

**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
BC CORRECTIONS
DECISION BRIEFING NOTE**

PURPOSE: For **DECISION** of Douglas Scott, Deputy Solicitor General *and* Richard J. M. Fyfe, QC, Deputy Attorney General.

ISSUE:

Transferring the management of the Native Courtworker and Counselling Association of BC's (NCCABC) Indigenous Courtworker (ICW) Program contract from BC Corrections to Justice Services Branch (JSB).

RECOMMENDATION:

Option 1: Transfer NCCABC contract oversight to JSB.

SUMMARY:

- BC Corrections contracts with the NCCABC to deliver the federal cost-shared ICW program that helps Indigenous peoples involved in the criminal justice system obtain fair, equitable, and culturally-relevant treatment by helping them understand court processes and their rights and responsibilities before the law, and by facilitating communication with justice and court services personnel and community resources.
- The ICW program does not align with BC Corrections' mandate - to protect communities through the safe control of, and supporting behavioural change for, people under its care and supervision - and better aligns with JSB's mandate to promote the greatest possible access to BC's justice systems.
- In addition, the federal government is expanding the scope of ICW program services to include Indigenous family courtworker services as well as increasing funding for the Gladue report program which both fall under the mandate of JSB (the Gladue report program will be delivered by the First Nations Justice Council).
- BC Corrections supports the transition of the NCCABC contract to ensure all services funded under the ICW program are coordinated and managed by one ministry. The transfer will enhance integration of services for Indigenous clients involved with criminal and family court proceedings and improve communications and strategic planning related to court operations and court services for Indigenous peoples.

BACKGROUND:

- The Province of BC contributes \$1,763,833 to the ICW program, and the funding is matched by the federal government for a total of \$3,527,667. Through this funding, the NCCABC employs approximately 31 Full-Time Employees and provides services in approximately 75% of BC courthouses.
- In FY2019/20, the ICW contract was directly awarded to the NCCABC for a single year with one-year option to extend to March 30, 2022. This followed a Notice of Intent to Directly Award process based on the belief that NCCABC is the only service delivery agency capable of delivering the ICW program on a provincial scale. A Notice of Intent process was also completed in the fall of 2021. The NCCABC has provided this service for more than 40 years, and until the early 2000s the contract was managed through Court Services Branch.
- The Government of Canada's Budget 2021 announced 3 years of funding (\$1.2M in 20/21, \$2.5M in 21/22, and \$3M in 22/23) to expand the scope of the ICW program to include family court services as part of a broader initiative to Improve Access to Justice for Indigenous People, including victims, offenders and families. Family court services are part of JSB's mandate.
- JSB's Indigenous Justice Policy and Legislation Division (IJPLD) is responsible for supporting the transformation of Indigenous justice services in BC. IJPLD, in partnership with the BC First Nations Justice Council (BCFNJC), will be managing federal ICW program funding for Gladue reports and education announced late in 2020.

DISCUSSION:

- The transfer of the NCCABC contract will result in all federal ICW funding being managed and coordinated by the same branch.
- JSB will benefit from NCCABC's extensive knowledge and network of relationships as JSB responds to evolving Indigenous justice initiatives in BC, including the increase in Gladue reports and principles in sentencing and the development of BC's new Indigenous family court initiative.
- The lack of structural alignment of the NCCABC with the ministry that is involved in making strategic decisions about courthouses and court processes sometimes creates communication challenges.

INDIGENOUS PEOPLES CONSIDERATIONS:

- Aligning the needs of Indigenous justice service delivery partners with the appropriate ministry will support government mandates and priorities being aligned to best serve Indigenous peoples in BC.

OPTIONS:

Option 1: Transfer NCCABC contract management to JSB. (Recommended)

Pros:

- JSB's mandate to promote access to justice aligns best with the ICW program.
- All federal funding flowing through the ICW agreement will be managed in the same branch/ministry and improve coordination with the federal government.

Cons:

- JSB may need .1 of an FTE to manage the NCCABC contract on an ongoing basis.
- The transition of the NCCABC contract to JSB may require more significant JSB resources to initially build the necessary partner relationship and understanding of the NCCABC's program delivery.

Option 2: BC Corrections retains NCCABC contract management.

Pros:

- No further steps need to be taken.

Cons:

- Two branches/ministries will be managing and coordinating three separate federally cost-shared initiatives under multiple cost-sharing agreements.
- BC Corrections will continue managing a program that does not align with its mandate and that better aligns with JSB's mandate.
- The NCCABC is not properly positioned to ensure their knowledge and experience inform the transformation of Indigenous justice services in BC.
- The NCCABC continues to be separated from the ministry in which its staff work (e.g., courthouses) and is making strategic decisions that impact the program (e.g., virtual bail).

