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CANADA

**CHAPTER 2, SUPPORT FOR COMBATTING
TRANSNATIONAL CRIME, OF THE FALL 2014
REPORT OF THE AUDITOR GENERAL OF
CANADA**

**Report of the Standing Committee on
Public Accounts**

**David Christopherson
Chair**

FEBRUARY 2015

41st PARLIAMENT, SECOND SESSION

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THE STANDING COMMITTEE ON PUBLIC ACCOUNTS

has the honour to present its

FOURTEENTH REPORT

Pursuant to its mandate under Standing Order 108(3)(g), the Committee has studied Chapter 2, Support for Combatting Transnational Crime, of the Fall 2014 Report of the Auditor General of Canada and has agreed to report the following:

CHAPTER 2: SUPPORT FOR COMBATTING TRANSNATIONAL CRIME

INTRODUCTION

Since most criminals and their organizations do not view borders as limitations on their activities, many crimes that affect Canadians begin or end with actions taken in foreign countries.¹ According to the Office of the Auditor General (OAG):

The international character of serious crime is facilitated by the expansion of technology, increased mobility, and the adaptive nature of criminal networks. These trends are evidenced in the types of serious crimes being committed in more than one country, such as drug trafficking, corruption, theft, money laundering, child pornography, identity-related crime, mass-marketing fraud, human trafficking and migrant smuggling.²

The federal government is responsible for enforcing legislation that is meant to protect Canadians from crimes and criminals that cross its borders, and it shares that responsibility with the provinces.³ In order to advance investigations involving transnational crime, Canada's law enforcement agencies rely on a network of Royal Canadian Mounted Police (RCMP) liaison officers, who are located in various countries and interact with foreign law enforcement agencies. These officers receive requests from both Canadian and foreign law enforcement agencies to advance criminal investigations of interest to Canada.⁴ These requests support operational files and include, for example, routine background checks on individuals, inquiries with local police, reporting of drug deliveries, obtaining or sharing human smuggling information, and following up on outstanding requests for evidence or extradition.⁵

To address crimes that extend beyond its borders, where Canadian law enforcement agencies do not have policing authority, Canada has entered into numerous cooperation agreements with foreign agencies. Information is shared through police-to-police networks, multilateral policing organizations such as INTERPOL and Europol as well as formal mechanisms such as mutual legal assistance and extradition treaties.⁶

1 Auditor General of Canada, Chapter 2, "Support for Combatting Transnational Crime," Report of the Auditor General of Canada – Fall 2014, Ottawa, 2014, para. 2.1.

2 Ibid., para. 2.2.

3 Ibid., para. 2.1.

4 Ibid., para. 2.4

5 Ibid.

6 Ibid., para. 2.3.

In its Fall 2014 Report, the OAG released a performance audit that examined whether the RCMP established priorities for serious and organized crime and aligned its international programming with those priorities.⁷ The audit also examined whether the RCMP and the Department of Justice Canada (Justice Canada) had in place the systems and practices necessary to address their international requirements. The audit covered the period of 1 April 2010 to 31 May 2014.⁸

The House of Commons Standing Committee on Public Accounts (the Committee) held a hearing on this audit on 2 February 2015.⁹ From the OAG, the Committee met with Michael Ferguson, Auditor General of Canada, and Frank Barrett, Principal. The RCMP was represented by C/Supt Eric Slinn, Director General, Support Services, Federal Policing. The Department of Foreign Affairs, Trade and Development (DFATD) was represented by William Crosbie, Assistant Deputy Minister and Legal Adviser, Consular, Security and Legal. Finally, Janet Henchey, Senior General Counsel and Director General, International Assistance Group, appeared on behalf of Justice Canada.¹⁰

