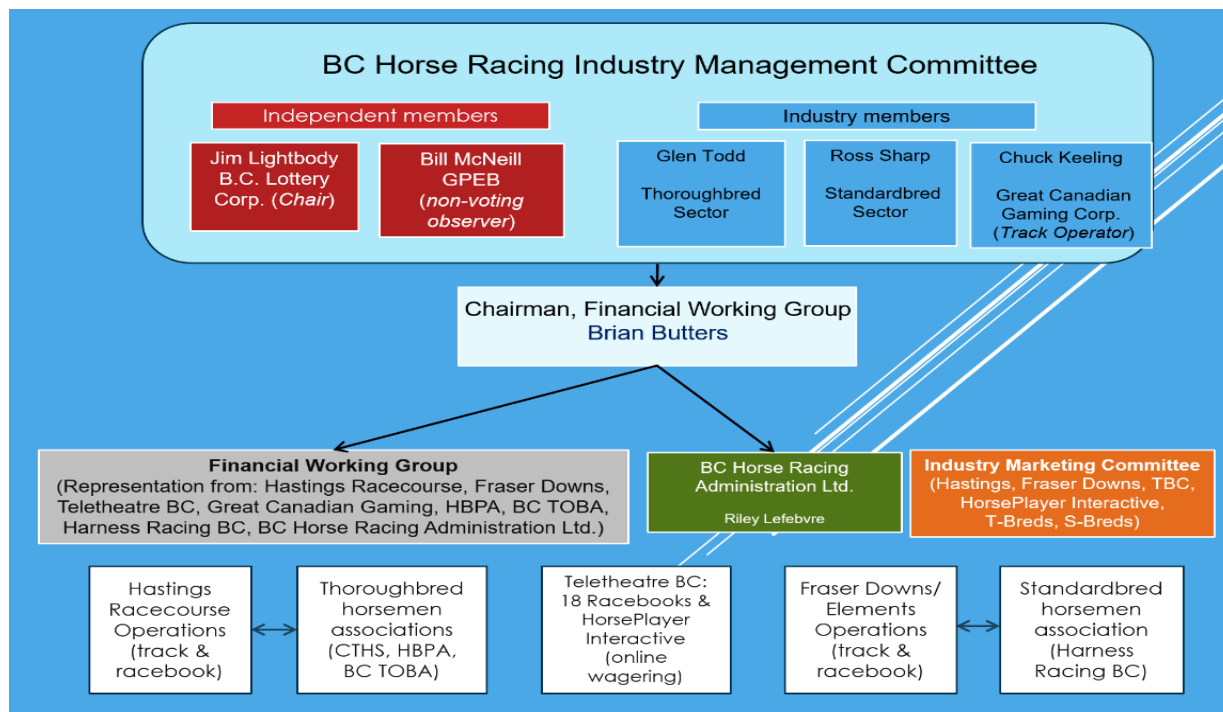
THE CURRENT GOVERNANCE MODEL FOR THE HORSE RACING INDUSTRY IN B.C.

Horse racing in B.C. is currently conducted and managed by Thoroughbred and Standardbred associations, in conjunction with the racetrack operator, GCGC. The B.C. HRIMC formed in 2010 remains in place, and has reportedly provided stable leadership in the industry, recently renewing the funding model for a three-year term (2017-2019). The current governance model is depicted in the graphic below.²³⁸

²³⁶ Canada, House of Commons Standing Committee on Finance, *Confronting Money Laundering and Terrorist Financing*, *supra*, Recommendation 21.

²³⁷ E-mail to review team from Finance Canada, Dec. 24, 2018.

²³⁸ Graphic courtesy of Brian Butters, B.C. Horse Racing Industry Management Committee (BCHRIMC).



THE FUNDING MODEL FOR HORSE RACING IN B.C.

According to GPEB's most recent annual report, legal gaming in B.C. generated revenue of \$3.3 billion in fiscal year 2016/2017, returning \$1.4 billion to the government. However, the revenue generated by wagering on horse racing in 2017 was only \$18 million, realized from \$7.4 million in wagers on live races, and \$140 million wagered on "import horse racing".²³⁹ Of the total amount wagered, live betting at Hastings Racecourse generated 6% of revenue and live betting at Fraser Downs generated 2% of revenue. Ninety-two per cent of wagering revenue was generated by betting on import horse racing.

Because the horse racing industry has struggled to survive ever since casinos were introduced, the entire \$18 million in revenue generated by wagering was returned to the industry. In addition, \$11.6 million, reflecting 25% of slot machine net revenue from the casinos co-located at the Hastings and Fraser Downs racetracks, was returned to the industry. This created a total budget of \$29.6 million in 2017. This funding was divided among the operator, GCGC for operational expenses (43%), and the Thoroughbred (34%) and Standardbred (23%) associations to fund purses and breeding incentives.²⁴⁰

²³⁹ Wagers on races taking place outside B.C., broadcast via simulcast to one of 19 'teletheatres' in B.C., including at Hastings and Fraser Downs racecourses.

²⁴⁰ Data provided by BCHRIMC.

THE CURRENT STATE OF HORSE RACING IN B.C.

The horse racing industry in B.C. is only a shadow of its former self. However, the industry has rebounded somewhat from the worst of times and it is hopeful for the future. There were 51 racing days at Hastings and 58 at Fraser Downs in 2018, and there are 51 and 65, respectively, planned for 2019.

