



MEASURES TO COMBAT ORGANIZED CRIME
Mid-Term Evaluation
Technical Report

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Evaluation Division
Policy Integration and Coordination Section



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ACRONYMS APPEARING IN THIS REPORT

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ASI	Anti-Smuggling Initiative
CAC	Consulting and Audit Canada
CDSA	Controlled Drugs and Substances Act
CLPS	Criminal Law Policy Section
CROPS	Criminal Operations (RCMP)
CSC	Correctional Service of Canada
DOJ	Department of Justice
ESO	Executive Services Office (Federal Prosecution Strategy)
FINTRAC	Financial Transactions and Reports Analysis Centre of Canada
FPS	Federal Prosecution Service
FTE	Full-time equivalent
IADP	Integrated Anti-Drug Profiteering
IAG	International Assistance Group
IFPS	Intensive Federal Prosecution Strategy
IPOC	Integrated Proceeds of Crime
MCOC	Measures to Combat Organized Crime
MLAT	Mutual Legal Assistance Treaty
NICML	National Initiatives to Combat Money Laundering
O&M	Operating and maintenance expenditures
OC	Organized crime
PRA	Prairie Research Associates Inc.
RCMP	Royal Canadian Mounted Police
RMAF	Results-based Management and Accountability Framework
SGC	Department of the Solicitor General
SIF	Strategic Investment Fund
SPPS	Strategic Prosecution Policy Section (Federal Prosecution Service)
SPSS	Statistical Package for the Social Services
TBD	To be determined
TBS	Treasury Board of Canada, Secretariat

EXECUTIVE SUMMARY

Introduction

On April 5, 2001, the Government of Canada announced the *Measures to Combat Organized Crime Initiative* (the MCOC Initiative or the Initiative). Four partner departments and agencies (the Department of Justice (DOJ), the Royal Canadian Mounted Police (RCMP), the Department of the Solicitor General (SGC), and the Correctional Service of Canada (CSC)) are to receive a total of \$150 million¹ between 2001 and 2006 and \$30 million² annually thereafter to assist them in providing a coordinated response to the complex and evolving nature of organized crime. This Initiative represents an enhancement to the Government's on-going efforts against organized crime such as the Integrated Proceeds of Crime (IPOC), National Initiatives to Combat Money Laundering (NICML) as well as anti-smuggling efforts.

This report presents the findings of the mid-term evaluation of the DOJ component of the Initiative and is DOJ's first effort in gathering performance information on organized crime files handled by the Federal Prosecution Service (FPS). SGC is also conducting an evaluation that encompasses its department and agencies (the RCMP and CSC). SGC will then use the findings from both evaluations to prepare a comprehensive interdepartmental mid-term evaluation report, to be presented to the Assistant Deputy Minister's Public Safety Committee.

The DOJ's mid-term evaluation is structured around the four main evaluation issues identified in the Results-based Management and Accountability Framework (RMAF): relevance, design and delivery (appropriateness), success, and effectiveness/other strategies. While the primary focus is on the implementation of DOJ's activities under the Initiative, this report also presents preliminary findings on progress toward achieving immediate outcomes and suggestions for future activities. The research is also intended to assist managers in identifying areas still to be implemented and recommendations for areas of improvement.

¹ This includes accommodation costs which are retained by Treasury Board for new salary resources as well as Employee Benefit Plan costs that are transferred to the departments/agencies

² Ibid

Background

In recent years, organized crime has become a significant public concern in Canada and around the world. In September 2000, the Federal, Provincial, and Territorial Ministers responsible for Justice adopted the *National Agenda to Combat Organized Crime* (the National Agenda), which identified certain priorities in fighting organized crime and promoted a collaborative approach. The National Agenda also proposed the development of legislative and regulatory tools to assist with the investigation and prosecution of organized crime. In October 2000, the House of Commons Sub-Committee on Organized Crime tabled a report that made 18 recommendations for legislative action. Responding to these recommendations, the House of Commons passed Bill C-24, which addressed the most urgent priorities identified in the National Agenda. Key provisions of Bill C-24 are:

- ***New and enhanced criminal organization provisions:*** Bill C-24 provides a new, simplified definition of “criminal organization” and introduces three new criminal organization offences into the *Criminal Code* (sections 467.11-13). Sentences for these offences are to be served consecutively, not concurrently, and more restrictive parole eligibility applies.
- ***Provisions to improve the protection of persons who play a role in the criminal justice system:*** Bill C-24 amends *Criminal Code* section 423 to create a hybrid intimidation offence with a higher penalty and creates a new intimidation offence in section 423.1.
- ***Expanded seizure and forfeiture provisions for proceeds of crime and offence-related property:*** Bill C-24 expands the proceeds of crime provisions to most indictable offences and the definition of offence-related property to include all property used in committing the crime. In addition, officials can enforce foreign confiscation orders involving proceeds of crime.
- ***Law enforcement justification provision:*** Bill C-24 creates a limited justification to protect designated law enforcement officers from liability for offences when they act reasonably and proportionally in the course of investigations and enforcement.