PROGRAM OPERATIONS AND PERFORMANCE

The RCMP Liaison Officer Program posts police officers in foreign cities on behalf of Canada's entire law enforcement community.¹¹ As of 31 March 2014, the Liaison Officer Program had a budget of approximately \$19 million and a total of 103 employees, which included 42 liaison officers posted in 30 offices in 26 countries and 61 employees located in Ottawa who supported the program operations abroad.¹² In 2013, the RCMP liaison officers received and responded to more than 2,200 requests, of which almost half were related to serious transnational crimes.¹³

A. Priority Setting for the Liaison Officer Program

In its Report on Plans and Priorities 2013–2014, the RCMP identified three key priorities on crime: serious and organized crime, national security; and economic

7 Ibid., para. 2.6.

8 Ibid.

9 House of Commons Standing Committee on Public Accounts, Evidence, 2nd Session, 41st Parliament, 2 February 2015, Meeting 46.

10 House of Commons Standing Committee on Public Accounts, Minutes of proceedings, 2nd Session, 41st Parliament, 2 February 2015.

11 Chapter 2, para. 2.7.

12 Ibid., paras. 2.7 and 2.8 and Exhibit 2.1.

13 Ibid., para. 2.9.

integrity.¹⁴ The OAG examined how the RCMP established its priorities and how liaison officers were made aware of these priorities.¹⁵

Michael Ferguson, Auditor General of Canada, told the Committee that the OAG found that the RCMP aligned the operations of the Liaison Officer Program to respond to priorities for serious and organized crime and that these priorities were the result of consultations between the RCMP and its partners as well as work within various international and national committees. Mr. Ferguson also added that the audit showed that the RCMP was able to react to changing circumstances by rapidly deploying staff temporarily when necessary.¹⁶

B. Performance Information on the Liaison Officer Program

As posting liaison officers abroad carries significant costs, the OAG examined how the RCMP determined the appropriate size and deployment for its Liaison Officer Program.¹⁷

Mr. Ferguson noted that the RCMP had not yet established a process to assess the overall performance of the Liaison Officer Program. While the RCMP had conducted a gap analysis in 2008 and various regional analyses since then, these ad hoc assessments were not comprehensive and did not focus on overall program performance.¹⁸ According to Mr. Ferguson, the results of such an overall assessment would help the RCMP to determine the best ways to use the limited resources of this program in order to respond to the priorities, especially in a changing context.¹⁹

The OAG recommended that the RCMP assess the performance of its Liaison Officer Program to ensure that it gets the best use of its limited resources.²⁰ C/Supt Eric Slinn, Director General Support Services, Federal Policing, responded that the RCMP agrees with the recommendation and that it would create and put in place a performance management framework for this program by 31 March 2016.²¹ Following the implementation of its performance management framework, the RCMP will collect data over a period of two years and undertake a formal assessment of the ongoing relevancy,

14 Ibid., para. 2.12.

15 Ibid.

16 Meeting 46, 1530.

17 Chapter 2, para. 2.19.

18 Ibid., para. 2.21.

19 Meeting 46, 1530.

20 Chapter 2, para. 2.23.

21 Meeting 46, 1540.

success and cost-effectiveness of its Liaison Officer Program with support from DFATD by 31 March 2018.²²

After noting that measuring the performance of the Liaison Officer Program as recommended by the OAG was a difficult endeavor, C/Supt Slinn suggested that:

Potential indicators might be number of investigations started by the liaison officers that were successfully completed back in Canada. One of the things we're trying to change within the RCMP's liaison program is to take them from being task-driven to being mission-driven. What I envision there is that they will look for investigative opportunities in theatre rather than waiting for Canadian law enforcement or RCMP units to send them tasks saying, "Go, do this" and "Go, do that", or "Collect this intelligence and collect that". That might be a potential indicator—the number of investigations that were successfully realized, begun by the LO [Liaison Officer] and were realized back in Canada. Another might be the number of intelligence products that moved from an intelligence point to an actual investigation.²³

The Committee recommends:

RECOMMENDATION 1

That, by 31 March 2016, the Royal Canadian Mounted Police (RCMP) provide the House of Commons Standing Committee on Public Accounts with an update on the progress made by the RCMP in implementing its performance management framework for the Liaison Officer Program.