With a funding and governance model described by stakeholders as unique in North America, the industry now reportedly employs over 2,300 licensed owners, jockeys, drivers, trainers, grooms and exercise riders.²⁴¹ Although not an inconsiderable number, it is less than half the size of the industry in 2008.²⁴² The public profile of horse racing in B.C. received a welcome boost when Mexican-born jockey Mario Gutierrez joined the Hastings Racecourse in the mid-2000s and went on to ride in the U.S., where he won the Santa Anita Derby, the Kentucky Derby and the Preakness Stakes in 2012. This generated much positive media coverage, not to mention great pride at Hastings Racecourse.²⁴³

The horse racing industry is appreciative of the ongoing support of the provincial government and is acutely aware of the fact that it is not a revenue generator for the operator, GCGC (other than with respect to the associated casinos).

IS MONEY LAUNDERING OCCURRING IN B.C. HORSE RACING?

We explored the vulnerability of the horse racing industry to money laundering by examining a variety of factors, including police and GPEB information and investigations; demographics of wagerers; size of wagers; sales of race horses, including a cursory examination of who the buyers and sellers are; the use of self-serve terminals to wager; and online betting.

INVESTIGATIONS BY THE POLICE FORCE OF JURISDICTION

Historically, the VPD maintained a Gaming Unit comprised of two detectives. The Unit had a mandate to investigate gaming-related offences such as bookmaking, cheating at play, keeping a common gaming house, illegal lotteries, illegal video lottery terminals, loansharking, money

²⁴¹ GPEB, *Annual Report 2017/2018*, *supra*. The information in this GPEB report is at odds with the “Five thousand licensed owners, jockeys, drivers, trainers, grooms and exercise persons” noted on its website (likely outdated information). Accessed at <https://www2.gov.bc.ca/gov/content/sports-culture/gambling-fundraising/horse-racing>, as of Nov. 30, 2018.

²⁴² <https://www2.gov.bc.ca/gov/content/sports-culture/gambling-fundraising/horse-racing>.

²⁴³ See, for example, David Ebner, “The magic hands of Mario Gutierrez”, *Globe and Mail*, June 7, 2012. Accessed at <https://www.theglobeandmail.com/sports/more-sports/the-magic-hands-of-mario-gutierrez/article4241025/>; and “Mario Gutierrez returns to ride in B.C. Cup Day at Hastings Racecourse”, *Vancouver Sun*, Aug. 3, 2013. Accessed at <http://www.vancouversun.com/technology/mario+gutierrez+returns+ride+hastings+racecourse/8744518/story.html>.

laundering,²⁴⁴ and illegal poker clubs.²⁴⁵ In January 2005, the Unit was disbanded on the understanding that GPEB would assume conduct of gaming investigations.

Several former VPD Gaming Unit members were interviewed for this Report, including one who had worked on gaming investigations for 10 years prior to the disbanding of the Unit and was a recognized expert in the field. The former members were all concerned that GPEB had not lived up to its commitment. They allege that GPEB simply gathers information concerning alleged improprieties at Hastings Racecourse and refers it to the VPD, which no longer has the mandate or staff to conduct such investigations. A former police officer who was also a GPEB member in the mid-2000s corroborated these assertions, noting: “we did NOTHING there...it was just smoke and mirrors, we made no arrests”. More recently retired GPEB staff agreed but advised that much has changed and working in GPEB is no longer considered a “retirement job”.

Notwithstanding the concerns about GPEB in the 2000s, all the former Gaming Unit investigators said that while there was crime occurring at Hastings Racecourse, it was typically drug dealing and petty offences. None of the investigators had ever had a file or even received information that money laundering: “We knew we had criminals with easy come/easy go cash who would drop a lot of money on horse races, but they were just criminals who liked to gamble.”

There was, however, a seamy side to Hastings Racecourse, associated with a transient workforce, some of whom were known to be involved in drug or alcohol abuse, and sometimes worse. For example, in 2002, a Hastings horse trainer and his girlfriend were murdered, their bodies left in the trunk of a car. In 2007, a former Hastings Racecourse jockey’s agent was convicted at trial on two counts of first-degree murder. The murders resulted from a dispute over a drug operation outside Vancouver.²⁴⁶

We interviewed a successful Vancouver businessperson and horse owner, who has attended Hastings Racecourse since the 1970s. He observed that there was:

“...petty stuff, never anything big. Just your run of the mill pimps, or people trying to fence 20 shirts. We had guys who came to the track who had been in jail for bad things, but we would just tell them they had to behave. But I never saw someone actually involved in money laundering. I don’t believe it was happening when the industry was big, and it would be completely unrealistic for it to be happening now in B.C... It’s horribly depressing, but the average daily betting at Hastings is about 100K, and 25 years ago it was over a million. So there is just not

²⁴⁴ It has been a *Criminal Code* offence to possess property “knowing that it was obtained [by the commission of an indictable offence]” since the 1950s (R.S.C. 1953 – 54, c. 51, s. 296.), however laundering was not a criminal offence until 1989 (*An Act to amend the Criminal Code, the Food and Drugs and the Narcotic Control Act*, S.C. 1988, c. 51.).

²⁴⁵ Inspector D. LePard, *Status Report: Workload Changes 1993-2000*, VPD, Dec. 2000.

²⁴⁶ *R. v. Wilson*, 2007 BCSC 1940.

the capacity – if someone came in with \$10,000 now it would raise a bunch of red flags. There isn't the volume to make crime or money laundering realistic."

Several former Gaming Unit investigators noted occasional allegations of cheating in races and doping of horses. Only one had conducted such an investigation and it related to a trainer's refusal to let his horse be tested for a prohibited veterinary drug. An experienced investigator stated: "I'm sure there was money laundering going on in horse racing at some point, but it has been a dying industry since casinos came in and really where the opportunities are is with on line gambling..."

