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# Standing Committee on Justice and Human Rights

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EVIDENCE

**Tuesday, April 13, 2010**

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**Chair**

**Mr. Ed Fast**



## Standing Committee on Justice and Human Rights

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• (1105)

[English]

**The Chair (Mr. Ed Fast (Abbotsford, CPC)):** I call the meeting to order. This is meeting number 11 of the Standing Committee on Justice and Human Rights. Today is Tuesday, April 13, 2010.

Members, you've got the agenda before you. As you know, we are continuing our study on organized crime. To help us with our review today we have a number of witnesses.

First of all, we have Ken Froese, representing Froese Forensic Partners Ltd. Welcome.

We also have Inspector Don Perron from the Ontario Provincial Police Organized Crime Enforcement Bureau, the asset forfeiture and identity crimes program. Welcome.

Then we have the RCMP, represented by Chief Superintendent Thomas Bucher, as well as Inspector Greg Bowen. Welcome to both of you. We have David Bird as well.

I believe you have been told what the process is. Each organization has 10 minutes to present, and then we will open the floor to questions from our members.

Just a reminder to those of you who are here and have cellphones with you: make sure you put them on vibrate or turn them off. If you do receive phone calls, please take them outside of the room.

Members, just so you know, right at the end of our meeting we've got a little bit of committee business to take care of, just trying to line up the final witnesses that we'll see perhaps Tuesday, one week from today.

Why don't we start with Mr. Froese? You have 10 minutes to present.

**Mr. Ken Froese (Senior Managing Director, Froese Forensic Partners Ltd.):** I've been on a five-day motorcycle trip, and I flew in last night from San Francisco, so I have very rough notes. I'm going to be speaking mainly on the forensic accounting aspects.

My background is that I am an investigative and forensic accountant. I have been doing this for about 20 years in both the public and private sectors. I have worked with the OPP, occasionally with the Toronto Police Services, with the RCMP, as well as looking into municipal corruption—Project 80 in Ontario dealing with municipal politicians—and doing some work with the City of Vaughn and the City of Mississauga in relation to politicians. Nothing related to MPs.

One of my experiences was in relation to the Hells Angels and working with the OPP to look at the financial profile of two Hells Angels who eventually brought Hells Angels into doing the patching over in Ontario. It was looking at, from a forensic accounting perspective, what assets they had, what their income was, whether their income was legitimate or not, and whether you could work through the financial documentation to paint a financial profile of those members to assist in their trial.

That's partly what I am bringing to the group here, as well as working with CRA, looking at complex net worths and figuring out whether there is unreported income.

One of your objectives is dealing with organized crime and the financial aspects, and one of the things we do is assist police forces, as well as doing private investigations dealing with financial aspects.

On the job involving the two Hells Angels, the issue of tracking and identifying assets involved roughly about 300 search warrants. Our job then was to analyze the information coming in, identify other sources of potential assets, and work through that process. One of the issues is that cash and cash proceeds often don't go through financial institutions or don't get recorded.

You get mistakes leading to little bits of information. As an example, if an organized crime member or someone you are investigating stays in a hotel and pays cash, you are not going to find out about that unless they buy something from the mini bar and they forget and it goes on their credit card. We had a few cases where there were \$6 charges at \$300-a-night hotels, where the only cost going through was this \$6 mini bar charge. If you actually go to the hotel, you might find several thousand dollars that has been paid in cash.

Once piece of it is, how do you track and identify cash transactions when you are already looking into a target that either the police have or it is part of a crime investigation, and how do you identify that information? Hotels are an example. In the case of the two persons we were looking into, home improvements were another example. If you look just generally at the underground economy, a lot of home improvement costs are paid for with cash, and when you get home improvements paid for with cash, it's hard to do a financial profile—if you have extensive cash expenses being used to improve roofs, put in pools, or do whatever the expense is.

One that's tougher is restaurant expenses. You can have some pretty expensive meals in restaurants. You can look at someone's profile and identify that they're not spending much on restaurants, but when you look at Statistics Canada information, on the average, say a two- or three-person family, it's giving you statistics for someone who's a normal, in the workforce person. Those stats don't necessarily have the same information as for someone who travels a lot, either with their organized crime connections or whatever they're doing. They're quite often eating in fancy restaurants, staying in hotels, and those things don't track to what a normal person would be spending money on.

So as far as suggestions are concerned, if you are actually trying to improve the tracking of finances, hotels don't have to do any reporting to FINTRAC. It's probably unreasonable to have the same reporting requirements, but it may make sense, if there is a lower cash limit for hotels, that they have to report the VISA information to FINTRAC. It's worth a thought.

• (1110)

It's the same for home improvements. If you have an objective of having to report cash payments, it has a potential impact on both the underground economy and on trying to track what people are actually spending money on, when you're doing a profile.

The other aspect is tracing and trying to identify what individuals own and what they're involved in. If you do a corporate search right now, for example, you can search by company name, but you can't do a search based on ownership. The ownership is not registered or is not publicly available. It's only the officers and directors. When you look at the interrelationship and ownership of companies, although nominees may be there for some of the companies, it would be very helpful to be able to search by the address, as well as the names of the officers and directors. You can't do that provincially and federally right now. It's very difficult when you try to do a profile on who owns what and what they're involved in.

The other piece is on the use of nominees. It makes sense from one perspective, for example, if you're buying a property and you're a real estate developer. It might increase the price of the property if they know who is interested. I don't believe you need nominee companies forever. If there was a limit on how long you can have nominees, and you have to report the owners of companies and not only the officers and directors, I think it would be very helpful when trying to get a picture of the overall involvement of persons under investigation and their finances.

I'll stop now and keep it under 10 minutes. I'll respond to questions as required.

**The Chair:** Thank you very much.

We'll move on to Inspector Perron.

**Inspector Don Perron (Organized Crime Enforcement Bureau, Asset Forfeiture and Identity Crimes Program, Ontario Provincial Police):** Thank you, Mr. Chair.

Unlike Mr. Froese, I didn't have the luxury of travelling on a motorcycle in Nevada and California over the last five days, but I did spend the weekend in an arena at a hockey tournament.

Good morning, I am Inspector Don Perron with the Ontario Provincial Police Organized Crime Enforcement Bureau. I'm currently the program manager for the asset forfeiture and identity crimes program. I appreciate the opportunity to address this panel on behalf of the Ontario Provincial Police.

The OPP has a mandated responsibility to investigate, disrupt, and dismantle organized and serious crime. In order to accomplish this goal, the OPP developed the Organized Crime Enforcement Bureau, which is comprised of specialized integrated investigative units, including the asset forfeiture unit.

My comments today will complement the remarks delivered by my colleague, Inspector Bryan Martin, to this committee on March 25. I'll focus on the provincial asset forfeiture unit and its role in applying the asset forfeiture legislative tools.

• (1115)

**The Chair:** We have interpreters who are trying to interpret what you're saying. Could you slow down a little?

**Insp Don Perron:** I understand. My apologies. I have submitted a copy of my speaking notes.

In our communities, criminal organizations pose a significant threat to the safety and security of our communities. One of the primary motivators of crime is profit. Depriving criminals of wealth acquired through crime and property, and utilized to facilitate crime, is an effective crime reduction strategy that has evolved as an essential element of police efforts to investigate, disrupt, and dismantle organizations.

The first proceeds of crime legislation was introduced in Canada in 1989. Since this inception, we have seen additional legislative amendments designed to combat organized crime by bolstering existing legislation and expanding our ability to seize and forfeit offence-related property or property that facilitates crime. In 2001 Ontario introduced a civil legislative regime that enabled the Attorney General to seek a civil order forfeiting the proceeds or instruments of unlawful activity to the crown.

Although operating at arm's length from the police, the civil remedies for illicit activities play a crucial role in the provincial asset forfeiture strategy. Strong partnerships among law enforcement, prosecutors, and supporting elements of the criminal justice network are key to successfully applying asset forfeiture legislative tools.

The OPP-led asset forfeiture unit is an integrated joint force operations model embedded within the Organized Crime Enforcement Bureau. With a vision of taking the motive out of crime, the asset forfeiture unit is mandated to aggressively and strategically apply available asset forfeiture legislative provisions and coordinate the provincial asset forfeiture within Ontario. The asset forfeiture unit comprises 53 officers, representing 21 different police services. The OPP also has four officers seconded to the RCMP-led integrated proceeds of crime program.

The officers assigned to the asset forfeiture unit provide specialized investigative support services to front-line officers, substantive units, and large-scale projects targeting organized crime groups. In the past five years, the asset forfeiture unit removed \$155 million from the criminal economy and forfeited \$25.8 million to the crown. It has been nationally recognized as an effective model for applying criminal and civil legislative provisions to remove proceeds of crime and property that facilitate crime from the criminal economy.