INFORMATION SHARING AND COOPERATION

A. Information-Sharing Practices

Liaison officers regularly share information with Canadian and foreign law enforcement agencies to advance criminal investigations. The information that can be shared may include personal data (e.g., addresses, phone numbers, travel activity, passport information and criminal records) or information on an ongoing investigation.²⁴ The authority to determine what information can be shared typically resides with the lead investigator from the originating police organization. Investigators from Canada's police organizations must carefully consider what information should be shared

22 RCMP Management Action Plan in Response to the Performance Audit of Support for Combatting Transnational Crime, p. 1. This document was provided to the Committee by the Royal Canadian Mounted Police on 2 February 2015.

23 Meeting 46, 1705.

24 Chapter 2, para. 2.26.

with foreign partners while ensuring adequate safeguards, so that investigations are not compromised.²⁵

The OAG assessed whether the RCMP's liaison officers had the information necessary to fulfill their operational requirements.²⁶ The OAG found that liaison officers had access to the information required to support both domestic and foreign investigations.²⁷ According to Mr. Ferguson, the files reviewed by the OAG showed that liaison officers had been directed by Canadian investigators to share only selected information with foreign partners and that the liaison officers had adhered to these instructions.²⁸

B. The Costs and Benefits of Increased Participation in INTERPOL and Europol

The OAG assessed whether the RCMP had identified the value of increasing Canada's participation in INTERPOL and Europol.²⁹

INTERPOL is an international network of 190 countries with a primary mandate of facilitating police cooperation. Canada joined INTERPOL in 1949 and the RCMP was given responsibility for managing Canada's involvement.³⁰ The OAG found that INTERPOL serves as an important tool for the RCMP and Canadian law enforcement agencies that use this resource. Through INTERPOL, these agencies can issue notices to all member countries to help locate both travelling fugitives and missing persons.³¹ With respect to INTERPOL, C/Supt Slinn explained that the RCMP, in collaboration with various law enforcement agencies across Canada, manages Canada's INTERPOL National Central Bureau, which is INTERPOL's point of contact in Canada.³²

According to the OAG, the role of Europol is very different from that of INTERPOL. Europol is a policing organization that brings together European and other police agencies to address crimes linked to at least two European countries. It includes 150 liaison officers from 28 European Union and 18 other countries, all working from the same location: The Hague in the Netherlands.³³ Canada joined Europol as a non-European third-party

25 Ibid., para. 2.27.

26 Chapter 2, para. 2.28.

27 Ibid.

28 Meeting 46, 1530.

29 Chapter 2, para. 2.31.

30 Ibid., para. 2.32.

31 Ibid.

32 Meeting 46, 1535.

33 Chapter 2, para. 2.34.

member in 2005.³⁴ C/Supt Slinn explained the distinctive features of Europol in these terms:

The beauty of Europol is it's one building with numerous European law enforcement personnel. The other beauty is it's loaded with criminal analysts, and each of those European representatives bring intelligence from their respective organizations and they feed it into Europol, which makes for more efficient investigations and allows you to get ahead of the game. It's really an access point. You have all people herded in one location. There is a lot of sharing of intelligence, and then they create certain focal groups, certain crime groups. The RCMP has recently also added cybercrime, so we're participating in that focal group.³⁵

Mr. Ferguson informed the Committee that European countries are devoting more and more resources to Europol. This network allows the law enforcement agencies of the participating countries to share information and to collaborate.³⁶ Mr. Ferguson informed the Committee, however, that the RCMP had not assessed the costs and benefits of greater participation in Europol, including the impact that this could have on the size of the Liaison Officer Program in Europe and the location of its liaison officers.³⁷

The OAG recommended that the RCMP assess the costs, potential opportunities and the challenges associated with greater participation in Europol.³⁸ C/Supt Slinn responded that the RCMP agrees with the recommendation and that it has begun a formal assessment to better determine the costs, potential opportunities and challenges that may result from greater participation in Europol. This assessment should be completed by Spring 2015.³⁹ The Committee recommends:

RECOMMENDATION 2

That, by 31 May 2015, the Royal Canadian Mounted Police provide the House of Commons Standing Committee on Public Accounts with the results of its assessment of the costs, potential opportunities and challenges associated with Canada's greater participation in Europol.