Another Gaming Unit investigator worked at Hastings Racecourse as a teenager in the mid-1960s: "Before casinos and online betting when the race track was 'it' and it was booming and you could see all the criminal element there...I have no doubt from the [amount of] betting, money laundering was going on then, but I didn't make any specific observations."

To assist our Review, the VPD compiled a 10-year spreadsheet (from July 1, 2008 to Nov. 12, 2018) of police-reported incidents at Hastings Racecourse. Over the entire 10-year period, there were 61 files. Those of note included:

- three fraud files, in which suspects presented fake identification, or identification in another person's name;
- two "counterfeiting currency" files involving small denominations (a \$5 bill and a \$20 bill); and
- one "counterfeiting currency" file created to document multiple counterfeit bills, some of which came from Hastings Racecourse.

The remaining files were of minor incidents or petty crimes, such as assault, mischief, theft, and public intoxication. There were no files related to an allegation of money laundering, or of any related offence.

The RCMP also greatly assisted this Review by conducting a detailed analysis of all incidents/files associated to horse racing venues throughout B.C. over a ten-year period, from January 1, 2009 to January 1, 2019. The analysis was intended to determine if any involved money laundering or other incidents with a nexus to organized crime. The venues examined included horse racing tracks, associated casinos, and 16 licensed teletheatres.

There were 110 files over the ten-year period. Of those, 93 were determined to be irrelevant, being primarily calls regarding disputes, threats, fights, intoxication, removal of patrons, and other petty issues.

Seventeen were determined to have potential relevance to money laundering, loan sharking or other incidents that might be associated to organized crime or organized criminal activities.

Fifteen occurred at Fraser Downs,²⁴⁷ one at Hastings, and one at an online telephone wagering service in Abbotsford. Eleven files involved large buy-ins of chips at gaming tables or a large number of bills used in slot machines or self-service betting machines; three incidents involved counterfeit currency and/or fraudulent credit cards; two incidents involved patrons attempting to covertly pass casino chips or other tender (a cheque); and one incident involved an excluded patron using false identification to claim a jackpot.

In every case, however, the incidents of concern were associated with the onsite casino at the horse racing venue, not wagering on horse racing. No files were identified in the RCMP analysis at any horse racing venue or teletheatre that suggested money laundering was occurring.

INVESTIGATIONS BY GPEB REGARDING HORSE RACING

A GPEB investigator in the mid to late 2000s, a highly experienced former police serious crimes investigator, advised us that he had received information that money was laundered through pari-mutuel tellers at Hastings Racecourse by criminals with “bags of ten or twenty thousand dollars in cash”. Despite his best efforts, he was never able to confirm the allegations and was satisfied with proactive efforts that were being taken to ensure that it did not occur in the future. By the time of his retirement in the late 2000s, the introduction of casinos had provided much better opportunities for laundering.

Current GPEB and JIGIT staff interviewed for this Review noted that they had never received any information or any complaint about money laundering or suspicious financial transactions at a race track, although they had received information concerning assaults, sexual assaults, and illegal drugs. Each noted that the average financial transaction is small, with one observing:

“I don’t know how you could make any real money...In a casino you have \$100,000 hands, but you probably wouldn’t have that much bet in a day in horse racing...Even horse sales: high risk, low return...not like buying high-priced cars here and selling to China for WAY more money...we never get information about [money laundering] in horse racing and don’t think it’s going on because it’s just not realistic when it’s so much easier in the casinos and there’s so much more money involved.”

THE DEMOGRAPHICS OF HORSE RACING WAGERERS IN B.C.

Another factor that must be considered in determining the likelihood of money laundering is the demographics of the bettors. Several people in the horse racing industry commented that horse racing fans were an aging demographic and were literally and figuratively “dying out”. Author Kevin Chong observed in his book on Hastings Racecourse that “the primary demographic at Hastings Racecourse [was] old and male, equal parts white or Asian...”²⁴⁸ The

²⁴⁷ This reflects the fact that Fraser Downs is located within the jurisdiction of the RCMP’s Surrey Detachment.

²⁴⁸ Kevin Chong, *My Year of the Racehorse*, (Vancouver: Greystone Books, 2012) at p. 2.

HRIMC noted that the “demographic of bettors is skewed heavily toward older male individuals in metro areas, with an Asian predominance”.

Wagering statistics bear out the foregoing observations of the aging horse racing clientele. In B.C. in 2017, online horse racing bettors (who must provide their identification, including date of birth, to open an account) were dominated by those 50 years and older, comprising 79% of all online customers. The 21% of customers under 50 years were underrepresented in wagering, accounting for only 9.4% of the total amount wagered, with those between 50 and 80 years accounting for 85% of money wagered. As author Kevin Chong pointed out: ²⁴⁹

“No wonder this sport is dying, made irrelevant to today’s gambler by looser gaming restrictions and more expedient methods of wagering...A half-hour passes between races at any track; living in this hurry-hurry world, people can’t lose their money fast enough.”