The asset forfeiture unit utilizes an all-encompassing philosophy in applying the legislative tools to accomplish one common goal: removal of proceeds of crime and/or offence-related property from criminals and criminal organizations. Adopting this strategic approach demands a firm understanding of the statutes related to asset forfeiture and being able to navigate through the various legislative regimes and processes. The success and the sustainability of the police having access to the asset forfeiture provisions to combat organized crime will depend on our ability to remain prudent and diligent in applying the legislative tools available.

The asset forfeiture unit relies on three legislative processes for removing and forfeiting proceeds of crime and property that facilitate crime. The traditional legislative provision related to the seizure and forfeiture of proceeds of crime is entrenched in the Controlled Drugs and Substances Act and the Criminal Code. This provision is applied when investigating the seizure and forfeiture of property that is the profit of crime. This method entails a complex financial investigation where the police must demonstrate, beyond reasonable doubt, that the property was acquired with profits derived from crime.

When we proceed under the CDSA, which is the Controlled Drugs and Substances Act, the seized property management directorate, a federal asset management agency, assumes the responsibilities related to the management and disposition of the property, subject to a management order issued by the courts. The Public Prosecution Service of Canada assumes responsibility for prosecuting the matter.

● (1120)

When we proceed under the Criminal Code, the provincial Ministry of the Attorney General assumes the responsibilities related to the management and disposition of the property as well as prosecuting the matter.

The legislative provision related to the seizure and forfeiture of offence-related property—that is, property that facilitates a crime, such as a marijuana grow house—is also entrenched in the Controlled Drugs and Substances Act and the Criminal Code. This provision is applied when investigating the seizure and forfeiture of property that was utilized to facilitate a criminal act. Applying this

methodology is less onerous than the previous provision. In this instance, the police must demonstrate beyond reasonable doubt that the property was utilized to facilitate a crime. This method accounted for approximately 75% of the property seized and forfeited by the asset forfeiture unit in the past five years. As previously outlined, the legislative statute will dictate who assumes the responsibilities related to the management and disposition of the property and prosecuting the matter.

Civil remedies for illicit activities are the third and final provision relied upon by the asset forfeiture unit to remove proceeds of crime from enterprise criminals and criminal organizations. This arm's-length civil provision is accessed by the police by submitting cases that have faltered or lack the evidence to successfully achieve a criminal forfeiture. We submit the case to the reviewing authority, the gatekeeper, who is an independent crown counsel of the Ministry of the Attorney General. The gatekeeper will review the material and determine whether the statutory criteria of the Civil Remedies Act are met. Once satisfied, the case is submitted to the civil remedies for illicit activities office for consideration. The standard of proof required for civil forfeiture is the same as it is in all civil actions: balance of probabilities.

The achievements of the asset forfeiture unit are directly linked to the strong working relationships established with our partners and stakeholders. As indicated, the asset forfeiture unit works together with Ministry of the Attorney General programs, including the civil remedies for illicit activities office and the criminal asset forfeiture unit. For federally prosecuted matters, the asset forfeiture unit works together with Public Prosecution Service of Canada and the seized property management directorate. All of these programs work together in a coordinated approach to identify asset forfeiture cases and optimize the application of asset forfeiture provisions to reduce the criminal economy. The OPP acknowledges the complexity of funding numerous programs from separate governments, but it is recommended that all the stakeholders contributing to the overall asset forfeiture strategy be considered when funding investments are being considered for one or some of the stakeholders.

Accordingly, justice sector partners must recognize and appreciate that the motive for removing proceeds of crime and property that facilitates crime should not be profit by government or law enforcement agencies. The goal is to reduce crime, assist victims of crime, and ensure that criminals don't profit from crime. The cost of combatting crime in a community is directly related to the level of crime in that community. Removing illicit and offence-related property from the environment reduces crime and assists victims of crime. This reduction in crime translates into savings related to the future costs of mitigating crime in that community. For example, the \$155 million extracted from the criminal economy by the asset forfeiture unit during the past five years is funding that is no longer available to criminals or their criminal organizations to finance their criminal activities and support their lavish lifestyles. It is a strong and tangible deterrent to commit crime, and above all, moneys are returned to victims or reinvested into safeguarding our communities.

Although it is never the motive, there is an added financial benefit to seizing and forfeiting illicit assets. Property or money that is not used to compensate victims or is not returnable to an innocent third party will be forfeited to the crown.

Pursuant to the applicable sharing regimes, these forfeited assets are converted to funds and can be reinvested in law enforcement activities. The following grant programs were established as the vehicles to reinvest forfeited moneys back into justice sector initiatives: the front-line policing grant program; the law enforcement grant program; and the civil remedies for illicit activities proceeds of crime grant program.

• (1125)

The OPP acknowledges there has been significant legislative progress and developments that support the asset forfeiture framework in Ontario and strengthen our ability to investigate, disrupt, and dismantle organized and serious crime. However, the OPP have identified the following priorities that would enhance the provincial asset forfeiture strategy.

The first priority deals with legislative amendments to the Seized Property Management Act and the forfeited property sharing regulations in order to: provide greater flexibility to the seized property management directorate in taking responsibility for managing assets that are seized by the police from the time the assets are seized as opposed to waiting for a management order to be issued; facilitate the disposal of rapidly depreciating assets, such as automobiles, in a timely manner to preserve the value of the assets; provide for the use of one management agency responsible to manage and dispose of all assets seized by the police pursuant to any forfeiture provisions, whether provincial or federal; and revise the current sharing regime to ensure an equitable and transparent process is in place that optimizes the overall benefits derived from the asset forfeiture regime. Also, dedicate Public Prosecution Service of Canada counsels to provide legal advice and support to the provincial asset forfeiture strategy; establish clear policies and guidelines that would identify and assign prosecutorial jurisdiction early in the planning stages of a large organized crime investigation; and invest adequate resources in all the stakeholders engaged in the provincial asset forfeiture strategy.

In conclusion, the asset forfeiture unit is a key contributor to law enforcement efforts to combat organized and serious crime. Entrenched in sound partnerships and relationships with municipal police services and justice sector stakeholders, the asset forfeiture unit is achieving remarkable success in depriving criminals of wealth acquired through crime and property used to facilitate crime. We believe that maintaining this momentum of reform and modernization, giving police and prosecutors the support and the tools to effectively combat organized crime, will achieve safer communities across the nation.

Thank you.

**The Chair:** Thank you.

We now move to Chief Superintendent Bucher. You have 10 minutes.

**Chief Superintendent Thomas Bucher (Director General, Drugs and Organized Crime, Royal Canadian Mounted Police):** Good morning, Mr. Chairman, honourable members of the committee. Thank you for inviting us here today.

I am pleased to be here before you today, along with my colleague, Inspector Greg Bowen, who is the officer in charge of national headquarters human source and witness protection, and Mr. David Bird, counsel for RCMP legal services.

If I may, I'd like to begin by providing some context over the years relative to the witness protection program. In 1984, with the fight against major national and international drug smuggling rings becoming a priority, the RCMP established a witness protection program to protect individuals collaborating with the justice system. The witness protection program was administrative in nature and did not have any legislative framework. The program infrastructure consisted of experienced police officers and contacts across Canada who aided in the support of witness relocations and identity changes.

During the mid-1980s, most of the individuals who entered the RCMP witness protection program were in some way involved with major drug trafficking activities. Over the following years, the scope of witness protection grew to include other citizens who needed protection but were not directly involved in organized crime.

In 1994 a member of Parliament introduced a private member's bill in the House of Commons, Bill C-206, which sought to have the witness protection program's fundamental principles, criteria, and procedures defined in law. Though it was not passed, Bill C-206 received a great deal of support in the House of Commons. Subsequently, the government introduced Bill C-78, the Witness Protection Program Act, in an effort to make the witness protection program operate more effectively. It was designed to ensure that witness protection program applicants had a clear understanding of their rights, obligations, and the scope of protection that could be provided. In addition, the bill touched on admission criteria for witnesses, obligations of the administrators, and reporting requirements to the House of Commons.

In 1996 the federal witness protection program was given a statutory standing through the Witness Protection Program Act. This legislation was a significant milestone for Canadians, as it formalized, for the first time, a governance structure for witness protection in Canada. It is important to note, however, that the jurisprudence of the act is limited to the federal witness protection program, which is administered by the RCMP.

Today more than ever the federal witness protection program continues to play a critical and essential role in law enforcement's ability to effectively combat organized crime. The extreme violence demonstrated by organized crime, their extensive financial resources, and their preparedness to exact revenge upon those who speak out against them is well known. The federal witness protection program is one of the few available resources accessible to all Canadian law enforcement that can provide protection, emotional comfort, and support to witnesses who find themselves at risk as a result of their participation in the justice system.