As part of its commitment to combat organized crime and to support this new legislation, the government announced the *Measures to Combat Organized Crime* Initiative. There are three components to the Initiative: legislation/policy/research, investigation and enforcement, and prosecution.

The DOJ is to receive a total of \$48.46M³ over the first five years and \$11.76M⁴ annually thereafter to conduct legislative/policy development and research on organized crime and for implementation of a new Intensive Federal Prosecution Strategy (IFPS) designed to improve prosecutions. The IFPS includes four primary activities: the provision of pre-charge advice and assistance by dedicated organized crime prosecutors; improved disclosure management with specialized disclosure units; dedicated organized crime prosecutors and teams; and enhanced support for international legal assistance in organized crime cases.

Objectives of the Initiative

The long-term goals of the Initiative are to *disrupt, dismantle, deter, and incapacitate criminal organizations, leading to enhanced public safety and security*. In order to achieve these goals, the Initiative has set the following interim objectives:

- Increased knowledge and understanding of organized crime issues and tools;
- Enhanced ability to investigate/prosecute organized crime offences/groups;
- Improved case preparation; and
- Improved detection/targeting of organized crime offences/groups.⁵

These interim objectives are expected over time to lead to more effective investigations and prosecutions.

Methodology

The DOJ evaluation consisted of three main data collection methods: key informant interviews with DOJ representatives in the regions (FPS Directors, prosecutors and paralegals) and at headquarters from FPS, Criminal Law Policy Section (CLPS) and Research and Statistics Division (referred to as DOJ officials in the report); a review of open organized crime files, and a review of relevant documents, including an analysis of organized crime files in Caseview, the FPS's time and file management system.

³ This includes the Employee Benefit Plan transferred to the Department but excludes accommodation costs retained by Treasury Board

⁴ Ibid

⁵ Although, through the IFPS, the DOJ plays an important role at the investigative stage, this objective relates to the activities under the investigation/enforcement component of the Initiative under which SGC, RCMP, and CSC receive funding.

Since the focus of the mid-term evaluation was on assessing the implementation of DOJ Initiative activities, only Departmental representatives were interviewed. Other stakeholder perspectives are not included in this evaluation, with the exception of some questions posed to RCMP managers on the behalf of DOJ during the SGC evaluation.

Evaluation Findings and Conclusions

Relevance

The Initiative's objectives are consistent with government priorities as stated in Red Book III (federal government platform) and the National Agenda. The Initiative also responds directly to the House of Commons Sub-Committee on Organized Crime. This Sub-Committee recommended specific legislative enhancements including new criminal organization offences, as well as non-legislative measures to ensure that existing legislation and resources are used to their fullest potential.

Key informants also agreed that Initiative objectives continue to be relevant and necessary to respond to the increasingly sophisticated nature of organized crime activities. They also advocated expanding Initiative activities in order to keep pace with the growth in organized crime activities and in police investigations of organized crime.

Design and Delivery: Implementation

While Initiative activities are not fully implemented as they were originally designed, progress has been made toward achieving the Initiative objectives. Under the Legislative/Policy and Research Component of the Initiative progress is being made on the policy development on the remaining National Agenda items; legislative training of federal, provincial, and municipal law enforcement, prosecutors, and other justice officials on Bill C-24 has occurred each year since the Initiative was announced; and research into organized crime issues and tools has also been ongoing.

Within the Prosecution Component of the Initiative, activities have been undertaken to implement the IFPS including pre-charge advice and assistance, disclosure management, prosecution, and international assistance. However, to meet operational demands and the evolving nature of organized crime prosecutions, the IFPS requires flexibility to allow for the

reallocation of resources within the Strategy and some FPS directors reported being unable to dedicate prosecutors to one task (e.g., pre-charge advice or disclosure management) or to the prosecution of one type of file (e.g., organized crime prosecution teams). They stated that increased and stable funding would assist them in implementing their activities under the Initiative.

The departmental hiring freeze in 2002/2003 has also affected the Initiative as some offices had unfilled Initiative-funded positions when the freeze took effect. Since regions do not have sufficient prosecutors, new hires become fully occupied with ongoing prosecutions and have limited time for pre-charge advice. However, key informants do not attribute the need for more staff (prosecutors and paralegals) solely to the most recent FPS fiscal situation.

Demonstrating the need for additional Initiative funding is difficult due to the limited nature of financial data available. In particular, since the use of Initiative funds is not tracked by activity, it is difficult to attribute specific activities directly to the Initiative. This is a limitation of how information is currently being captured in the financial management system used by the Department.

In addition, the FPS receives funding under several initiatives, many of which have activities that overlap with the MCOC Initiative. Without the ability to segregate activities funded by each initiative, assessing prosecution results becomes difficult and can only result in estimates.

There is also limited performance data available on the Initiative. The FPS has only recently begun to identify organized crime files in its electronic file management system. There is a cost to keeping information, and FPS regions need guidance on what type of information they are required to keep and standards to ensure its reliability and validity. If it is to be used to monitor organized crime prosecutions and evaluate initiatives, FPS needs directions from a central authority on how to manage the information. As well, the amount of information required must be realistic and not very burdensome.