THE SIZE OF WAGERS BY B.C. HORSE RACING PATRONS²⁵⁰

There is a small number of wagerers in B.C. who bet large sums on horse races over a day of racing. This occurs through online betting. The HRIMC reports that “a large percentage of total wagering is done by a relatively small percentage of big bettors (‘whales’)”. Only 6% of the total is bet on live races at Hastings, and 2% on live races at Fraser Downs. Average betting on live racing per racing day in the 2017/2018 season was approximately \$66,000 for Hastings Racecourse and Fraser Downs combined.²⁵¹

In 2018, the top online wagerer on races at Hastings bet \$130,203, but that was more than double the second-highest better. The vast majority of account holders had wagered less than \$5,000 during the year. The pattern was similar at Fraser Downs, where the top online wagerer bet \$98,118, more than three times as much as the second highest bettor, and the vast majority wagered less than \$2,000 during the year.²⁵²

Most online wagering occurs on races outside of B.C. On one sample day, the top online bettor had wagered over \$45,000 (losing a total of \$5,000 and netting \$40,000 for the day), with the second highest bettor wagering approximately \$6,000. The size of bets rapidly decreased from these outliers, with most betting only a few hundred dollars a day or less. The average wagering of all 6,083 horse racing customers in B.C., during the entire 2016/2017 racing season, was a little over \$15,000.

²⁴⁹ *Ibid.* at p. 4.

²⁵⁰ Data provided by BBCHRIMC and by Hastings Racecourse.

²⁵¹ Calculated by dividing the \$7.2 million bet on live races by the 109 total racing days (51 at Hastings and 58 at Fraser Downs).

²⁵² In fact, while the average yearly online wagering on races at Hastings was \$1,016, the median wagering total was \$168. At Fraser Downs, the average yearly online wagering was \$785, with a mean total of \$116. Data was provided by the B.C. Director of Horse Racing.

It is also important to understand that someone who has bet, for example \$1,000 in a day, may not have arrived at the track with \$1,000. Rather, the bettor may have arrived with \$100, wagered on races throughout the day and continued to reinvest any winnings on more bets. The \$1,000 wagered that day is the accumulated total of bets made, referred to in gaming parlance as 'churn'. The Director at Hastings Racecourse commented on those who attend to bet on live races, or online on races being simulcast at Hastings:

"On a busy Saturday, only two bettors would bet over \$10,000 in the day, and these big bettors don't even bet on the horses here; mostly it would be on the big tracks (via simulcast). That's because the pool size is so small here. If you were to bet \$1,000 on a horse to win at Hastings, you would drastically change the odds. Our average pool would be \$15,000 to \$20,000, so if you bet a thousand bucks, most times you would be 5% of the pool."

Any significant payouts (e.g., over \$1,000), are made by cheque, and according to the Director, that only occurred on 35 occasions in the most recent season. Furthermore, before a cheque is written, staff run a check to determine that the individual did in fact win money and did not simply move money through the system.

With respect to cash bets, Hastings Racecourse staff advise that the typical bettor is betting only two to four dollars on a race, with the pari-mutuel tellers limited to taking a maximum of \$100 per wager. Total cash betting may reach approximately \$100,000 on an average racing day. With about 2,000 fans in attendance on average (although there is considerable fluctuation between racing days depending on the weather, the horses racing, and other variables), this means the average fan is betting approximately \$50 per day. A former employee at Hastings noted:

"At the teller, the bets are quite small, two dollars, four dollars, up to a couple hundred. [Because of the maximum bet of \$100] someone betting \$10,000 would have to make multiple bets to get to that level. If that happened, that would ring a lot of alarm bells in the last 10 years and it just doesn't happen. It would go to the mutuel manager and be flagged by them and with security."

At Fraser Downs, the number of customers and the amount of betting is much smaller, with about 500 patrons on an average day and the wagering about one third of the amount at Hastings, less than \$30,000 total, for an average of less than \$60 per patron per day. As a result, the pool size is much smaller compared to Hastings Racecourse, with \$1,500 to \$2,000 in a typical "win pool" and a good race generating a win pool of up to \$6,000.

One long-time horse racing insider and owner, believes that money laundering would be detected easily at a B.C. racetrack:

"You would know right away. And if you bet 10K on a horse, your return would be like 5 cents, and if the horse loses you're out 10K...Re betting, any big amount knocks the odds down so you're risking money for a small return. But the big bettors, the Vancouver

stockbrokers that used to flood the place, they're all gone... It would be great if we saw some rich Asians getting involved in horse racing and buying horses and gambling, but they want to bet on races in China. They want a nice place to go to, they want to be treated well, and we've got none of that. The casino [at Hastings] is in the basement, no frontage, have to go into the PNE grounds, it's shabby, nothing nice there, there's no way wealthy Asians are going to go there."

In B.C., given the relatively small amount bet in cash, and the average size of a bet, money laundering is not currently a significant issue in cash betting.

HORSE SALES

As described earlier, the purchase and sale of horses does however provide an opportunity for money laundering. Since 2003, the number of horses sold in B.C. has been on a general downward trend. For example, with respect to thoroughbreds, sales have declined from a high of 158 horses sold in 2005, to a low of 57 in 2016, increasing to 67 in 2018. Horses sold in B.C. tend not to be of high value, with the average price in 2018 being under \$15,000 and the highest price paid for a horse being \$86,000. The same company that bought this horse was also the leading buyer in 2018, with the purchase of three horses averaging over \$62,000.²⁵³

In B.C. in 2018, 40 horses were sold for less than \$10,000 and 27 sold for \$10,000 or more. As noted by one industry insider, who worked in various roles at Hastings and is a former horse owner:

"Racing is on its last legs...amplified in Vancouver with the expense of living here. Only a small number of people can afford to buy and keep a race horse...When you don't have great numbers of horses, you don't have a lot bet [on horse races]...That's an ongoing trend for 25 years...In all my years, I've never seen money laundering at Hastings...If there was money laundering going on, [the industry] wouldn't be dying!"

The owners interviewed were confident that thorough GPEB screening would prevent a known criminal from obtaining the registration required to participate in the industry. While we believe this is generally true, during this Review we did learn of a suspected drug trafficker and money launderer who owned and raced a horse at Hastings. His registration had recently been renewed. This was brought to GPEB's attention.