It is important to note that the federal witness protection program is not the only program in Canada. The provinces of Ontario, Quebec, Manitoba, and Saskatchewan all have their own provincial programs, and Alberta has expressed its intention to create a program. Two of the prairie provinces currently have legislated programs, and it is anticipated that Alberta's program legislation will come into effect in the near future. Ontario and Quebec have policy-based programs. Most urban and provincial policing agencies have witness protection units within their respective organizations.

• (1130)

[*Translation*]

I should add that having independent programs does not preclude these agencies from utilizing the FWPP. If, for example, a particularly challenging case arises, the RCMP may be called upon for assistance and the witness will be given consideration for entry in the federal program. These situations occasionally arise because the provincial or municipal programs were generally created to meet the short-term needs of the witness and are not necessarily designed to accommodate those requiring lifelong protection or change of identity.

[*English*]

I would also add that there is no dedicated federal funding for witness protection in Canada. This includes the federal witness protection program administered by the RCMP. This situation therefore creates impediments for the federal program and for

smaller agencies who are investigating serious crimes but do not have sufficient resources to pay for witness protection. Currently, the RCMP expends approximately \$7 million per year on witness protection; however, this number can easily fluctuate, depending upon the number and complexity of the cases presented.

The Witness Protection Program Act provides the framework for the federal program and defines protection, which may include relocation, accommodation, change of identity, counselling, and financial support for the purpose of ensuring the witness' security or to facilitate the witness' re-establishment or ability to become self-sufficient.

Once the commissioner establishes that a witness is suitable for admission to the witness protection program, the witness must enter into a protection agreement with the commissioner. All protection agreements contain the obligations of both parties. Under the Witness Protection Program Act, section 8, the commissioner must take reasonable steps to provide the protection referred to in the agreement to the protectee.

Section 11 of the Witness Protection Program Act states that it is an offence to knowingly disclose, directly or indirectly, information about the location or the change of identity of a protectee. It is also an offence to disclose such information about a former witness who is no longer under protection. However, it is not an offence for a protectee to disclose such information, if the disclosure does not endanger his or her safety, the safety of other protectees in the program, or does not compromise the witness protection program's integrity.

The commissioner may disclose the location or the change of identity of a protectee or former protectee under certain circumstances. Prior to disclosing any information, the commissioner must take reasonable steps to disclose his intentions to the protectee and allow the protectee an opportunity to respond. However, the commissioner is not obligated to do so if it would impede the investigation of an offence.

The commissioner may terminate protection if the protectee deliberately infringes against a condition of the protection agreement. The commissioner may also remove from the witness protection program a protectee who made a material misrepresentation or failed to disclose information relevant to his or her admission into the witness protection program. Prior to terminating the protection provided to a protectee, reasonable steps must be taken to notify the protectee of the decision and allow him or her a chance to make representations concerning the matter.

The Witness Protection Program Act also allows the Minister of Public Safety to enter into a reciprocal agreement with a foreign government or an international court or tribunal to admit foreign nationals into the witness protection program. In these instances, a foreigner cannot be admitted into Canada without the consent of the Minister of Citizenship and Immigration Canada and the Minister of Public Safety. In such cases, the RCMP's role is to administer the agreement between the foreign country and its witness.

Witness protection is recognized as one of the most challenging programs within the RCMP. High risk by its very nature, the program must remain fluid in order to respond to the ever-changing demands placed upon the program by the changing Canadian criminal landscape, public expectations, and the demands made upon the program by both domestic and international law enforcement.

The federal witness protection program is the only program in Canada legislated to respond to the needs of all municipal, provincial, and federal law enforcement interests in Canada, the international policing community, and international tribunals. We share the concerns of our provincial and municipal colleagues relative to resource issues and the social challenges confronting witness protection initiatives in Canada. Of particular note are the unique demands placed upon the federal program as a result of expanding Canadian gang activity and the challenges of offering protection services to those associated with gangs who wish to come forward and provide witness testimony but are afraid to do so for fear of retribution.

• (1135)

The RCMP has been the focus of considerable scrutiny relative to the manner in which it administers the federal program in recent years; however, this scrutiny has been welcomed. Through this process the complexities and challenges of witness protection have been made public. As a result, in 2007 a review of the witness protection program was undertaken by the Standing Committee on Public Safety and National Security. The result of the referred committee hearings was the development of a series of recommendations intended to make the federal witness protection program a more effective program.

[*Translation*]

These recommendations have been taken into consideration by the federal government and resulted in Public Safety Canada and the RCMP initiating a comprehensive review of the federal program and undertaking a series of in-depth consultations with federal and provincial partners and other stakeholders, with a focus on how to make the Federal Witness Protection Program more effective, efficient and transparent.

During the aforementioned consultation process, it was made clear by some provinces that changes were required to the Witness Protection Program Act to facilitate their ability to obtain federal identification documentation, without having to enter their protected persons into the Federal Witness Protection Program which is the current practice.

There was also continued reference to funding challenges for municipalities and provinces in order to offset costs associated to placing protectees into the federal program.

• (1140)

[*English*]

These and other issues identified by our federal and provincial partners and stakeholders became the focus point for discussions and debate by Public Safety and the RCMP as we continue to work together in an effort to promote necessary changes to enhance the federal witness protection program. At the same time, both Public Safety and the RCMP want to ensure that changes to the federal

program not only respond to the concerns of partners and stakeholders where possible, but also to ensure that any changes to federal legislation or the federal program will enhance the protection of witnesses in Canada.

Aside from legislative issues, the RCMP has developed a draft document that, once finalized, will introduce a series of recommendations and proposed changes to the federal program that are intended to result in a much more contemporary program. It will be more protectee-focused and more effectively promote public safety, it will focus on the safety of witness protection personnel and critical partners involved in the witness protection process, and it will better meet the needs and expectations of the Canadian public and judicial system.

Thank you for allowing me to make these opening comments, and now my colleagues and I will be pleased to answer your questions.

Thank you.

**The Chair:** Let's move to questions.

Mr. Murphy.

**Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.):** Thank you, Mr. Chair.

I have a couple of questions on equitable tracing, cash reporting, and the nominee companies aspect.

I trust you were biking with groups that don't fly colours, or they are colours that aren't in—

**Voices:** Oh, oh!

**Mr. Ken Froese:** It was with a lawyer—

**Mr. Brian Murphy:** Oh, a lawyer is good. We cleared the air on that then.

I want to know some specifics perhaps—or maybe you could flesh this out, maybe I didn't get it—on tracing funds and ownership. You talked about ownership of assets, I assume, or cars, etc., but what could be done if there was some sort of coordination across provincial lines or otherwise with registration? What is it that could be done?

**Mr. Ken Froese:** I think the information is all there now, but if you want to search it... Let's say you are trying to find companies that are associated with a group or individuals. Right now you can search by company name, but you can't search by address; you can't search by the name of the directors or officers.

**Mr. Brian Murphy:** What are you searching, though? I'm going to get to nominee companies.

Let's say that the provincial attorneys general or business ministers, or whoever would be responsible—corporate, commercial, whatever—could be persuaded at a conference of first ministers to amend or improve their corporations act, etc., to limit the timeframe incorporators have to put their name on a document. They'd therefore be compelled to put the ownership in a public forum. Let's say that could happen.

What is it that's being traced? The provincial registries, both real and personal property—is that what we're talking about?



**Mr. Ken Froese:** We were talking about doing corporate searches at both the federal and provincial levels. So the information is there on directors and officers, in theory, not on owners. Right now ownership information for private companies isn't captured anywhere. So it would be adding the ownership information to the registry information both provincially and federally.

For a nominee company, it would be setting a timeframe. Quite often the incorporating lawyer will be the person who registers the company when it's incorporated. But this is a requirement, within so many months or the first year, to have the actual owners and officers and directors.

**Mr. Brian Murphy:** That does not exist now.

**Mr. Ken Froese:** No, it doesn't.

**Mr. Brian Murphy:** It would have to be in each provincial corporations act and the CBCA.

**Mr. Ken Froese:** You can register companies federally, so there is a federal role—

**Mr. Brian Murphy:** Yes, the CBCA.

**Mr. Ken Froese:** —or else provincially. So it would be both, that's correct.

I would just add that from a property perspective, when you're doing property searches to look at properties that individuals own, that can vary by municipality to municipality. Again, you normally search by address, but you can't search by ownership.

So improving the ability across Canada to be able to search for individuals or companies and their ownership would be of assistance in investigating financial profiles.