Approximately half of the FPS prosecutors and paralegals interviewed were unaware of the Initiative and/or the IFPS. They could not provide information about what activities had been undertaken under the Initiative or about the management of the Initiative in their office. Some FPS directors also indicated that they knew little about activities at DOJ headquarters. Although, this limited awareness does not necessarily reflect that Initiative and IFPS activities are not being pursued in FPS regional offices, it does limit information that can be provided by the regions on implementation as well as outcomes.

Success

Recent studies conducted by DOJ of training activities show that approximately 1,742 individuals have received training on Bill C-24 from DOJ. The training was well received and it improved participant's knowledge of Bill C-24. There was also evidence that some attendees of training sessions used their knowledge to train others. In addition to training on Bill C-24, the evaluation found that training has also been conducted on topics such as pre-charge advice, preparing court and Crown briefs, and disclosure management.

It appears that partnerships with local law enforcement agencies have been enhanced and that horizontal Initiative partnerships have been effective. More regular contact between DOJ and the RCMP during organized crime prosecutions has reduced territoriality and increased openness. However, some officials commented that DOJ is not as well integrated with the RCMP as it would like to be. While the understanding of each department's culture has increased, implementation of the Initiative is seen as lagging, particularly in disclosure management. Prosecutors are also divided on whether IFPS has affected their working relationships with partner agencies. Those who have noticed an improvement are uncertain if it can be attributed to the Initiative. The fact that RCMP management is seen as supportive of Initiative activities while front-line staff are more hesitant may account for these differences.

While it is still too early to fully assess the effects on case preparation, investigations, and prosecutions, but initial findings show that improvements have been noted in some areas. Most key informants who offered an opinion believe that the IFPS has improved disclosure management, crediting the use of disclosure protocols and better teamwork with police on handling disclosure. Likewise, about half believe that improvements in investigating and prosecuting organized crime have occurred as a result of the Initiative and/or Bill C-24.

Effectiveness/Other Strategies

Because organized crime prosecutions can take years to conclude, the Initiative requires many years of operation before the effects will become apparent and measurable. Therefore, examining issues like effectiveness is still premature after only three years. However, according to some FPS directors and DOJ officials, resource allocation may influence future effectiveness. Initiative resources could be better distributed to meet staffing needs and to provide DOJ with more support so that it can keep pace with complex organized crime investigations.

During the evaluation, some DOJ key informants provided suggestions for policy and legislation development that in their opinion would assist the investigation and prosecution of organized crime. These suggestions reflect the opinions of the key informants; other perspectives outside the DOJ are not included in this evaluation. In particular, they mentioned reforms in rules of criminal procedure to facilitate the flow of cases through the system such as setting notice requirements and time lines for defence application and codification of disclosure rules. They made suggestions to improve proceeds legislation, including placing the onus on those convicted to prove that assets were gained legitimately. They would like changes in the law to encourage collaboration with law enforcement, such as harsh minimum sentences, no mandatory parole, and the ability to require individuals to submit to questions under oath if they are guaranteed immunity. Some wanted to relax certain procedures such as the need to update static wiretaps over the course of the investigation and the process to gain access to third-party records. They also advocated adopting preservation orders that temporarily require the preservation of electronic evidence until a production order can be obtained.

1. INTRODUCTION

1.1 Purpose of the Evaluation

On April 5, 2001, the Government of Canada announced the *Measures to Combat Organized Crime Initiative* (the Initiative). Four partner departments and agencies (the Department of Justice (DOJ), the Royal Canadian Mounted Police (RCMP), the Department of the Solicitor General (SGC), and the Correctional Service of Canada (CSC)) are to receive a total of \$150 million⁶ between 2001 and 2006 and \$30 million⁷ annually thereafter to assist them in providing a coordinated response to the complex and evolving nature of organized crime.

This report presents the findings of the mid-term evaluation of the DOJ component of the Initiative and is DOJ's first effort in gathering performance information on organized crime files handled by the Federal Prosecution Service (FPS). The research occurred during year three of the five-year initiative and presents preliminary findings that will be explored further in the 2005 summative evaluation.

The DOJ's mid-term evaluation is structured around the four main evaluation issues identified in the Results-based Management and Accountability Framework (RMAF): relevance, design and delivery (appropriateness), success, and effectiveness/other strategies. While the primary focus is on the implementation of DOJ's activities under the Initiative, this report also presents preliminary findings on progress toward achieving immediate outcomes and suggestions for future activities. The research is also intended to assist managers in identifying areas still to be implemented and other areas for improvement.

DOJ engaged Prairie Research Associates (PRA) Inc. to conduct this evaluation of its activities under the Initiative. SGC is also conducting an evaluation that encompasses its department and agencies (the RCMP and CSC). SGC will then use both evaluations to prepare a comprehensive

⁶ This includes accommodation costs which are retained by Treasury Board for new salary resources as well as Employee Benefit Plan costs that are transferred to the departments/agencies

⁷ Ibid

interdepartmental mid-term evaluation report, which will be presented to the Assistant Deputy Minister's Public Safety Committee.