Another method of purchasing a horse, is to "claim" it at a claiming race. A claiming race is one in which all horses entered by their owners are subject to being claimed or purchased for a specified price, regardless of where they finish. The horse goes to the new owner but any purse money won goes to the former owner."²⁵⁴ The horse owners essentially set the market value of the horse. If the horse is entered for a price that other trainers think is a good value, it is likely to be claimed, but if it is entered for too much, the horse often ends up being a long shot and

²⁵³ Canadian Thoroughbred Horse Society, B.C. Division. Accessed at <https://www.cthsbc.org/2018-sales-results>.

²⁵⁴ Woodbine Glossary of Terms. Accessed at <https://woodbine.com/wp-content/uploads/Woodbine-Glossary-of-Terms.pdf>.

has a slim chance of being claimed.²⁵⁵ Therefore, horses placed in each claiming race are generally of similar value. There were 84 horses claimed at Hastings in 2018, with 67 being claimed for less than \$10,000 and only 17 for \$12,500 or more, as follows: \$25,000+ (7), \$12,500 to \$25,000 (10), \$6,000 to \$8,000 (22), and \$3,000 to \$4,000 (45).

A “Horseperson’s Bookkeeper” at Hastings processes the transactions, which can be by cheque, cash, or transfer to a horseperson’s account. Clearly a cash transaction provides a vulnerability to money laundering, but according to Hastings Racecourse officials, a cash transaction is rare, and is usually an impulse buy of a low value horse.

At Fraser Downs, there were 16 standardbred horses sold in 2018, six for more than \$10,000 and 14 for under \$10,000. There are also claiming races at Fraser Downs. In 2017, there were 28 horses claimed, four for \$10,000 or more and 24 for less than \$10,000. As of November 25, 2018, there had been two horses claimed for \$10,000 or more, and 16 for less than \$10,000. The majority of horses claimed are purchased by cheque but, again, a small number are purchased with cash by someone making a last minute decision for a low value horse.

A long-time attendee at horse races and horse owner, noted that buying horses is a high-risk business:

“A horse could be worth nothing tomorrow and you’d really have to know what you’re doing. I bought a horse in Kentucky for \$95,000 and it turned out to have medical problems and it will never run...these horses are made out of glass – they are bred to run fast on spindly legs and they’re fragile...Even if you could buy a horse for cash, I own several higher end horses at Hastings Park and I would know if a strange owner turned up; I would know and it’s just not happening. Maybe 30 or 40 years ago, there could have been criminals involved in horse racing but it’s just not happening. How would they do it? It’s too big a risk...it costs \$30,000 a year just to keep a horse.”

The ownership and breeding of race horses is a financially risky business. The Horse Council of British Columbia released an “Equine Industry Study” funded by AAFC, with data compilation and analysis provided by the B.C. Ministry of Agriculture and Lands. Based on data from 2009/2010, the report concluded that “owners, on average, do not take profits from the industry”. The report noted that it is possible for owners to make money by competing for purses, but the owners also gain value, “from the thrill, passion and entertainment value of owning or breeding a race horse”.²⁵⁶

ONLINE BETTING

The majority of betting on horse races by B.C. residents occurs online, through a system called “Horse Player Interactive” (HPIbet.com) managed by Woodbine Entertainment Group

²⁵⁵ “Horse Betting: Claiming Races”, *US Racing*. Accessed at <https://www.usracing.com/horse-betting/claiming-race>.

²⁵⁶ Horse Council British Columbia, “Equine Industry Study” at p. 41. Accessed at <https://www.hcbc.ca/wp-content/uploads/2015/08/2009-BC-Horse-Council-Industry-StudyFINAL.pdf>.

(Woodbine) in Ontario. The majority of bets through HPIbet.com are on races occurring in other jurisdictions. The view of GPEB and others interviewed for this report is that there are already *de facto* AML provisions in place with online betting. These were described earlier in the submission by Racetracks of Canada. These provisions are premised, however, on an assumption that because online betting accounts must be funded through the banking industry (i.e., accounts are funded by transfers from banks or charges to credit cards), suspicious transactions would be reported by the banks to FinTRAC.

Furthermore, those betting online must have accounts created with legitimate identification. In B.C., betting is tracked in considerable detail by the Director of Racing B.C. with, for example, a daily analysis available of each of the 4,678 active bettors in the 2017/2018 season: by name, by community where they placed their bets, by type of bet, and at which race track.²⁵⁷ There is an assumption that because the identities of the bettors are known and their wagering is tracked, people would be deterred from using their accounts to launder money.

While having to disclose one's identity *might* be a deterrent, the fact is that bettors' personal information is collected for various purposes, but according to the privacy statement of HPIbet.com, review for potential money laundering is not one of them.²⁵⁸ Personal information collected by HPIbet.com must also comply with the *Personal Information Protection and Electronic Documents Act*.²⁵⁹ Furthermore, for B.C. residents, collection of their personal information is subject to B.C.'s *Personal Information Protection Act*.²⁶⁰

A fundamental principle of privacy legislation is that personal information can only, with some exceptions, be collected with consent, and can only be used or disclosed for the purpose for which it was collected. Exceptions include a legitimate law enforcement investigation, or where lives are at risk. Proactively reviewing for money laundering patterns is likely not consistent with the enumerated purposes for which HPIbet.com collects personal information.²⁶¹ It should be noted, however, that collection and use of information to protect customers and Woodbine against errors and frauds, and to comply with legal requirements, is covered by the privacy statement.²⁶²

The vast majority of online wagers by B.C. bettors, over 95% of all wagers in dollar value, are placed at large tracks outside of B.C.²⁶³ These include the following.