C. Processing Extradition and Mutual Legal Assistance Requests

The RCMP and other law enforcement agencies often require information and evidence from foreign jurisdictions and must use a formal means, such as mutual legal

34 Ibid., para. 2.35.

35 Meeting 46, 1645.

36 Ibid., 1535.

37 Ibid.

38 Chapter 2, para. 2.38.

39 Meeting 46, 1540.

assistance and extradition requests, to acquire them. In these instances, law enforcement agencies need to work with the central justice authority of the associated country, which is Justice Canada in Canada.⁴⁰

The OAG examined whether Justice Canada had processes in place to complete extradition and mutual legal assistance requests appropriately. Using a sample of 50 extradition and mutual legal assistance requests from 2011 to 2013, the OAG found that Justice Canada had appropriate processes in place to ensure that supporting documents complied with the requirements of pertinent treaties and legislation (e.g., *Extradition Act*, *Mutual Legal Assistance in Criminal Matters Act*, United Nations Convention against Transnational Organized Crime and the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air).⁴¹

With respect to the time required to complete extradition and mutual legal assistance requests, Mr. Ferguson mentioned that the OAG found that:

[I]t often took over a year to process the requests that we reviewed. Justice Canada is the central authority in these matters, but had not taken any actions to assess the reasons for significant delays in processing requests for extradition or mutual legal assistance.⁴²

Janet Henchey, Senior General Counsel and Director General, International Assistance Group, Justice Canada, reminded the Committee that, as acknowledged by the OAG in its audit, Justice Canada's work only accounts for 15% of the overall time needed to process mutual legal assistance requests and 30% of the overall processing time for extradition requests. The remaining processing time for each respective type of request is under the control of Justice Canada's domestic and foreign partners, and is due to factors such as time spent waiting for evidence from foreign and domestic organizations, revisions to original requests, translation and judicial processes.⁴³

The OAG recommended that Justice Canada, in consultation with its domestic and foreign partners, assess the reasons for significant delays in processing requests for extradition or mutual legal assistance and develop strategies to mitigate them where possible.⁴⁴ Ms. Henchey responded that Justice Canada would conduct a comprehensive review of its outstanding file inventory for the 2014-2015 fiscal year in order to identify the cases that result in significant delays, the reasons for the delays and implement measures to reduce these delays where possible. In addition, in the 2015–2016 fiscal year, Justice Canada will arrange meetings with significant treaty partners, Canadian investigators

40 Chapter 2, para. 2.39.

41 Ibid., paras. 2.42 and 2.43.

42 Meeting 46, 1535.

43 Ibid., 1545.

44 Chapter 2, para. 2.48.

and prosecutors to discuss methods to mitigate lengthy delays that may reduce the effectiveness of international cooperation.⁴⁵ Ms. Henchey also noted that Justice Canada had already reviewed the files of its two major partners, the United States and France, and had begun discussions with these partners in order to assess whether delays have been a factor in mutual legal assistance and extradition cases to and from these countries.⁴⁶

The Committee recommends:

RECOMMENDATION 3

That, by 31 March 2016, Justice Canada provide the House of Commons Standing Committee on Public Accounts with the results of its comprehensive review of outstanding files, the reasons for the delays and the measures identified to reduce them.