1.2 Background

In recent years, organized crime has become a significant public concern in Canada and around the world. Organized crime encompasses a wide range of illicit activities, including drug trafficking, contraband product smuggling, trafficking in human beings, trafficking in counterfeit products, trade in endangered species and hazardous waste, and various forms of high tech and economic crime, such as credit card, telemarketing, and stock market fraud. While the direct and indirect costs of organized criminal activity are difficult to estimate, there is a belief that its economic, social, political, environmental, and health and safety costs are substantial.⁸

The Government of Canada has responded to the problem of organized crime with legislation.⁹ In 1997, the government introduced Bill C-95, which defined "criminal organization" and "criminal organization offence" for the first time; expanded investigative powers for police; provided for a reverse bail onus for persons charged with a criminal organization offence; created a new peace bond which may be issued against any person whom there are reasonable grounds to fear will commit a criminal organization offence; and made participation in a criminal organization an indictable offence. Since then, the federal government has introduced various other pieces of legislation intended to combat organized crime, including but not limited to:

- Bill C-8 (1997) created the *Controlled Drugs and Substances Act* (CDSA), which, together with the *Police Enforcement Regulations*, provides peace officers and persons acting under their direction with exemptions from criminal liability for certain offences under the Act that were committed in the course of drug investigations. The CDSA also gives law enforcement the ability to seize or restrain property that was used, or was intended to be used, to commit designated controlled drug/substance offences, i.e., offence-related property.
- Bill C-17 (1997) enhanced police search powers and provided for more restrictive bail conditions.
- Bill C-51 (1998) barred those convicted of offences related to organized crime from access to accelerated parole review.

⁸ For a discussion of the direct and indirect impacts of organized crime, see Samuel D. Porteous, Porteous Consulting. *Organized Crime Impact Study: Highlights*. Solicitor-General Canada, 1998. Highlights at www.sgc.gc.ca/Publications/Policing/1998orgcrim_e.asp

⁹ Subsequent descriptions of legislative and other initiatives are taken from Department of Justice Canada. *Background: Federal Action Against Organized Crime*. canada.justice.gc.ca/en/news/nr/2001/doc_26098.html

- Bill C-20 (1999) created new offences for deceptive telemarketing. A further amendment defined the new offences as enterprise crime and brought them within the scope of the *Criminal Code* scheme for seizure and forfeiture of proceeds of crime.
- Bill C-40 (1999) simplified Canada's extradition procedures and expanded its power to extradite.
- Bill C-22 (2000) created the *Proceeds of Crime (Money Laundering) Act*, which requires financial entities and intermediaries to report suspicious financial transactions and cross border movements of currency. The bill also created the Financial Transactions Reports Analysis Centre of Canada (FINTRAC) to store and analyse this information.
- Bill C-11 (2001) provided for maximum fines of \$1 million and maximum terms of life in prison for those convicted of trafficking in human beings.
- Bill C-24 (2001) expanded the concepts of criminal organization and criminal organization offence; created three new criminal organization offences; provided additional protection against intimidation for persons who play a role in the criminal justice system; extended application of proceeds of crime and offence-related property provisions; and provided a law enforcement justification provision. Bill C-24 is discussed in more detail below.

In addition to legislation, the government announced several new initiatives to further enhance efforts to combat organized crime. These initiatives address various issues that are related to organized crime and support organized crime investigations and prosecutions.

- The *Anti-Smuggling Initiative* (ASI), which was introduced in 1994 to target tobacco, alcohol, jewellery, and firearms smuggling, was expanded in its 1999 renewal to include drugs. Much of these smuggling activities involve organized crime.
- In 1996-1997, the *Integrated Proceeds of Crime (IPOC) Initiative* built on the success of the *Integrated Anti-Drug Profiteering (IADP) Initiative* and expanded the pilot project from three IADP units to 13 IPOC units across Canada with seven smaller satellite offices. These units target organized crime groups and focus on the investigation of proceeds of crime offences; they may also assist with the investigation of the substantive offences. The units combine the resources and expertise of the RCMP, local and provincial police officers, Canada Customs and Revenue Agency officers, Crown counsel, and forensic accountants. The IPOC Initiative's funding included offsets from the ASI. As part of this initiative, DOJ received funding for IPOC unit counsel and additional resources to respond to caseload pressures from proceeds of crime prosecutions.¹⁰

¹⁰ Consulting and Audit Canada. *Comprehensive evaluation 1996-1997 to 2000-2001: Summary report*. Project No.: 520-9898. Ottawa: November 2002; and Consulting and Audit Canada. *IPOC evaluation report, years 4 and 5 (1999-2000 and 2000-2001): Toward effective horizontal management*. Project No.: 344-4306. Ottawa: February 2002.