²⁵⁷ Data provided by the Director, B.C. Horse Racing.

²⁵⁸ See <https://www.hpibet.com/About/Privacy>.

²⁵⁹ S.C. 2000, c. 5.

²⁶⁰ SBC 2003, c. 63.

²⁶¹ See <https://www.hpibet.com/About/Privacy>.

²⁶² *Ibid.*

²⁶³ Data provided by Director, B.C. Horse Racing.

- Gulfstream Park in Florida, where annual wagers total \$1.8 billion²⁶⁴ and purses total \$2.3 million for the annual Florida Derby alone.²⁶⁵
- Santa Anita Park in Arcadia, California, where annual wagers total over US\$1 billion,²⁶⁶ the purses total \$1 million for the Santa Anita Derby,²⁶⁷ and the total wagered at races on Derby Day in 2018 totalled over \$24 million, with \$3.5 million wagered at the track.²⁶⁸
- Churchill Downs in Louisville, Kentucky, where wagering on the Kentucky Derby alone totalled almost \$150 million in 2018,²⁶⁹ with a \$2 million purse.²⁷⁰
- Saratoga Racecourse in Saratoga, New York, where total wagering for 2017 was over \$648 million.²⁷¹
- Royal Ascot Racecourse in Ascot, Berkshire, England, where in the 2018 season purses totalled £13.45 million (~C\$22.73 million).²⁷²
- Hong Kong, where annual wagers total HK\$16.6 billion (~C\$2.2 billion) and purse sizes reach an astounding HK\$1.16 billion (~C\$197 million).²⁷³

A large bet at these premier race tracks will draw less attention because of the extraordinary aggregate sums. As a well-respected horse owner interviewed for this Report noted:

“If you could get your money into an online account, on a big race day in New York, California, Kentucky, you could bet \$100,000 on a race and it might not be noticed, but with all the documentation to do that, it would be way easier to do through online

²⁶⁴ Clark Spencer, “In the ‘Sport of Kings,’ \$1.8B in wagers helps this track earn reputation as crown jewel”, *Miami Herald*, Jan. 25, 2018. Accessed at <https://www.miamiherald.com/sports/horse-racing/article196693854.html>.

²⁶⁵ Christina Moore, “Nine Things You Should Know About the Florida Derby”, *America’s Best Racing*, Mar. 26, 2018. Accessed at <https://www.americasbestracing.net/the-sport/2018-nine-things-you-should-know-about-the-florida-derby>.

²⁶⁶ <http://www.santaanita.com/press-releases/all-sources-handle-hits-1-billion-mark-up-eight-percent-over-a-year-ago-as-santa-anitas-102-day-winterspring-meet-draws-to-a-close/#.XBbaUFxKjD4>.

²⁶⁷ <http://www.santaanita.com/press-releases/59940/#.XBbbq1xKjD4>.

²⁶⁸ *Ibid.*

²⁶⁹ Dustin Gouker, “Record Kentucky Derby Numbers Show Why US Sports Betting Needs to be Online”, *Legal Sports Report*, May 6, 2018. Accessed at <https://www.legalsportsreport.com/20131/kentucky-derby-record-and-sports-betting/>.

²⁷⁰ Khadrice Rollins, “How Much Money Does the Kentucky Derby Winner Make?” *Sports Illustrated*, May 1, 2018. Accessed at <https://www.si.com/horse-racing/2018/kentucky-derby-prize-money-purse-breakdown>.

²⁷¹ Robin K. Cooper, “Saratoga Race Course sets wagering record”, *Albany Business Review*, Sept. 5, 2017. Accessed at <https://www.bizjournals.com/albany/news/2017/09/05/saratoga-race-course-sets-wagering-record.html>.

²⁷² <https://www.ascot.co.uk/news/ascot-racecourse-announces-2017-financial-results>.

²⁷³ “Hong Kong Jockey Club Announces Purse Increases For 2017/2018 Season”, Press release (edited), *Paulick Report*. Accessed at <https://www.paulickreport.com/news/the-biz/hong-kong-jockey-club-announces-purse-increases-201718-season/>.

casinos than through race track betting. I think that would be the only way to launder a reasonable amount of money.”

Woodbine has several measures in place to deter money laundering activity at its racetracks and/or using its systems, including the following.

- Applicable staff are trained annually with respect to the requirements of Woodbine’s AML policy.
- Software to detect transactions involving little or no wagering activity, which must be reported in accordance with the provisions of AML policy.
- Policy requiring that a customer continuously feeding bills into a tote machine be reported to security.
- A maximum voucher amount of \$10,000 on the self-service terminals, and the tote system will not issue a paper voucher with a value in excess of \$10,000. The transactions that create a voucher are traceable and auditable (as are all tote transactions).
- If a customer presents a voucher or series of vouchers that adds up to \$10,000 or more and requests a cheque, Woodbine staff will research the source of the voucher balance and winning wagers.
- Software that analyzes all HPIbet activity across Canada and detects any withdrawal transactions that are not related to winnings.

The policies and mechanisms in place to guard against money laundering through the online betting system operated by Woodbine appear to be reasonable. There remain, however, some vulnerabilities and there is a real possibility of money laundering given that AML strategies in horse racing are not as robust as they are for entities that must report to FinTRAC.