OTHER MINISTRIES IMPACTED/CONSULTED:

- Ministry of Attorney General

DECISION:

OPTION NUMBER 1 APPROVED



Douglas Scott
Deputy Solicitor General

February 24, 2022

Date

OPTION NUMBER 1 APPROVED



Shannon Salter
Deputy Attorney General
and Deputy Minister Responsible for
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March 3, 2022

Date

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**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
LIQUOR AND CANNABIS REGULATION BRANCH (LCRB)
DECISION BRIEFING NOTE**

PURPOSE: For **DECISION** of Mike Farnworth,
Minister of Public Safety and Solicitor General and Deputy Premier.

ISSUE:
Cannabis Authorized for Sale at Farm-Gate Retail Stores

DECISION REQUIRED / RECOMMENDATION:

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SUMMARY:

- Direction regarding the cannabis to be authorized for sale in farm-gate stores is required. It is recommended that the most permissive approach consistent with Cabinet direction be taken.

BACKGROUND:

- The Province's policy objectives in respect of farm-gate sales are to: 1) reduce the illicit cannabis market supply while supporting regional economies where illicit cannabis production and retail has been located; and 2) help to ensure that legacy expertise and "craft cannabis" can be brought to the legal market by increasing opportunities for their legal market participation.
- LCRB will authorize farm-gate cannabis sales through a new class of licence: Production Retail Store (PRS).
- To inform the development of the policy framework for the farm-gate program, LCRB conducted targeted virtual engagement with non-medical cannabis industry associations and sent a consultation paper to more than 130 additional stakeholders; over 45 responses were received.

DISCUSSION:

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- Alberta, Saskatchewan, Manitoba, and Ontario do not restrict the cannabis available for sale at stores owned by federal licence holders. New Brunswick restricts the sale of cannabis, but also requires farm-gate locations to process cannabis on-site, which is more restrictive than B.C.'s proposed framework.

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¹ Liquor manufacturers are limited to selling in-house liquor and liquor made on their behalf (in part or full) by other manufacturers, in on-site stores. Liquor manufacturers can also sell liquor from other manufacturers for on-site consumption in their lounge or special event areas if the cost to purchase liquor from others does not exceed 20% of the total value of liquor purchased for the lounge or special event area in any given quarter.

- Almost all cannabis cultivated in B.C. is processed off site, including out of the province, as most cultivators (59%) do not also hold federal processing licences.
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- LDB only purchases cannabis from cannabis processors and does not request information from processors about where the cannabis was cultivated. s.13
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- Approximately 45% of federal licence holders eligible for PRS locations are currently located on Agricultural Land Reserve (ALR) land. Retail stores on ALR land must (as per the Agricultural Land Reserve Use Regulation) either: a) have 100% of the cannabis offered for sale cultivated on that agricultural land by the cultivator or an association the cultivator belongs to; or b) have at least 50% of the store dedicated to cannabis cultivated on that agricultural land, and the farm-gate store must be less than 300m². Cannabis stores, including future PRS licensees, not located on ALR land are not required to follow these rules.
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- There are approximately 157 federal cultivation licence holders (Nurseries, Micro Cultivators and Standard Cultivators, who may also hold processing licences) in B.C. as of November 2021. They are located in 73 communities with 96 located in urban areas and 61 in rural. s.13

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- In addition to the rules and requirements established by the LCRB, all licensees are required to follow rules set out by local and indigenous governments and other regulatory bodies. For example, the Agricultural Land Reserve Use Regulation (ALRUR) applies to all farm-gate stores on ALR land, s.13

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INDIGENOUS PEOPLES CONSIDERATIONS:

- The Province has entered into three agreements with Indigenous nations ("s. 119 agreements") for non-medical cannabis retail sales: Williams Lake First Nation (WLFN); Cowichan Tribes; and Snuneymuxw First Nation. These nations may conduct farm-gate sales through CRSs that are co-located with cannabis production facilities.

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OTHER MINISTRIES IMPACTED/CONSULTED:

- Ministry of Finance, Liquor Distribution Branch
- Ministry of Agriculture, Fishery and Food
- Ministry of Jobs, Economic Recovery and Innovation

DECISION:

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Pros:

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Cons:

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Withheld pursuant to/removed as

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Option # s.13 Approved



Mike Farnworth
Minister of Public Safety and Solicitor General
and Deputy Premier

March 3, 2022

Date

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Deputy Solicitor General

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**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
CANNABIS, CONSUMER PROTECTION AND CORPORATE POLICY BRANCH
DECISION BRIEFING NOTE**

PURPOSE:

For **DECISION** of the Deputy Ministers' Committee on Anti-Money Laundering

ISSUE:

PSSG response to suggestions contained in the second German report respecting money laundering through the sale of luxury vehicles.