D. Accessing Information on Canadians Detained Abroad

The information on Canadians abroad who are arrested, charged and convicted of serious crimes and their release dates is potentially valuable to the RCMP, as this information facilitates its domestic policing efforts.⁴⁷ DFATD is not automatically notified when a Canadian is arrested abroad. Local authorities notify DFATD of the detention of Canadians abroad when those detained exercise their rights to receive consular assistance under the Vienna Convention on Consular Relations.⁴⁸ A foreign government is not under any obligation to inform the Canadian government if a Canadian is arrested. In the same way, the Canadian government does not inform other countries if one of their citizens is arrested in Canada. In 2011, DFATD opened more than 1,800 arrest and detention cases and received information on more than 1,700 ongoing cases related to Canadians being imprisoned abroad. Between 2003 and 2014, DFATD also received about 3,300 notifications of the release dates of Canadians detained abroad.⁴⁹

The OAG examined whether the RCMP had access to the information on Canadians imprisoned abroad that DFATD receives from foreign countries.⁵⁰ The OAG found that, in general, the RCMP does not receive information from DFATD on Canadians arrested, charged, convicted or released from prison abroad.⁵¹ According to C/Supt Slinn, this is due to restrictions in the *Privacy Act* on the sharing of information about individuals

45 Meeting 46, 1550.

46 Ibid.

47 Chapter 2, para. 2.49.

48 Ibid., para. 2.50.

49 Ibid.

50 Ibid., para. 2.51.

51 Meeting 46, 1530.

and restrictions in the *Canadian Charter of Rights and Freedoms* on the sharing of information about Canadians with law enforcement agencies.⁵²

William Crosbie, Assistant Deputy Minister and Legal Adviser, Consular, Security and Legal, informed the Committee that DFATD shares relevant information with the RCMP in accordance with Canadian privacy laws and remains committed to do so when it is in the public interest. Mechanisms under the *Privacy Act* in which DFATD can share information with the RCMP include:

One, a request from the RCMP comes to us—it's an investigating agency—and seeks specific information from us. That's under paragraph 8(2)(e) of the [*Privacy Act*].

Under paragraph 8(2)(m), we can determine that there is a public interest in sharing information about a Canadian who is being charged abroad.⁵³

In its audit, the OAG recommended that the RCMP and DFATD work together to identify information related to Canadians arrested, charged, convicted or released from prison abroad that can be shared legally and DFATD put in place processes to share this information with the RCMP.⁵⁴

C/Supt Slinn responded that the RCMP agrees with the recommendation and is working closely with DFATD to improve information-sharing processes within the limits of Canadian laws.⁵⁵ Mr. Crosbie responded that much progress has been accomplished since the publication of the report. DFATD has launched various initiatives to improve its information-sharing practices with the RCMP, capitalizing on existing mechanisms such as the presence of an RCMP liaison officer within DFATD.⁵⁶ In addition, in September 2014, DFATD and the RCMP agreed to set up a consular policy dialogue between senior officials to discuss a number of priorities of interest to both organizations, including information-sharing practices. The first meeting of the consular policy dialogue was held in October 2014 and similar meetings will be organised on a quarterly basis. As a direct result of the initial meeting, DFATD and the RCMP formed a joint working group – which includes consular, legal and privacy experts from both organizations – to discuss information-sharing practices in more detail. This working group has already met on several occasions and has been able to address some of the RCMP's concerns on the way information that may be available to DFATD can be shared. The working group is reviewing the legal framework under which the two organizations can share information and is exploring new avenues to share information. It has also reviewed the current mechanisms and identified some quick fixes that could yield significant improvement in the

52 Ibid., 1535.

53 Ibid., 1630.

54 Chapter 2, para. 2.56.

55 Meeting 46, 1540.

56 Ibid.

way requests are handled, particularly improving timeliness of response through better communication and standard forms.⁵⁷