SELF-SERVICE TERMINALS AND VOUCHERS

Patrons at Hastings and Fraser Downs racecourses can create an anonymous account in which to store funds and purchase vouchers to use for betting on horse races, but only if they attend the track in person. A senior police officer assigned to a gaming intelligence role with the Ontario Provincial Police (OPP) noted:

“I can buy a voucher for 10K, and there are fewer and fewer tellers with the move to automated machines. I can take that voucher to a machine and launder it by betting on a couple of races, have \$9,500 left, and then cash that voucher in. And then I have a receipt making the money look legitimate even though I bought it with cash. If CPMA had a reporting regime in place, you could target suspicious activity.”

This situation creates another potential vulnerability for money laundering, but it would be limited to relatively small amounts. The maximum transaction at a self-service terminal is \$1,000, and a person who purchases a voucher at a racetrack and then tries to cash it without betting or with minimal betting would likely draw the attention of racetrack staff. According to the B.C. Director of Racing:

“We wouldn’t give someone a cheque that just showed up with a \$9,500 voucher, and if they came to a mutual teller to cash it out they wouldn’t get a receipt that we cashed out the voucher....any requests for a cheque will be verified through their account as a winning wager, or if the person was playing at a self-serve machine they would have to identify the machine to us so that we could do our due diligence to ensure that there was a wager made that generated the money.”

Aside from the two racetracks, most of the 19 teletheatres in B.C. are in casinos, where there is a high degree of surveillance. There are three teletheatres in bars/pubs in B.C., which do not have the sophisticated surveillance systems that exist in casinos. A site visit at one such operation and an interview with the owner/operator demonstrated that money laundering would be unlikely:

“If you put \$100 cash in (a self-service terminal) and bet \$20, then you could get a voucher for \$80, but there is never more than a few thousand dollars in there at the end of the day and that would be from about 30 different people who used the machine in a day generally. One person could keep putting money into the machine, but people would get annoyed if you were tying up the machine all day because that would take a long time (to insert cash of significant value). I’ve never seen that happen and we would know if one person did something unusual like that because it would get so much attention.

People could pump money into the machine...but not wager, and they can transfer that money to their HPI account and then bet at home, which I don’t like because I don’t get anything out of it. But it’s not much money...Once a few years ago I went to Hastings and put 5K in cash in my HPI account but then I took it right out because I decided to wager at Hastings and HPI called Hastings right away and said, ‘What’s going on there?’ because I’d put money in and out without wagering. So they obviously have a system in place to flag suspicious transactions.”

AML PRACTICES IN OTHER JURISDICTIONS

The table below summarizes AML practices in B.C. and several other horse racing jurisdictions, ranging from very small to very large. The smallest jurisdiction, Washington State, is similar to B.C. except for a requirement that applies to *all* racetracks in the U.S., which is that cash wagers over \$10,000 require a report to FinCEN. At the other end of the spectrum is Hong Kong, an enormous operation that has extremely sophisticated and well-resourced AML practices that are instructive for gaming generally, but not realistic in the context of the B.C. horse racing industry.

AML STRATEGIES IN B.C. vs. EXAMPLES FROM U.S. & HONG KONG

Jurisdiction	Cash Wagering	Online Wagering	Horse Sales & Purchases	Fixing Races	Miscellaneous
Kentucky	Any cash wagers 10K and up subject to federal reporting requirements (FinCEN/IRS Form 8300, Report of Cash Payments Over \$10,000 et al.) at any track in U.S.	Yes. No additional info provided.	No. Sales are handled privately and not subject to Horse Racing Commission.	Jockeys tightly regulated. Cannot wager. CCTV on every rider.	Kentucky Racing Commission currently revamping all its policies, including those related to AML.
Hong Kong (Hong Kong Jockey Club)	Cash betting approx. 20% of total betting. No regulation to report large transactions to regulator, but HKJC has a policy of reporting any bet over C\$17K and suspicious transactions of any amount – obtains ID of wagerers. All frontline staff trained re AML. Live monitoring of betting	Yes. Majority of betting is online. Sophisticated surveillance of betting patterns, including timing, IP addresses, cash deposits into accounts, common depositors of linked accounts, using custom software to consolidate info from all data systems, as well as manual methods. Due	Only HKJC members can purchase/sell and race a horse in HK and are subject to careful vetting. Re silent control/ ownership of horses, careful on track monitoring for anyone showing up in parade circles without legitimate reason, who will be identified and	Jockeys and others, e.g., trainers, have very strict rules. Systematic analysis of betting patterns to look for associations between specific jockeys or trainers that may suggest corruption in racing, fixed races, tips for bets. Use of CCTV and live surveillance on and off track.	Very sophisticated approach in collaboration with other stakeholders, including police. Extraordinary resources, e.g., 60 analysts doing research & developing money laundering typologies, physical surveillance teams. HK residents who go on gambling junkets to Macau are

AML STRATEGIES IN B.C. vs. EXAMPLES FROM U.S. & HONG KONG

Jurisdiction	Cash Wagering	Online Wagering	Horse Sales & Purchases	Fixing Races	Miscellaneous
	at racetrack and monitoring of all bets over C\$3,500.	diligence on customers, including patterns of betting on particular jockeys or trainers. This has led to examination of CCTV and to physical surveillance on/off track to determine if associating to known criminals.	researched, e.g., re betting patterns.		researched to see if they pose a risk. HKJC has an integrated financial crime risk team for AML, fraud, corruption, betting markets, sports integrity – takes a holistic approach to guard against missing broader patterns. Looks at typologies, not just individual STRs. Packages information of suspicious behaviour and provides to police, and also produces research. HKJC is the sole betting operator in Hong Kong. It operates as a not-for-profit organization and allocates its surplus revenue to