- To support the *Proceeds of Crime (Money Laundering) Act* and further improve detection, prevention, and deterrence of money laundering, the government created the *National Initiatives to Combat Money Laundering* (NICML) in 1999. As discussed above, the legislation created FINTRAC, a new financial intelligence agency, to receive and manage information on suspicious financial transactions and cross-border movement of currency. Under the NICML, DOJ received additional prosecution funding to respond to caseload increases associated with investigations and charges resulting from the work of FINTRAC.

1.3 Overview of the Initiative

In September 2000, the Federal, Provincial, and Territorial Justice Ministers adopted the *National Agenda to Combat Organized Crime* (the National Agenda), which identified certain priorities in fighting organized crime and promoted a collaborative approach. The National Agenda also proposed the development of legislative and regulatory tools to assist with the investigation and prosecution of organized crime. In October 2000, the House of Commons Subcommittee on Organized Crime tabled a report that made 18 recommendations for legislative action. Responding to these recommendations, the House of Commons passed Bill C-24, which addressed the most urgent priorities identified in the National Agenda. Key provisions of Bill C-24 are:

- ***New and enhanced criminal organization provisions:*** Bill C-24 provides a new, simplified definition of “criminal organization” and introduces three new criminal organization offences into the *Criminal Code* (sections 467.11-13). Sentences for these offences are to be served consecutively, not concurrently, and more restrictive parole eligibility applies.
- ***Provisions to improve the protection of persons who play a role in the criminal justice system:*** Bill C-24 amends *Criminal Code* section 423 to create a hybrid intimidation offence with a higher penalty and creates a new intimidation offence in section 423.1.
- ***Expanded seizure and forfeiture provisions for proceeds of crime and offence-related property:*** Bill C-24 expands the proceeds of crime provisions to most indictable offences and the definition of offence-related property to include all property used in committing the crime. In addition, officials can enforce foreign confiscation orders involving proceeds of crime.
- ***Law enforcement justification provision:*** Bill C-24 creates a limited justification to protect designated law enforcement officers from liability for offences when they act reasonably and proportionally in the course of investigations and enforcement.

As part of its commitment to combat organized crime and to support this new legislation, the government announced in 2001 the *Measures to Combat Organized Crime Initiative*. As stated in the Initiative’s RMAF, the long-term goals of the Initiative are to “*disrupt, dismantle, deter, and incapacitate criminal organizations, leading to enhanced public safety and security*”.¹¹ In order to achieve these goals, the Initiative has set the following interim objectives:

- Increased knowledge and understanding of organized crime issues and tools;
- Enhanced ability to investigate/prosecute organized crime offences/groups;
- Improved case preparation;¹² and
- Improved detection/targeting of organized crime offences/groups.¹³

These interim objectives are expected over time to lead to more effective investigations and prosecutions.

The RMAF outlines the role of each Initiative partner in meeting these objectives:

- **RCMP** is to use Initiative funding to increase its intelligence-gathering capacity, to support multi-agency enforcement efforts, to improve international liaison, and to enhance its technical capacities and other infrastructure.
- **CSC** is to improve its intelligence to prevent organized crime activities from occurring within or being directed from penitentiaries.
- **SGC** is to serve a coordinating role and to work on policy development and training on organized crime issues.
- **DOJ** is to use its funds for two key purposes: to improve organized crime prosecutions through a new Intensive Federal Prosecution Strategy (IFPS); and to conduct policy development and research on organized crime.

1.4 DOJ Activities Under the Initiative

The rationale, planned outputs, and immediate outcomes for DOJ’s two main components of the Initiative – the IFPS and legislation/policy/research – are in Table 1.

¹¹ Department of the Solicitor General. *Results-based Management and Accountability Framework (RMAF): “Measures to Combat Organized Crime.”* (February 6, 2002).

¹² Ibid.

¹³ Although, through the IFPS, the DOJ plays an important role at the investigative stage, this objective relates to the activities under the investigation/enforcement component of the Initiative under which SGC, RCMP, and CSC receive funding.