• (1145)

**Mr. Brian Murphy:** It seems to me that an awful lot of information is not in the public registries, it's in the Equifaxes of the world that collect commercial information, the subscription information. I'm just wondering if anything can be done in that regard. There would have to be some sort of suspicion, I suppose, on someone for us to...

Short of a warrant, a search and seizure type of thing, is there any sort of positive onus we can put on reporting agencies, such as Equifax, to report? I know there are currency reporting obligations—FINTRAC, etc.—on banks. We're tinkering with something with respect to ISP providers, with respect to Internet, hate crimes, all that sort of thing.

Just blue-skying here, what could be done with regard to the commercial information gatherers? What obligation could be put on them? How would we do that?

**Mr. Ken Froese:** The need to report is really something that's in legislation. You are required to report the corporation information, to file things, whether it's provincial or federal, and to file certain corporate information both when you incorporate and then annually. That requirement is already there; it would be expanding what you have to disclose and allowing or requiring the ability to search beyond just the company name.

**Mr. Brian Murphy:** On witness protection, you mentioned that \$7 million was spent. Just give us an idea of how many people that

covers in a year. How many clients—or “protectees”, I think you called them—would that serve?

**C/Supt Thomas Bucher:** In 2008-09, for example, there were 15 admissions into the program. Those numbers can fluctuate in any given year, depending on the number of investigations we carry out and depending on a number of other factors.

**Mr. Brian Murphy:** The \$7 million was for new and existing protectees, then.

**C/Supt Thomas Bucher:** It was for the current year, that year of operating.

**Mr. Brian Murphy:** Yes—for new and existing protectees in that year. It was for all clients, so to speak.

**C/Supt Thomas Bucher:** Yes.

**Mr. Brian Murphy:** So it's almost impossible to...

How many people were in the program in that year? For \$7 million, how many people were in the program? There were 15 new inductees; how many others?

**Inspector Greg Bowen (Officer in Charge, National Headquarters, Human Source and Witness Protection, Royal Canadian Mounted Police):** We have approximately 800 people currently in the federal program. The \$7 million breakdown is, as you suggested, not just for the 15 who came in. It's also for the maintenance of the existing people in the program.

**Mr. Brian Murphy:** Right.

In how many cases do they assume a new identity? And when they assume a new identity, do they lose their old identity and entitlement to such things as CPP, eventually? Some people are in this program a long time. They might have problems walking up to the Service New Brunswick desk and saying, “Hey, I'm not Joe Blow, I'm Joe Green, and I really want my CPP.”

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Hey!

**Mr. Brian Murphy:** Joe is a bad name to use because it's so ordinary.

How about, “My name is Dominic Blow”?

**An hon. member:** Or “Joe Crow”?

**Voices:** Oh, oh!

**Mr. Brian Murphy:** So...identity.

**Insp Greg Bowen:** When protectees come into the program and a determination is made to change their identity, sir, that is a legal name change. The role of the RCMP is to work with our federal partners and provincial partners to ensure that those name changes are done in a secure fashion.

That would be the difference between, let's say, if I went to change my name today to something else, which is my right to do, or if I went through the processes we have in place, where the idea is to limit any joining between the old identity and the new identity.

**Mr. Brian Murphy:** So a person wouldn't get their CPP, in other words, from the old name.

**Insp Greg Bowen:** No, but through the processes that we use when the new name is identified as a legal name, they're entitled to all the benefits they would have had if they'd stayed in their previous identity.

**Mr. Brian Murphy:** Okay, so it does accrue.

**Insp Greg Bowen:** Yes.

**The Chair:** We'll move on to Monsieur Lemay for *sept minutes*.  
[Translation]

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** As a criminal lawyer, I am very interested in this issue. Several years ago, the House of Commons here in Ottawa made amendments to proceeds of crime legislation.

My question is most specifically for Mr. Froese and Mr. Perron.

Mr. Perron, did you in fact say that the evidence allowing for the forfeiture of goods that you have deemed to be criminally obtained is difficult to establish?

• (1150)

[English]

**Insp Don Perron:** What I said, Honourable Lemay, was that there are three legislative processes we access when we conduct an investigation. In the Criminal Code and the CDSA, the Controlled Drugs and Substances Act, one is the proceeds of crime. We have to demonstrate that the properties we're trying to seize, restrain, and forfeit were acquired with profits from criminal activity.

[Translation]

**Mr. Marc Lemay:** I have before me section 462.33 of the Criminal Code, which deals with seizure and restraint orders. I wonder if it is used appropriately. Restraint orders are discussed in subsection 462.32(4). It even says that this can be done in ways other than sending a notice to the accused. If the situation is becoming dangerous, the assets can be seized and detained even in the absence of the accused or of the person who is the subject of presumptions. It seems to me that it was designed to be sufficiently broad, so that it would have enough oomph, if I can put it that way, to be able to seize the money but particularly to seize the goods.

In Quebec, for example, when there is a significant search warrant issued, they seize motorcycles, cars, houses, cottages, in a nutshell everything. Afterwards, the accused may argue before the courts that these goods were not obtained through proceeds of crime. I am wondering if in fact, things work backwards in Quebec. In Ontario, things work differently. As we say—and I apologize to the gentlemen from the police—we shoot first and ask questions later. It is up to the accused to demonstrate that these goods were not obtained with money from criminal activity.

I do not know if sections 462.33 and the following are misunderstood.

[English]

**Insp Don Perron:** We utilize those provisions. We have obtained several restraint orders, special search warrants, without giving notice to the accused. We often do that when we take down large projects. The application, supported by the affidavit provided by the investigator, is made by the prosecutors. We have to demonstrate in

our affidavit beyond a certain level of probability that the assets were either derived as proceeds of crime or they are facilitating a crime.

[Translation]

**Mr. Marc Lemay:** I do not want to tell you what to do, but you might look at these provisions. It states that if the judge is of the opinion that giving the accused notice would result in the disappearance of the goods being targeted, he or she could even choose not to order the notice. I speak as a defence lawyer, but the fact remains that this is very broad.

I would like to know how you go about following the money. Mr. Froese said some interesting things. We are aware that the Hells Angels and other organized crime groups very frequently pay cash. You referred to restaurants and to meals, but personally, I am interested in the fact that the Hells Angels are becoming owners of the hotel, if not the hotel chain where the parties take place. I would even go so far as to say that in Quebec, the Hells Angels have taken control of several construction companies or of companies that almost have that status.

How does one proceed to follow the money trail? Is there a way of going about that? Can we do anything to help you follow it more efficiently?

**Mr. Ken Froese:** I do not speak French very well.

• (1155)

[English]

You're looking mainly at how to improve the tracing, and I agree with you that the issue is moving into businesses and properties being acquired and expanding into construction companies and empires, as opposed to just dealing on the street or supplying dealers. It's becoming a criminal enterprise at a much higher level.

It wasn't meant to be just a minor comment. The ability to identify who owns assets is important. Quite often the same lawyers will incorporate companies and be the main lawyers for an organized crime group, as an example. Being able to track the address used... If they're setting up nominee companies initially, a common lawyer will be used for a number of these companies, so it's having the ability to do better corporate traces as well as property searches to look at ownership, rather than just having to pick an address and find out who owns it. Then we'd be able to do broader searches. For example, if you know an organized crime group is involved in a certain company, we'd be able to track what that company owns beyond that.

I'll let you go ahead and ask a follow-up question.

**Mr. Marc Lemay:** No, the chairman said...

**The Chair:** He's out of time.

We'll go on to Mr. Comartin for seven minutes.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Thank you, Mr. Chair.

Thank you for being here.

Mr. Froese, just to pursue the point about the registration of owners, there's a good and valid reason in the business community, at least for a period of time and maybe for long periods of time, for not wanting that information to get out, because of the risk of competition. If you're a major name or a major corporation going into an area and you want to acquire a lot of land in that area, in the initial corporate set-up you don't want your name to be shown. I'm thinking not so much of Canada as of other jurisdictions that have set up a system whereby the ownership has to be registered but it is kept private and in the hands of the department that takes the registration, and it can only be divulged as a result of a court order. Have you seen any jurisdictions that have done that?

**Mr. Ken Froese:** I haven't seen that. I know it's a lot easier to access that information in some other countries, but I don't know if they have actual legislation for it. That's a good question.

**Mr. Joe Comartin:** At the provincial level, are you aware of any provinces that are looking at requiring ownership to be registered?

**Mr. Ken Froese:** I'm not aware of that, no.

**Mr. Joe Comartin:** Is it the same with the nominee companies? Is any province looking at requiring the ownership to be disclosed within a specified period of time?