AML STRATEGIES IN B.C. vs. EXAMPLES FROM U.S. & HONG KONG

Jurisdiction	Cash Wagering	Online Wagering	Horse Sales & Purchases	Fixing Races	Miscellaneous
					charitable and community projects, and paid the government C\$3.69 billion in duty and profits tax in the 2016/2017 financial year. ²⁷⁴
Washington (Emerald Downs)	Cash wagering amounts small; money laundering seen as very low risk. Total amount wagered in 2018 season was ~\$39 million, down 11.7% from 2017 season. ²⁷⁵ Informal surveillance of purchase/cashing of vouchers from self-service machines	Washington state allows online betting but money laundering not viewed as a concern at Emerald Downs.	No info provided.	Total winnings of ~US\$2.72 million divided by 172 owners & ownership groups; ²⁷⁶ average of \$15,837. Suggests low desirability for money laundering.	N/A

²⁷⁴ Danny Mok, "Hong Kong Jockey Club has record-breaking year with HK\$216 billion turnover", *South China Morning Post*, Sept. 1, 2017. Accessed at <https://www.scmp.com/news/hong-kong/education-community/article/2109235/hong-kong-jockey-club-has-record-breaking-year>.

²⁷⁵ <http://www.whrc.wa.gov/>.

²⁷⁶ *Ibid.*

AML STRATEGIES IN B.C. vs. EXAMPLES FROM U.S. & HONG KONG

Jurisdiction	Cash Wagering	Online Wagering	Horse Sales & Purchases	Fixing Races	Miscellaneous
	to ensure wagering occurred. Most patrons are tourists.				
British Columbia (Hastings Racecourse and Fraser Downs)	Cash wagering amounts small and money laundering seen as low risk. Those using self-serve machines to load cash and then cash out to obtain a voucher without wagering would draw attention of management in a major casino, but unclear what procedures are in place in a small theatre, e.g., in a pub.	Yes. On line wagering occurs through HPIbet.com, managed by Woodbine Entertainment Group in Ontario. B.C. account holders' wagering monitored daily for suspicious betting patterns. Very small number of significant wagerers. No formal AML regime in place.	All horse owners must be vetted by GPEB to race a horse in B.C. Value of horses sold in B.C. relatively low, averaging under \$15K and most expensive horse sold in B.C. in 2018 for \$86K. Relatively small number of owners. Other than vetting, no formal AML regime in place. Low value horses can be claimed for cash, but generally involves only several thousand dollars.	Races are monitored by CCTV. Stewards (Hastings) and judges (Fraser Downs) monitor for infractions of racing rules. No formal AML program, no policing, but also low attractiveness to significant money laundering given small purse sizes.	Cash can be loaded into self-serve terminals to wager, or be transferred to HPIbet account for wagering, or cashed out. May present vulnerability – unknown what AML procedures are in place at HPIbet.com.

SUMMARY

We do not view horse racing in B.C. to be a high money laundering risk at present, although there are vulnerabilities due to the absence of reporting to FinTRAC, a lack of staff training, and the absence of regulatory and law enforcement oversight. These issues are discussed below.

Uniform Currency Reporting

As noted elsewhere in this Report and at length in the following chapter, the lack of uniform currency reporting across sectors in Canada leaves some parts of the economy vulnerable to money laundering and the ‘whack a mole’ syndrome, as organized crime moves from one opportunity to another. Universal reporting, as it exists in the U.S., is the simplest way to close this gap in Canada’s AML framework. Who walks around with \$7500 or \$10,000 in their pocket? The added burden on industry should be low. As an adjunct to this reporting, the province could consider making the Source of Funds Declarations for large cash transactions, now in use within casinos, applicable to horse race venues, and to the purchase of race horses, including at claiming races.

Staff Training

Training for staff on AML is very important. Pari-mutuel tellers and other racing staff in B.C. do not receive the AML training that casino staff receive. GCGC was apparently considering AML training for horse racing staff as a result of the *Dirty Money* report and should proceed with implementation, in concert with BCLC and GPEB. It is important for staff to understand their role in AML, and what is expected of them. This training should be provided to all current staff and to new staff when they are on-boarded. Staff should also receive refresher training at appropriate intervals. Staff working in teletheatres should receive the same training and be subject to the same policies and procedures as staff working at live racing venues. This training is consistent with the spirit of the recommendation from the Standing Committee on Finance that: “That the Government of Canada expand FinTRAC oversight to ensure that all casino operators, employees, and *frontline gaming personnel* are trained in anti-money laundering legislation.”²⁷⁷ [emphasis added]

Regulator

Regulation of the horse racing sector should transition from GPEB to the proposed independent regulator for gaming in B.C. In addition, legislative amendments which are intended to provide the regulator with a mandate to deal with AML should also include the horse racing industry.

Law Enforcement

British Columbia no longer has a police unit dedicated to racetracks. The VPD Gaming Unit was abolished when GPEB took over regulatory enforcement of horse racing, and the RCMP units

²⁷⁷ Canada, House of Commons Standing Committee on Finance, *Confronting Money Laundering and Terrorist Financing*, *supra*, Recommendation 21.

were abolished across Canada, leaving federal regulation to the CPMA. In Ontario, the OPP maintains a large gaming, liquor, and horse racing unit, attached to its regulator. Investigators are cross-trained on the different industries.

The *Dirty Money* recommendations included the establishment of a designated policing unit that would provide policing services to legal gaming venues.²⁷⁸ Horse racing in B.C. should be added to the mandate of this new policing unit. This would allow for: a regular police presence at tracks, the development of criminal intelligence, high visibility crime prevention campaigns, and investigations of criminal activity associated to horse racing.

²⁷⁸ Recommendations 37-43.