Table 1: DOJ Activities

Initiative Activity	Rationale	Outputs	Immediate Outcomes
IFPS			
Dedicated organized crime prosecutors providing pre-charge advice and assisting in obtaining court orders	Early integration of legal counsel to advise on operational issues, such as gathering evidence and obtaining wiretaps, helps ensure effective, properly conducted investigations, and this ultimately improves prosecutions.	Provide pre-charge legal advice and assist with court orders	Improved case preparation
Specialized disclosure units	Organized crime files are complex, often have numerous accused, and result in voluminous evidence. Timely and complete disclosure will reduce the number of challenges and resulting delays in prosecutions.	Improve disclosure management processes	Improved case preparation
Dedicated organized crime prosecutors and teams	Bill C-24 will result in increased demands on FPS resources. Experienced organized crime prosecutors working in teams will enhance the ability to prosecute.	Conduct organized crime prosecutions	Improved case preparation
International technical assistance	Organized crime has no borders and working internationally is critical to effective investigations and prosecutions.	More resources for the International Assistance Group (IAG) to work on obtaining extradition orders and making mutual legal assistance requests in organized crime files. Also, funds to sustain participation in the G8 Lyon Group and other international fora.	Improved case preparation
Legislation/Policy/Research			
Research and evaluation	Research and evaluation is important to policy development.	Conduct research on organized crime issues and the effectiveness of tools	Increased knowledge and understanding of organized crime issues/tools
Training and education	There is a need to support new legislation and policies by ensuring stakeholder awareness and understanding of them.	Develop, deliver, and coordinate legislative training for prosecutors and police and offer informational sessions for judges	Increased knowledge and understanding of organized crime issues/tools
Legislation/policy development and consultation	Bill C-24 addressed some, but not all, of the priorities listed in the National Agenda. In addition, emerging priorities must be identified and addressed.	Complete parliamentary phase of Bill C-24 and continue to work on policy development and legislative proposals to complete the National Agenda mandate	Enhanced ability to investigate and prosecute organized crime
Note: Adapted from RMAF logic model.			

1.5 Previous Research Conducted to Support this Evaluation

Several studies were conducted in 2002 and 2003 in support of the mid-term evaluation. These studies included:

- a baseline review of activities under the Initiative conducted by Consulting and Audit Canada (CAC) on behalf of SGC;
- a pilot study to develop and test a methodology to review closed organized crime files conducted in partnership by the Research and Statistics and Evaluation Divisions at DOJ;
- a study on challenges in prosecuting organized crime cases also conducted in partnership by the Research and Statistics and Evaluation Divisions at DOJ;
- two studies of legislative training under the Initiative conducted by the Evaluation Division and the Criminal Law Policy Section (CLPS) at DOJ.

Each study will be discussed in turn.

In 2002, the Initiative partners undertook a baseline review of their activities under the Initiative.¹⁴ This review, conducted on behalf of the four departments/agencies, considered each partner's progress in implementing the Initiative and assessed the readiness of the partners to address the RMAF's evaluation issues in the mid-term evaluation.

For DOJ's legislation, policy, and research activities, CAC considered the implementation progress to be "midway," noting that, among other things, Research and Statistics had signed memoranda of understanding with CLPS, a research workplan had been developed, an organized crime research advisory committee had been established, and several training sessions had been conducted. The assessment of progress under the IFPS was more variable. International assistance was "nearing full implementation" with the International Assistance Group (IAG) participating in international meetings, executing mutual legal assistance requests, and developing training information. Disclosure management was also "midway" as some capacity building had occurred, and best practices from the disclosure pilot projects had been identified and shared with other regions. However, investigation advice and dedicated prosecution teams were "beginning" as few offices had dedicated organized crime prosecutors.

The baseline review identified some challenges to implementation and data collection. Challenges to implementation included diversion of resources to terrorism issues after

¹⁴ Consulting and Audit Canada. *Baseline review: Measures to combat organized crime*. Project No.: 506-0156. Ottawa: December 2002.

September 11, 2001, the late receipt in 2001/02 of funding, and difficult staffing and human resources processes, which slowed the ability to place the staff needed to implement the Initiative. Data collection challenges included the fact that existing databases did not have a method to isolate organized crime files from other criminal matters and that there is no commonly-held definition of organized crime by which to identify these files. The report concluded that the quantitative data related to organized crime that had been identified in the RMAF were “*not readily available from existing sources.*”¹⁵ Furthermore, even though DOJ and the Initiative partners had committed resources to the evaluation and were taking steps to deal with data collection issues, the baseline review predicted that data collection problems were unlikely to be resolved before the mid-term evaluation¹⁶ The baseline review foresaw challenges for the mid-term evaluation stemming from these data collection issues, which included:

- determining impacts of the Initiative that are distinct from the effects of other policy changes, activities, and funding
- isolating impacts of the Initiative from changes in society
- assessing impacts that may not be evident for many years.

In part to address the data collection problems noted in the baseline review, DOJ commissioned a pilot study to develop a methodology for identifying and reviewing closed organized crime files.¹⁷ In this pilot study, DOJ developed an operational definition of an FPS organized crime file during a workshop held in May 2003 with representatives from FPS regional offices, and other DOJ officials (CLPS, the Executive Services Office (ESO), the Strategic Prosecution Policy Section (SPPS), Research and Statistics Division, Evaluation Division, and Information Management Branch). The resulting definition is in Appendix B. Subsequent to the workshop, FPS regional offices identified 20 closed organized crime files using the new definition for review. These files were reviewed to test the methodology for a possible, larger-scale review of closed organized crime files to be conducted sometime later. The FPS regional offices also used the agreed-upon definition to begin flagging their active organized crime files in their file management system, which will enable future performance monitoring and research on organized crime prosecutions. The pilot study also assisted the mid-term evaluation, which includes an initial, preliminary analysis of this data on FPS organized crime files.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Meredith, Colin & Chambers, Neil. (2003). *Pilot Study of Method to Review Closed Organized Crime Files*. Ottawa: Research and Statistics Division and Evaluation Division, Department of Justice.