**Mr. Ken Froese:** Not that I'm aware of, no.

**Mr. Joe Comartin:** Okay.

Inspector Perron, with regard to the use of provincial legislation versus federal legislation, can you tell us, either in terms of the number of files or the percentage of dollars acquired by forfeiture, which one is being used more extensively in Ontario?

**Insp Don Perron:** Regrettably, I don't have the accurate numbers, but I'm comfortable saying that the federally prosecuted matters are greater than the provincially prosecuted matters. That's specifically in Ontario with the marijuana grow houses that we're having difficulty with; we're seizing a lot of property as a result of the grow houses that we're dismantling.

**Mr. Joe Comartin:** Can I assume from that also that the results—that is, the quantity of dollars received—would be greater through the federal legislation than through the provincial?

**Insp Don Perron:** I believe that would be a fair comment, yes.

**Mr. Joe Comartin:** Okay.

I think it was at the time when you were still going too fast that you gave us the figure of \$155 million. What year was that for?

**Insp Don Perron:** This would have been for the last five years, meaning 2009, 2008, 2007, 2006, and 2005.

**Mr. Joe Comartin:** Okay. Was that from both provincial and federal...?

**Insp Don Perron:** That is combined. That was all the seizures and forfeitures from the three legislative processes—provincial, federal, and civil.

**Mr. Joe Comartin:** Then you gave us the figure of \$24 million that went back to the crown. Was that in the same period of time?

**Insp Don Perron:** Yes, that's correct.

**Mr. Joe Comartin:** Where did the other money go?

**Insp Don Perron:** You have to recognize that the \$155 million is money that we froze and seized. A lot of that money will go back to innocent third-party interests—a lot of it. Some of it would go back to—

**Mr. Joe Comartin:** Could you give us an example? That's a lot of money that is going back to third parties. Are these people who have been victimized by organized crime?

• (1200)

**Insp Don Perron:** Not victimized...some of them were. Some of them participated in activity unknowingly. For example, take a grow house that's worth \$500,000 and there's a \$250,000 mortgage on the house. We've taken the position that we've taken \$500,000 out of that criminal economy. Obviously, you have to reposition the money, and that's not going to be forfeited back to the innocent parties.

**Mr. Joe Comartin:** So the financial institution that has the mortgage is, in effect, waiting to get that money back?

**Insp Don Perron:** Yes. They can make application to the courts.

**Mr. Joe Comartin:** How much time do I have, Mr. Chair?

**The Chair:** You have three minutes.

**Mr. Joe Comartin:** You made a point about the need for the prosecutor to be involved at an earlier stage in planning. Could you expand on that because I didn't understand the significance?

**Insp Don Perron:** Yes, when we plan large investigations, when we target organized crime, obviously we go through a process of planning the investigation. Sometimes our lead into starting an investigation may be something that has a lead that we would be consulting with federal prosecutors on. As we progress through the investigation, sometimes it may turn to guns and to other matters that become provincial jurisdiction matters. You end up getting two prosecuting entities providing advice, and it really comes together, the planning and where we end up. For us, in policing, if we could establish from the onset who would be the prosecuting body, to provide us consistent advice throughout the project, it would be extremely beneficial for us.

**Mr. Joe Comartin:** Just from our perspective as a legislative committee, we're not talking about legislation here, we're talking about a cooperative arrangement between the federal Attorney General and the provincial Attorney General?

**Insp Don Perron:** I'm not certain of that, but I believe that's what it would take, yes.

**Mr. Joe Comartin:** Mr. Froese, I want to go back to you for just a quick question. On the concept of dropping the amount that has to be reported, from the current \$10,000 figure to the lower amount, if we were to do that, who would we include in the need to report?

**Mr. Ken Froese:** I think the levels are about right for who is reporting now, but if you wanted to expand it to, for example, builders, construction companies, dealing in cash, you have a chance of expanding it to deal with both the underground economy and organized crime. The limit might be something like \$2,000 in cash for that, and if you were doing hotels, it might be \$500 in cash, or something along those lines.

**Mr. Joe Comartin:** Okay, I understand. Thanks.

On witness protection, I sat in that committee when we were doing that review in 2007 and we were pushing you at that time. The RCMP were being much too diplomatic, in my opinion, in not pushing the government enough on funding.

I have two questions. Have you pushed the government to set aside a specific amount outside of your regular budget? And whether you have done that or not, is there an amount that should be spent at the federal level, not at the provincial level—we'll leave that for a moment—that should be spent beyond the \$7 million, which is the average now? I know you have a draft report coming, but have you done an analysis as to what is an appropriate amount, a necessary amount, in Canada at the federal level?

**The Chair:** A very short answer.

**C/Supt Thomas Bucher:** In the absence of finalizing that draft document, I'd be hesitant in putting a figure on the table. I can tell you that we—

**Mr. Joe Comartin:** Let me stop you then, because we are running out of time. When will the report be ready?

**C/Supt Thomas Bucher:** It should be finalized within the coming couple of months.

**Mr. Joe Comartin:** Okay, thank you.

**The Chair:** Thank you.

We'll move on to Mr. Norlock for seven minutes.

**Mr. Rick Norlock (Northumberland—Quinte West, CPC):** Thank you very much, Mr. Chair, and thank you, witnesses, for coming today. My first question is actually a continuation of where Mr. Comartin was coming from. We recently had the justice minister come to a round table on justice and public safety in our riding, and we heard from various groups. The primary group that I want to talk about is municipal police forces. One of the problems with municipal police forces is not that they need incentives to do their job, but one of the items, of course, surrounding police department budgets has to do with everything from victims groups to community policing groups.

I wonder, Inspector Perron, when you talk about the amounts of money that are derived from the proceeds of crime, if you could just tell us, for the lay people out there who might be reading the results of this meeting, whether the province gets a return on any of that money that the federal government receives through, let's say, narcotics or drugs.

• (1205)

**Insp Don Perron:** Yes, there is a legislative regime that talks about the sharing of forfeited proceeds, and based on the contribution of the various parties or stakeholders or police partners to resolving that forfeiture, they would be assigned a certain percentage. It's outlined in the forfeited property sharing regulations of the Seized Property Management Act. The formula is 90%, 50%, or 10%, and they will share based on what they contributed to that. That is determined by the prosecutor. What is shared is called the net proceeds; that's after seized property management has taken the moneys for expenses they've incurred while managing the assets while the case was being prosecuted.

**Mr. Rick Norlock:** And generally what's the percentage of that, which would be basic administration, just off the top of your head—

20%? Let's say a local police department is involved in a grow operation. Let's say the assets, after they've all been accumulated, are \$1 million. Let's say there were various levels of joint forces operations and the prosecutor takes into account how many OPP, municipal, and perhaps RCMP...and then of course there is administration. So out of the \$1 million total assets, what would you think the local police department would get?

**Insp Don Perron:** You cannot directly benefit from a forfeiture. The vehicles in place to reinvest into policing are the grant programs; all police services in the province can apply to the grant programs. I would say that on average about 50% of what is forfeited and is being managed by the federal government usually goes back to the province. The sharing regulations do not permit the federal and the municipal governments to enter into an agreement, only the provincial government.

**Mr. Rick Norlock:** So the municipal police department then goes to the provincial government through a grant program for community policing or something like that.

**Insp Don Perron:** That's correct. Three grant programs are available.

**Mr. Rick Norlock:** Thank you.

And the numbers you gave Mr. Comartin are numbers over a five-year period?

**Insp Don Perron:** That's correct. That's how much we believe we directly assist in forfeitures.

**Mr. Rick Norlock:** Okay.

Mr. Froese, we heard from you with regard to the difficulty in finding out who owns what. As members of Parliament we have people who tell us so-and-so down the street has no visible means of income; we phone the local police department, if it's appropriate, and say, "You need to speak to so-and-so. They have some information for you."

In your experience, what transpires once the police department gets that information?

**Mr. Ken Froese:** It would depend on the intake officer and what the situation is, but my guess is they don't have the resources to follow up on a lot of those. If it's pretty serious... That's more a question for the police, and Don Perron would be a better person to ask.

**Mr. Rick Norlock:** What I meant, in your experience... You do the forensic audit.

Inspector Perron, could you add? You're the best entity to answer that question, because the average person... I have a police background, so I understand the complications. What tools do the police have to investigate these types of reports?

**Insp Don Perron:** As you know, we have the Organized Crime Enforcement Bureau. We carry out intelligence-led policing. Obviously that information would be submitted to our intelligence analysis cycle, and obviously, if the information were paramount and linked to some of our priorities, we would act on it. We would also hope the person receiving the information would have done what we call the front-end work to capture all the information they can.