Mr. Crosbie also explained that DFATD's Consular Operation Bureau created the Travelling Child Sex Offenders Committee. This internal committee reviews the information that DFATD has about consular clients who are convicted of sexual crimes against minors. According to Mr. Crosbie, the work of this committee has created a sound mechanism to review and determine whether existing and new information held by DFATD could be lawfully shared with the RCMP in light of the *Protecting Victims from Sex Offenders Act*. Under this act, which came into force in 2011, Canadians who are convicted of sex offences abroad and who are returning to Canada need to register on the National Sex Offender Registry. Mr. Crosbie also informed the Committee that DFATD is reviewing its publications and training for consular staff to have a common understanding of the type of information that may be legally shared with the RCMP and how this information sharing is done.⁵⁸

Mr. Crosbie told the Committee that DFATD is working with the RCMP in order to make sure that requests for information made by the RCMP are done in a consistent way. From an RCMP perspective, C/Supt Slinn told the Committee that the RCMP could be better in terms of articulating specifically what they want. DFATD is working with the RCMP to make sure that requests are completed following a standard form and include the information that DFATD needs to assess whether the public interest outweighs the interest of protecting the privacy of Canadians imprisoned abroad who asked for consular services.⁵⁹ Mr. Crosbie also added that:

When we pass on information to the RCMP, for example, we provide the context in which that person may have been found guilty of a particular crime in a foreign jurisdiction. We provide caveats as to how that information can be used. Because you can imagine, there are many foreign jurisdictions in which the due process is not what we, as Canadians, would regard as due process. So we want to make sure that we protect the privacy of the individuals while at the same time looking after the broader interests of Canadians in being protected from those who might do harm to them.⁶⁰

The Committee recommends:

RECOMMENDATION 4

That, by 31 October 2015, the Royal Canadian Mounted Police (RCMP) and the Department of Foreign Affairs, Trade and Development

57 Ibid., 1530 and 1610.

58 Ibid.

59 Ibid., 1555.

60 Ibid., 1615.

(DFATD) provide the House of Commons Standing Committee on Public Accounts with a report that presents the results of their collaborative work to identify information held by DFATD related to Canadians arrested, charged, convicted or released from prison abroad that can be shared legally with the RCMP and the processes they intend to put in place to share this information.

CONCLUSION

The expansion of technology and the increased mobility of people have meant that crime increasingly takes place across national borders. Canada's national police force, the RCMP needs to have the appropriate tools in place and to work effectively with its partner organizations to combat transnational crime. The RCMP's Liaison Officer Program plays an important role in helping law enforcement agencies in Canada and in foreign countries obtain and share the information they need to advance their investigations involving transnational crime.

In its audit, the OAG found that the RCMP established priorities for serious and organized transnational crimes, aligned its international programming with those priorities and had the necessary systems and practices in place to address its international requirements.⁶¹ However, the RCMP had not assessed whether it was using available resources to their full potential or assessed the costs and benefits of greater participation in Europol.⁶² The OAG also found that Justice Canada processes requests for mutual legal assistance and extraditions appropriately, but had not assessed the time taken to process those requests.⁶³ Finally, the OAG found that in general the RCMP could not access the information that DFATD has on Canadians imprisoned abroad.⁶⁴

The RCMP, DFATD and Justice Canada have all produced action plans in response to the OAG's recommendations. The Committee believes that the measures outlined in these action plans will address the gaps identified in the OAG's performance audit, provided that they are properly implemented. In this report, the Committee made four recommendations which will allow it to monitor the progress made by each organization in implementing their action plans.

61 Chapter 2, para. 2.57.

62 Ibid., para. 2.58.

63 Ibid., para. 2.59.

64 Ibid., para. 2.60.

APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
Department of Foreign Affairs, Trade and Development William Crosbie, Assistant Deputy Minister and Legal Adviser, Consular, Security and Legal	2015/02/02	46
Department of Justice Janet Henchey, Senior General Counsel and Director General, International Assistance Group		
Office of the Auditor General of Canada Frank Barrett, Principal Michael Ferguson, Auditor General of Canada		
Royal Canadian Mounted Police Eric Slinn, Director General, Support Services, Federal Policing		

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 46 and 47](#)) is tabled.

Respectfully submitted,

David Christopherson

Chair