DOJ also commissioned a study on the prosecution of organized crime cases after the adoption of Bill C-95 in order to obtain a baseline on the challenges of prosecuting these cases.¹⁸ Federal prosecutors interviewed for the study cited several reasons why these cases are particularly complicated:

- They involve the use of more sophisticated investigative techniques, such as wiretaps and informants, which require more prosecutorial involvement in reviewing authorization requests and providing advice.
- The rules of evidence are likewise more complex because of the use of these techniques.
- The crimes are more difficult to prove because they usually occur over longer time periods, often cross provincial or national borders, and have complex arrangements when activities like smuggling, money laundering, or fraud are involved.
- Witnesses may fear testifying, and some prosecutors have felt threatened during their cases.

According to these prosecutors, organized crime cases require substantial preparation in order to meet the disclosure requirements and handle the technicalities around the use of the sophisticated investigative techniques. The complexities of these cases also increase the potential for pre-trial or Charter motions, making these prosecutions particularly challenging.

Prosecutors reported that challenges exist even after Bill C-95; however, they believe that Bill C-24 addresses some of these issues. For example, by reducing the number of participants for a criminal organization from five to three and by removing the requirement that criminal activities must have occurred within the last five years, Bill C-24 was considered an improvement. The intimidation provisions in Bill C-24 were also seen as a “*step in the right direction*,” though prosecutors worried that criminal organizations could still obtain information to intimidate witnesses, journalists, or others involved in a case.

In addition to these background and methodological studies, DOJ has conducted two sub-studies on legislative training under the Initiative. In the first study, prosecutors who attended a train-the-trainer session on Bill C-24 in Ottawa (June 2002) and a limited number of RCMP officers who received training on the C-24 limited justification provision were interviewed about the usefulness of the training. The second study gathered information from Bill C-24 trainers and training coordinators. The results of these studies are discussed in Section 3.3.1 (Increasing Stakeholder Knowledge of Organized Crime Issues and Tools).

¹⁸ Department of Justice, Evaluation Division and Criminal Law Policy Section. (2004). *Post-Legislative Training on Bill C-24: A Summary Report*

1.6 Outline of the Report

Following this introduction, which provides a context for the study, this report has three principal sections:

- Section 2 details the methodology used to undertake the evaluation.
- Section 3 presents the mid-term evaluation findings by each of the four main evaluation issues (relevance, design and delivery, success, and effectiveness/other strategies).
- Section 4 provides a conclusion to the report.

2. METHODOLOGY

The Initiative's RMAF specifies evaluation questions, indicators, and data sources, which have governed the methodology used for this evaluation. In accordance with the RMAF, this evaluation relies on three data collection methods: key informant interviews, a review of open organized crime files, and a review of relevant documents.

The main evaluation issues and questions are:

Evaluation Questions – Relevance

1. To what extent does organized crime continue to be a threat to Canadian society and the economy?
2. To what extent do the objectives of the Initiative continue to be relevant (i.e., disrupt, dismantle, deter and incapacitate criminal organizations)?
3. Is there a continued need/demand for or expansion of specific measures (i.e., legislation, research, investigative tools, FPS strategy, other federal departments/agencies) to combat organized crime?
4. Is the Initiative in-line with current government objectives and the National Agenda to Combat Organized Crime?

Evaluation Questions – Design and Delivery

1. Are sufficient and appropriate resources available to meet the objectives?
2. What other departments should contribute to this initiative?
3. Are sufficient legislative, investigative and prosecutorial tools available?
4. To what extent has a more integrated approach contributed to the objectives?
5. How efficiently and effectively has the initiative been managed?

Evaluation Questions – Success

1. To what extent has stakeholder knowledge and understanding of organized crime issues and tools increased (i.e., nature, scope, impacts or organized crime; legislative and sentencing provisions)?
2. In what ways have the legislative tools and resources improved partners' ability to investigate and prosecute organized crime offences?
3. To what extent has this initiative enhanced partnerships across stakeholders?
4. How has case preparation improved?

Evaluation Questions – Effectiveness/Other Strategies

1. To what extent has the Initiative achieved its results to date in a cost-effective manner?
2. Are there more effective ways of achieving the objectives of the Initiative?

For this evaluation, the Evaluation Division at DOJ worked closely with an internal advisory committee, composed of representatives from SPPS, ESO, the International Assistance Group (IAG), Research and Statistics, and CLPS. In addition, DOJ has collaborated with the RCMP and CAC, which has been retained by SGC for the comprehensive interdepartmental mid-term evaluation report.