**Mr. Rick Norlock:** So the member of the public might think that nothing is happening, but indeed something may be happening? In other words, the police are adding it to their intelligence package so that down the road they have additional information to go about doing their job, like getting a search warrant when the investigation is at that point.

• (1210)

**Insp Don Perron:** That is correct.

**Mr. Rick Norlock:** Okay. Thank you.

Do I have any time left?

**The Chair:** Enough for a very short question.

**Mr. Rick Norlock:** No, that's fine.

**The Chair:** All right. We'll move on to the second round.

Ms. Mendes, do you want to go first?

**Mrs. Alexandra Mendes (Brossard—La Prairie, Lib.):** Thank you, Mr. Chair.

**The Chair:** You have five minutes.

**Mrs. Alexandra Mendes:** Good morning to all.

I'm very interested in the witness program.

Chief Superintendent, how long does the program support a witness, on average, that is, for how many years until that person can become self-sufficient or reintegrate into a new life?

**C/Supt Thomas Bucher:** Again, that depends on each case. When somebody enters the program, they're entered into the program for an extended period of time. As an organization, we encourage protectees to become self-sufficient as quickly as possible. We do a number of things to encourage that. We assist them by providing them with training, and there is the entire relocation package. It really depends on the individual case.

**Mrs. Alexandra Mendes:** Is there any way they could end up in the welfare systems of the different provinces?

**C/Supt Thomas Bucher:** I believe they could, yes.

**Mrs. Alexandra Mendes:** From what I understand, there's no time limit to the kind of support you offer them.

**C/Supt Thomas Bucher:** Well, we initially offer bolstered support, and there's a maintenance system in place. Generally, the term is for a six-month period, and the expectation is that the protectee will adjust their life and take steps that are necessary to become self-sufficient.

**Mrs. Alexandra Mendes:** So after six months do you decide to withdraw support, or can you offer support for longer periods of time?

**C/Supt Thomas Bucher:** We don't withdraw. We would make a re-evaluation after the initial six-month period. Depending on the circumstances, there could be an arrangement made to continue that maintenance for an extended period of time.

**Mrs. Alexandra Mendes:** Or would you refer them to provincial welfare programs?

**C/Supt Thomas Bucher:** We would never make that referral.

As I indicated, the goal is for them to become self-sufficient, and we provide some guidance for them to become self-sufficient.

**Mrs. Alexandra Mendes:** I'm asking the question because many of these people, generally speaking, are going to face huge upheaval, to begin with. The fear of changing their lives, after having given information to the police, is obviously going to affect them. You do offer emotional support and counselling support, from what I see, but some of them may not be able to integrate into a job in a reasonable—

**C/Supt Thomas Bucher:** That would be part of the initial assessment. Whenever we're looking at having somebody enter the program—which of course is a voluntary program—we initially make an assessment and always try to provide that relocated person with a similar type of lifestyle to what they had in their previous location. This would include the type of training required to give that person the opportunity to have similar employment, and we would look at any types of medical issues that may come up.

**Mrs. Alexandra Mendes:** But those could be identifiers, too.

**C/Supt Thomas Bucher:** Yes.

**Mrs. Alexandra Mendes:** And they could eventually lead to that person being found by whomever they've snitched on. A diabetic, for example, is always going to be a very specific patient in whatever health system he or she is dependent on. But you obviously can't change anything there.

I'm asking these questions because I don't think the program can or should support someone for 30 or 40 years, or for however long is needed. Do you also have a system where you evaluate if there's no longer a risk to that person?

**C/Supt Thomas Bucher:** Risk or—

**Mrs. Alexandra Mendes:** In the sense that the person wouldn't be threatened any more if he or she went back to their normal life.

**C/Supt Thomas Bucher:** Once an individual enters the program and is relocated, it's—

• (1215)

**Mrs. Alexandra Mendes:** It's forever?

**C/Supt Thomas Bucher:** Well, it's forever if the individual does not make a request to leave, but voluntary termination is always an option.

**Mrs. Alexandra Mendes:** Okay, so the person can request leaving the program, but you won't make an assessment in terms of the risks of doing that.

**C/Supt Thomas Bucher:** We would never tell them they had to leave the program, no.

**Mrs. Alexandra Mendes:** Okay.

Thank you.

**The Chair:** Thank you.

We'll move on to Monsieur Ménard for five minutes.

[Translation]

**Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ):** I will continue following what Ms. Mendes said.

How do you assess the potential risks for a person who has indeed cooperated with the police? Are you well enough informed, for example, of the fact that that person might be named during a wiretap concerning other people? Are the other police aware of the fact that a witness is protected so that, if they hear of a conspiracy against that person, they will warn you or take some other steps?

[English]

**C/Supt Thomas Bucher:** An initial comprehensive threat assessment is made for everybody who enters the program. That's one of the factors taken into consideration when an admission into the program is made.

Once an individual is relocated, their identity is not disclosed to anybody. Every individual in the program is entered into an observer type of system where if that person were verified by a local police department, we would be aware of that.

[Translation]

**Mr. Serge Ménard:** That is not quite what I was asking. In any case, I will move on to something else.

You seize houses, and you attempt to sell them in order to recoup the money, I imagine. Do you have trouble selling houses that belonged to members of organized crime groups?

[English]

**Insp Don Perron:** I think that would be a question best placed to the seized property management directorate and the provincial asset management entity. We, the police, are not responsible for managing the assets or disposing of the assets. That question would be best answered by them.

[Translation]

**Mr. Serge Ménard:** In Quebec, we had several examples of houses that were seized that were then burnt. I am quite certain that personally I would never buy such house.

**Some voices:** Oh, oh!

**Insp Don Perron:** I do not believe you should buy one.

**Mr. Serge Ménard:** Obviously, when we designed these systems that did not used to exist, criminals were not very careful in hiding their assets. Since we have had these systems—it must be 15 years now since we started seizing their assets—I imagine that their habits have changed and that they rent much more than they buy.

Have you noticed that they lease their motorcycles and cars, rent houses, in short that they rent rather than buy?

[English]

**Insp Don Perron:** Yes, you make a very interesting observation that they are tending to lease more of their cars and rent more of their facilities. However, they would still have this large amount of money or profits that they somehow need to make available so they can benefit from the profits. Very often a lot of these profits are reinvested in other criminal activity where funding is required for that activity.

[Translation]

**Mr. Serge Ménard:** Apparently they can also rent from some businesses... On the one hand, I imagine that you follow the companies who rent to these people, and on the other hand, I

imagine you try to see whether it is only occasional—such as with Tilden—or if it is always the same small company that leases motorcycles to these groups. I imagine those kinds of cross references are done.

**Insp Don Perron:** Yes.

**Mr. Serge Ménard:** Some buy struggling companies in order to be able to declare profits. Once again, this happened in Quebec: one of them bought a ski resort. God knows that operating a ski resort requires some kind of expertise, and not all ski hills are profitable, sometimes even excellent ski resorts may not turn a profit in a given year.

What do you do in such cases? It happened in Quebec that a ski resort was seized. Do you continue to seize them and is it worth seizing money-losing operations?

• (1220)

[English]

**Insp Don Perron:** With some of these operations that we're seizing, obviously we do it in consultation with the prosecutor. We're getting much better at structuring the restraint order so that perhaps we would not take possession of property, where we force them to continue to operate the operation but they can't sell. There's a lot of flexibility in the actual restraining orders on how you can freeze title so they have to maintain operation yet they can't dispose of it.

I know the ski hill you're referring to because I was doing proceeds of crime back then in the mid-90s, *Projet Avalanche*.

**The Chair:** Thank you.

All right. We'll move on to Mr. Woodworth for five minutes.

**Mr. Stephen Woodworth (Kitchener Centre, CPC):** Thank you very much, Mr. Chairman, and thank you to the witnesses for coming. It's been an extremely interesting and informative session so far.

I just want to pick up on a couple of points. One I hope is fairly simple, from Superintendent Bucher. In your remarks you mentioned there was a request from some provinces that changes be made to the federal Witness Protection Program Act to facilitate their ability to obtain federal identification documentation without their witnesses having to enter into the federal program. What I am discerning from that is that the act does allow for the issuance of new—if I can put it this way—false identification for protected witnesses who are in the federal program, but it does not currently allow for the issuance of such identification for persons who are in provincial protection programs. The provinces would like that to change and the RCMP seems to be supporting that change. Am I on the right track with that?

**C/Supt Thomas Bucher:** That would be accurate, yes.

**Mr. Stephen Woodworth:** Okay. Thank you.

Then I will address some questions to Inspector Perron. Some of the evidence we've heard has been about how complicated and protracted organized crime trials can be. I haven't had the chance to ask anyone yet, but in the back of my mind I'm thinking that maybe it's because of the issues around forfeiture that require such different kinds of disclosure than would ordinarily be made in a criminal case—among other things. I wondered if you could just paint a picture for me of the timeline for a forfeiture application under both the two federal streams and the provincial one.