RECOMMENDATION:

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SUMMARY:

- In March 2019, Dr. Peter German submitted his second report, which focused on money laundering in real estate, horse racing and the sale of luxury vehicles in B.C. The report did not contain recommendations but suggested that government consider amendments relating to the oversight of luxury vehicle resellers and large cash transactions.
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BACKGROUND:

- The first German report on anti-money laundering policies and practices in lower mainland casinos was released on March 31, 2018 and included an examination of money laundering connections with other areas of B.C.'s economy. The report recommended the Province:
 - consider researching the vulnerability of the luxury car sector and the horse racing sector to organized crime; and
 - continue to encourage the federal government to amend the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) to broaden

the entities subject to reporting, including luxury goods of interest to organized crime.

- The second German report, released in March 2019, focused on the scale and scope of money laundering within real estate, horse racing and the sale of luxury vehicles. It did not provide recommendations.
- The report examined the following areas of organized criminal activity associated with luxury vehicles:
 - Use of vehicle purchases to launder money in B.C., including luxury car dealers, resellers, auctions, and vehicle leasing companies.
 - Use of luxury vehicles to facilitate crime.
 - Export of stolen and fraudulently obtained vehicles for profit, and
 - Grey market vehicle exports as a form of trade-based money laundering.
- The report found that there are numerous money laundering strategies involving luxury vehicles (Appendix A). Many of these activities fall under the jurisdiction of other provincial mandate areas and the federal government (e.g., vehicle theft, taxation, international trade, and large cash transaction reporting to the Financial Transactions and Reports Analysis Centre of Canada (FinTRAC)).
- On October 1, 2021, amendments to the *Provincial Sales Tax Act* came into force eliminating the PST refund for vehicles purchased in B.C. and resold within seven days. These changes are intended to address suspicious, grey market transactions that are suspected to be linked to trade-based money laundering, where an individual (the straw buyer) purchases a motor vehicle from a dealer, transfers the vehicle to a reseller who then sells it overseas.
- Findings of the report that focused on motor dealer legislation suggested that:
 - B.C. could consider amending the MDA to prevent the acceptance of over \$10,000 in cash 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 Vehicle Sales Authority (VSA) to superintend luxury car resellers and require that the principals obtain criminal record and background checks.
- The Cullen Commission of Inquiry into Money Laundering, established in May 2019, has a mandate to deliver findings of fact regarding the extent of money laundering activities and make recommendations to address this issue in the province. The Commission is currently scheduled to deliver its report to government in May 2022.

DISCUSSION:

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- In August 2019 the ministry asked the VSA to collect anonymous information on cash purchases of vehicles from licensed motor dealers. This information was requested to determine the extent that large sums of untraceable funds are used to purchase vehicles in B.C.
- This study was not initiated and was paused indefinitely in early 2020 due to concerns raised by motor dealers with the anonymity of information collected, the absence of legal authority in the current legislation for the VSA to require dealers to submit this information, and the decline in vehicle sales resulting from the COVID-19 pandemic.
- The study was developed to have voluntary participation, **s.13**
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Background checks

- The German report's suggestion that the VSA be empowered to require criminal record and background checks is already provided for in the MDA. The VSA requires all licensee applicants, including dealership owners and salespeople, to submit a record check and declare any material change in their status upon licence renewal.
- The MDA also provides authority to refuse, suspend or terminate a motor dealer licence if, due to the licensee's past conduct, the registrar believes it is not in the public interest for the applicant or person to be registered or continue to be registered. This would include past criminal convictions for money laundering.

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s.13 closing B.C. government submissions to the Commission highlight the lack of information presented to the Commission and suggest that there is little evidence regarding the extent money laundering may be occurring through vehicle sales and a corresponding lack of a clear connection to potential policy proposals.

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INDIGENOUS PEOPLES CONSIDERATIONS:

- There are no implications for Indigenous peoples in B.C.

OTHER MINISTRIES IMPACTED/CONSULTED:

- Ministry of Finance was consulted.

OPTIONS:

Option 1: s.13

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DECISION:

OPTION NUMBER 1 APPROVED



Douglas Scott
Deputy Solicitor General
DMC AML Committee Chair

February 24, 2022

Date

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APPENDIX A: German Report (Part 2) – Findings Summary: Luxury Vehicles

APPENDIX A

GERMAN REPORT (PART 2) – CHAPTER 3 LUXURY VEHICLES

CHAPTER 3-1 FINDINGS: DOMESTIC & INTERNATIONAL LAUNDERING THROUGH VEHICLES

- 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.

CHAPTER 3-2 FINDINGS: CRIME VEHICLES - Life and Death in the Fast Lane (Gangsters and their Luxury Cars)

- 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.

CHAPTER 3-3 FINDINGS: LUXURY VEHICLES & MONEY LAUNDERING

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

CHAPTER 3-4 FINDINGS: THE GREY MARKET OF EXPORT VEHICLES

- 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 totalling \$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.

CHAPTER 3-5 FINDINGS: INDEPENDENT LUXURY CAR RESELLERS

- 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 vehicle 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