I notice that clearly to make an application you have to prove that it's proceeds of crime, and technically you can do that as soon as the information is laid, but you haven't even proved yet that there's been a crime; just the allegation has been made. Typically, do applications for forfeiture get made at the outset of a criminal prosecution of organized crime, or are they made after some finding of guilt, or is there no typical stream? I'm thinking it may be different between the federal streams and the provincial streams. If you could just kind of elaborate on that for me, I would appreciate it.

**Insp Don Perron:** Good question.

First of all, the provisions we have available to what we call preserve the asset so we can seek forfeiture are the special search warrants and the restraint orders. They are applications by the prosecutor based on the affidavit we provide.

The complexity of those will vary. For example, a proceeds of crime application usually is more complex because you have to demonstrate that the property or the assets were acquired with the profits derived from a criminal activity. Offence-related property is a little less onerous because we only have to demonstrate that the asset or property we are seeking to seize or restrain facilitated a crime. For example, you can have a grow house that was purchased with legitimate money but it facilitated a grow house; therefore, we can go after that.

The application for forfeiture only comes after a finding of guilt has been registered. So usually a forfeiture application will be submitted at sentencing. Then what would normally happen is we may get an agreement with the forfeiture application uncontested, or a forfeiture trial will be set, where we have to again reintroduce evidence to demonstrate. But it can only proceed after a conviction has been registered.

• (1225)

**Mr. Stephen Woodworth:** In the course of your investigations, do you track the investigation and disclosure of evidence of the crime and the investigation and disclosure of evidence of proceeds at the same time? Are you doing one thing first and the other thing second?

**Insp Don Perron:** We usually work hand in hand with what we call substantive investigators. For example, a typical asset forfeiture investigator will work with a drug investigator or a firearms investigator from the provincial weapons unit. They are responsible for putting the case together to put in place the evidence to support a conviction on the substantive offence, the drug trafficking. We work on tracing the assets, identifying the assets, and linking them to the substantive criminal activity. It's a joint effort.

**The Chair:** Thank you. Unfortunately, you're out of time already.

We'll move to Monsieur LeBlanc for five minutes.

[*Translation*]

**Hon. Dominic LeBlanc (Beauséjour, Lib.):** Thank you, Mr. Chair.

I thank the witnesses for their presentations. I share my colleagues' opinions and I believe that we have learned a great deal from you this morning.

[*English*]

I first want to ask a question of Inspector Perron. Perhaps the RCMP would then elaborate on the witness protection program, which I found very interesting.

Inspector, you talked about better coordination between federal prosecutors and provincial prosecutors, or at least a type of one-stop shop for colleagues who can be given conflicting advice in an investigation, which I'm sure can be anything but helpful. Other than the prosecutorial coordination or legal advice to investigating officers, which I think has a lot of merit and is very worthwhile, whether or not it's joint operations, are there are other ways to support forfeiture and seizures federally or provincially?

Are there ways that you can be more coordinated perhaps legislatively or at least in a police operation context? In other words, it's to avoid duplication. Your investigations are hugely expensive and complicated. I appreciate that. What can be done to in fact simplify or better coordinate and share resources?

**Insp Don Perron:** It's a very good question. As I indicated in my opening remarks, I think there are some opportunities to look at the Seized Property Management Act to possibly provide some amendments.

One of the issues we are facing right now is that seized property management will not manage an asset until a management order has been obtained by the courts. There is a gap that can be anywhere from one week to six months where the police inherit the responsibility and the cost of managing the asset until turning it over to seized property management.

First of all, the police are not management. We're not experts at managing assets. Secondly, we don't have the resources to manage those assets. Thirdly, we don't have the ability to get funding from the forfeitures to help us in that cause, whereas SPMD does. It's an area where we would like to see some improvement.

We talked about federal prosecution matters and provincial prosecution matters. If we have a federal matter, we're again dealing with SPMD. If we have a provincial matter, we're dealing with the province. We're again dealing with two different entities. It becomes complicated and convoluted. If we had a one-time, one-stop shop, or whatever you want to call it, it would be a lot easier for us.

**Hon. Dominic LeBlanc:** Thank you.

Chief Superintendent, you really have an Acadian name. It's actually Boucher, isn't it? Brian Murphy and I recognize an Acadian name when we see one.

•(1230)

**C/Supt Thomas Bucher:** It's not. It's actually Austrian.

**Hon. Dominic LeBlanc:** I apologize. I thought everybody was an Acadian.

I found you and your colleague Inspector Bowen interesting in how you operationalize the witness protection program. I mean, there's a kind of public interest; the media, television, have these great examples of people going into witness protection, which is a myth in a lot of law enforcement.

This is the first time I've heard senior officers describe how a program like that operates. I'm interested that you've had 800 people accepted into the program since its inception. Yet \$7 million doesn't seem like a lot of money to be an annual budget for 15 new inductees as well as the 785 ongoing responsibilities you have.

I'm not sure you can answer this, but during the life of somebody in the witness protection program, do the taxpayers spend \$100,000 on that individual, \$1,000,000? I know it varies in different circumstances, but what's the range? What's the cheapest you've had somebody in and out of that program, and what's the most gruesome example?

What jarred me was your comment about how we look at the lifestyle. Some of these guys have a lifestyle that certainly exceeds anyone around this table. I appreciate that you didn't mean to say you're going to keep them in the lifestyle they were accustomed to when they were involved in a criminal enterprise, but how do you decide on an envelope of money? It's so open-ended. I'm curious.

My impression is that you're not adequately funded. When you make a request to the Treasury Board, how would you explain your request for more money?

**C/Supt Thomas Bucher:** First of all, I should state that the witness protection program is entirely funded from the RCMP. It has never received outside funding. It comes directly from operations.

In terms of the variance of funding for any particular case, you can only imagine the range. I guess if we were to put a typical case of two adults and two children, a ballpark figure would be approximately \$60,000.

**Hon. Dominic LeBlanc:** Annually, or is that the total cost?

**C/Supt Thomas Bucher:** That's for the relocation.

**Hon. Dominic LeBlanc:** Is annual or ongoing support not included in the \$60,000 relocation?

**C/Supt Thomas Bucher:** It depends on any given case.

To your comment earlier, I should also clarify that when I made the comment on lifestyle, it's a lifestyle free of crime.

**The Chair:** Thank you for the clarification.

We'll move on to Monsieur Petit.

[*Translation*]

**Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC):** Thank you, Mr. Chair. I thank the witnesses for being here today.

My question is mainly to Mr. Froese, as he caught my attention with the forensic accounting investigations dealing with white collar criminals, the new criminals.

We are carrying out a study on organized crime. We know this involves drugs. Over the last four, five or ten years, there has been a significant new movement that has emerged, that is the issue of white collar criminals. In Quebec, there were the Vincent Lacroix and Earl Jones cases. In Alberta, various companies are also involved in this kind of story. You are the expert we are consulting.

Currently, all governments, through different structures, are working with bigger and bigger pension funds. We can take as an example the teachers' fund and the Caisse de dépôt et de placement du Québec. There is a lot of money floating around and many people, like Vincent Lacroix for example, manipulate those funds. Today, we realize that if you were not there, we would not be in a position to find them. What would you suggest to us?

We are carrying out a study on organized crime and we must try to find some solution. We are well aware of past crimes, which were quite ordinary. In your case, you are facing a new kind of crime.

In your opinion, what should we change in order to help people protect their money? What is currently happening with white collar criminals is more and more serious. What do you suggest?

•(1235)

[*English*]

**Mr. Ken Froese:** There are really two aspects. One would be through policing and public policy, and the other is what individuals or companies should do.



Just from the policing and public policy side, we've talked a little bit about that, but forensic accountants right now, I would say, are normally used by police forces for two things. One is if they need specific expertise they'll bring someone in, but most of the time they're trying to hire people who are given tasks to do. You are given a task to do for the police force, and it's quite often a low-level person who comes in on a secondment or as a government employee working as a forensic accountant. There's not a lot of strategic involvement of forensic accountants in policing, and if you look at the structure and the culture of policing, it is one of "we are the police force and you are a civilian", and it's not really as strong a team as it could be.

I've had some discussions with people in fraud units and what not, and it's tough from a finance perspective to get senior-level forensic accountants in to assist in that area. It is an area that I think could be improved, if there were more brainstorming and strategic involvement of the financial people as well as the police, because we each do our jobs very well, but it's hard to get us to always work together. So that would be one area you could look at, to see if there is a way to have more forensic accountant involvement at a higher level in the police area.

On the individual side, that's a broad question. How do we defend ourselves against this? We've done investigations with the union, for example, where surveillance was taken of a senior person meeting with three different organized crime families. The set-up internally was not designed to investigate that. If you're a local union, you're breaching the constitution to investigate it. If you're a member of the union, it's very hard to figure out a way to deal with that. I'm not sure how you interest policing in something like a union or areas outside of the norm, like drugs, smuggling, or white collar crime, where potentially organized crime is getting an influence. It depends on the area.

I'll stop there. That's probably a good place to stop.

**The Chair:** Thank you.

We'll move on to Mr. Dechert.

**Mr. Bob Dechert (Mississauga—Erindale, CPC):** Thank you, Mr. Chair.

Thank you, gentlemen, for the information you have provided this morning.

I want to start with Superintendent Bucher. You mentioned that the House of Commons public safety committee had done a study and a report on the witness protection program, and I thank you for letting me know that.

Mr. Chair, perhaps the analyst could provide that to the members of the committee. That might be very helpful in the deliberation of our report.

You also mentioned that the RCMP has some recommendations coming. We've heard from a lot of witnesses in the last few weeks about problems with the witness protection program, the inability to secure convictions of especially gang-related criminals because of the problems, and in many cases unspecified problems, with the witness protection program.

Can you give us a flavour of what some of those recommendations might be that you anticipate in that report?

**C/Supt Thomas Bucher:** We've done a series of consultations with numerous partners, both internal and external, right across the country. My belief is that we have a strong federal witness protection program. I believe it works well. I believe also that we should always be looking at enhancing it and making sure that it is current, especially with the criminal environment in Canada. So based on those consultations we have done a draft document with the goal of improving the program. We're looking at things such as providing psychological assessments of protectees entering the program, increasing training for our members in the field—areas along those lines. Apart from that, legislative areas are also going to be explored, on which Public Safety is taking the lead.

• (1240)

**Mr. Bob Dechert:** It sounds like it is substantially more than just extra resources.

**C/Supt Thomas Bucher:** Yes.

**Mr. Bob Dechert:** There are some real refinements.

We look forward to that report.

Inspector Perron, on a slightly different topic than the one you've been speaking about this morning, as you know, last October, Bill S-4 on identity theft was given royal assent. Can you comment on how that might have an impact on combatting organized crime in Canada?

**Insp Don Perron:** I am vaguely familiar with Bill S-4, but I can tell you that the new provisions in there that allow us to charge people who are in possession of identity documents are going to be extremely helpful. As a matter of fact, we took down a project two weeks ago where we were able to utilize the new provisions and lay those new charges. So that will be extremely useful for us.

**Mr. Bob Dechert:** In addition, our government has announced that it's going to reintroduce Bill C-51, having to do with white collar crime. One of the provisions of that bill gives the judge the opportunity to order restitution to victims of white collar crime.

What impact do you think that might have in the fight against white collar crime, which often is related to other forms of organized crime?

**Insp Don Perron:** I am a firm believer that when you can remove any wealth or any property that should not be in the hands of criminals, it is an effective way to reduce crime. When you can do that, and not only do that but return it to victims, I think it's even better. It is a tremendously effective tool to reduce crime, and again, if we can return it to victims, even better.

We are not in the business to generate a profit. We are in the business to apply the provisions, to reduce the criminal economy, to reduce crime.

**Mr. Bob Dechert:** Thank you.

Do I have a few minutes? I have a question for Mr. Froese.

We have heard some reports in the media in recent years of how organized criminals can use casinos to launder funds. I remember one case, a rather creative case, where I think the criminal was using his mother. She would go to a casino in Ontario and play the slot machines and then cash out. She would put in a lot of cash, play a little bit, and then take it all out and launder it through the casino's cashier. What do you think is the impact of casinos in terms of money laundering for organized crime?

**Mr. Ken Froese:** It's another vehicle that organized crime can use. It's a matter of getting controls in place to be able to, at the very least, report suspicious transactions to FINTRAC, which is the case. I think the expanded reporting by FINTRAC on activities to police forces, as they get the resources to be able to look into that, will be very helpful over the long term.

**The Chair:** Thank you.

Mr. Rathgeber.

**Mr. Brent Rathgeber (Edmonton—St. Albert, CPC):** Thank you, Mr. Chair, and thank you, witnesses, for your attendance here today.

Inspector Boucher, I have a couple of follow-up technical questions with respect to witness protection.

I'm having a little bit of trouble understanding the difference between the federal and provincial programs. You indicated in your opening comments that the provincial programs, including the one that's anticipated in my province of Alberta, deal with the short-term needs of witnesses, as opposed to the RCMP and the federal programs, which deal with ongoing support. Did I understand that correctly?

**C/Supt Thomas Bucher:** Generally, provincial programs and municipal programs were, I believe, designed to look after shorter-term needs than the federal witness protection program. They were designed to ensure that somebody could travel to court to testify without fear of retribution or harm. The extension of long-term protection is not generally a fact or a consideration for those types of programs.

**Mr. Brent Rathgeber:** Generally, is that the line of demarcation? After trial the person becomes the responsibility of the RCMP, and up to trial they're the responsibility of the municipal or provincial program. Or is that too simple?

**C/Supt Thomas Bucher:** No, it would depend on the agency that has carriage of the case, which agency enters into a protection agreement. So it varies.

So, no, that wouldn't be an accurate demarcation.

•(1245)

**Mr. Brent Rathgeber:** Assuming Alberta passes legislation, half the provinces will have provincial programs. The Maritimes and B. C. will not.

Who looks after short-term witness protection in the provinces that don't have provincial programs?

**C/Supt Thomas Bucher:** Generally, it would be the RCMP.

**Mr. Brent Rathgeber:** I have one final question. Talk about the prairie provinces having legislative programs, as opposed to Ontario and Quebec, which have policy-based programs. I don't know that I understand the distinction.

**C/Supt Thomas Bucher:** There are programs based on internal policy for those agencies, so they're not legislated programs.

**Mr. Brent Rathgeber:** I see. So the legislatures in the prairie provinces have passed legislation requiring their police forces to do this.

**C/Supt Thomas Bucher:** That's right.

**Mr. Brent Rathgeber:** Okay. Thank you.

**The Chair:** Thank you.

I have a couple of questions as well.

Mr. Froese, you referred to FINTRAC's cash reporting thresholds, and I think your suggestion was that some of those perhaps should be reduced. You referred to the hotel business as an example. Do you have a more comprehensive list and suggestions as to what those thresholds should be so that law enforcement can be more effective in following up on these transactions?

**Mr. Ken Froese:** My understanding is that hotels aren't covered now, so that would be an expanded coverage. I haven't developed a full list. In my personal experience, though, I've looked at how people spend cash in big enough amounts so that knowing those amounts would help to trace either where they're travelling to or how they're spending their cash. That brings in hotels or improvements to houses for which there are construction-related costs. Those would be the two main categories I would consider.

The police, I'm sure, could add other items to the list.

**The Chair:** Given the fact that you and the individuals we have present today as witnesses are perhaps best placed to provide a list of businesses that should perhaps be covered, or thresholds that should be reduced, I'm going to go out on a limb and ask you to explore whether you or others could provide us with that. That would be helpful in our study.

**Mr. Ken Froese:** I'll speak to Inspector Perron after we leave.

**The Chair:** I know I'm putting you on the spot here.

**Mr. Ken Froese:** Sure. We'll do something.

**The Chair:** Mr. Perron, you had referred to the forfeiture program, which I believe is offence-based, for which the application isn't made until after conviction. Is that correct?

**Insp Don Perron:** The application to forfeit the property is made after a conviction has been registered. The application to actually seize or restrain is made before that, during the investigation.

**The Chair:** Is the property frozen while the trial is ongoing?

**Insp Don Perron:** Yes, it is.

**The Chair:** It's like a Mareva injunction.

**Insp Don Perron:** It's very similar.

**The Chair:** All right. Thank you.

Mr. Bucher, several times there's been reference to this draft document, which you expect to be issued in about two months.

**C/Supt Thomas Bucher:** Yes.

**The Chair:** It would be helpful if, as soon as that is available, it was provided to this committee, because we'd love to have a look at it. It may help us in finalizing our report, if it's possible to ask—

**C/Supt Thomas Bucher:** We will get you a copy.

**The Chair:** Thank you so much.

I want to thank all of our witnesses for providing us with very valuable testimony. This has been an interesting meeting, and I'm sure the testimony you've given will show up in the report we issue. So again, thank you to all of you.

To members of the committee, just stay behind, because we're going to do a very brief in camera meeting.

*[Proceedings continue in camera]*

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