DOJ developed a communications strategy to ensure that the regional FPS offices and the appropriate sections in headquarters were aware of the upcoming mid-term evaluation and their role in it. In June 2003, DOJ distributed a memorandum to senior regional directors, FPS directors, and other appropriate senior managers, introducing the upcoming mid-term evaluation and enlisting their support. In August 2003, DOJ sent a follow-up e-mail to the directors of the participating regional offices (Calgary, Edmonton, Halifax, Montréal, Ottawa-Gatineau, Saskatoon, Toronto, Vancouver, and Winnipeg), asking for their assistance with identifying appropriate prosecutors and paralegals for key informant interviews and, for six offices (Edmonton, Halifax, Montréal, Ottawa-Gatineau, Toronto, and Vancouver), their assistance with identifying and making available a selected number of organized crime files for review.

Key Informant Interviews

The Advisory Committee initially identified potential interview participants. The proposed lists were then provided to the appropriate regional director or a division representative at headquarters for any amendments. In total, DOJ identified 58 key informants.

Five separate interview guides were developed for the key informants: 1) FPS directors and deputy directors; 2) front-line prosecutors and paralegals; 3) counsel in SPPS and ESO; 4) counsel in IAG; and 5) CLPS and the Senior Statistician in the Research and Statistics Division. Each guide addressed the areas relevant to that respondent group; for example, management issues, such as relationships among horizontal partners, were directed at those involved in managerial positions and not front-line prosecutors. The report notes when questions were not asked of all key informants. In addition, since this evaluation will be used in developing the interdepartmental mid-term evaluation, the interview guides were developed in close consultation with CAC and the RCMP. The guides, which were provided to key informants before their interviews, are found in Appendix A.

Forty-six of the 58 key informants participated in the evaluation. Seven declined requests for interviews because they were new to their positions, they no longer handled organized crime cases, or they were unavailable during the time period of the evaluation; two did not respond to requests for interviews; and three had conflicts arise and were unable to participate in scheduled interviews.¹⁹

The 46 key informants who participated in the evaluation included:

From FPS regional offices:

- 12 FPS regional directors and deputy directors representing all six regions
- 23 front-line prosecutors representing all six regions
- three paralegals.

Table 2 presents the FPS regional participation in the evaluation.

¹⁹ Given their time commitments, these three key informants could not be rescheduled during the time frame of this evaluation.

Region	Directors and Deputy Directors	Prosecutors	Paralegals	Total
Atlantic	2	2	--	4
British Columbia	2	4	--	6
Ontario	1	3	1	5
Ottawa-Gatineau	1	4	--	5
Prairie ²⁰	5	7	2	14
Québec	1	3	--	4
Total	12	23	3	38

From headquarters:

- two counsel from SPPS
- one counsel with IAG
- four counsel from CLPS
- one senior statistician with the Research and Statistics Division.

PRA conducted most interviews by telephone.²¹ PRA then summarized the completed interviews and, based on the interview responses, developed a coding system for each interview guide. The responses were then coded and analysed using SPSS (Statistical Package for the Social Sciences).

In addition to these key informant interviews, CAC, on behalf of DOJ, asked RCMP representatives a few specific questions about DOJ components of the Initiative. These questions covered areas such as legislative training, use of legislative provisions, effectiveness of partnerships, and impacts of the Initiative. Interviews of 19 RCMP managers have been completed, and preliminary results provided by CAC are presented in this report.

File Review

Six FPS regional offices (Edmonton, Halifax, Ottawa-Gatineau, Montréal, Toronto, and Vancouver) participated in the file review for this evaluation. DOJ requested that these offices each identify four open organized crime files, using the definition of an organized crime file

²⁰ The Prairie Region includes the Edmonton, Calgary, Saskatoon, and Winnipeg offices. The Atlantic Region includes the Halifax and St. John's offices.

²¹ Two interviews were conducted in person during the file review in Halifax and Vancouver. One was conducted by e-mail.

developed from the pilot study of the methodology to review closed organized crime files. The definition agreed upon at the workshop is:

A file is to be identified as an organized crime file if:
it contains one or more charges under section 467.1 of the *Criminal Code* stemming from the 1997 organized crime legislation (C-95);
OR
it contains one or more charges under sections 467.11, 467.12, 467.13 of the *Criminal Code* stemming from the 2001 organized crime legislation (C-24);
OR
the file or related files contain information that an offence(s) may be or was committed for the benefit, at the direction of, or in association with a ‘criminal organization’ as defined [in the notes];
OR
one or more accused or targets of the investigation were targeted due to their known involvement in organized crime activities.

The definition, including explanatory notes, is in Appendix B. The four files from each region also included at least one file with each of the following characteristics: an international component, a proceeds component, and a link to other DOJ files. The file reviews were conducted using a file review guide that incorporated documentary evidence from the files and information gathered from interviews with the lead prosecutor and the Integrated Proceeds of Crime Units (IPOC) counsel, if one was involved in the file.²² The file review guide is in Appendix C.

The file review site visits occurred between September 10 and 26, 2003, in each of the six regional offices listed above. Ottawa-Gatineau was used as a test site; two researchers from PRA and one from the Evaluation Division at DOJ conducted the file review. This was done to ensure that the file review guide was clear and that the researchers would be using the guide consistently for the remaining five site visits.

Four files were reviewed in each site, except for Toronto and Edmonton. The complexity of the files reviewed in those sites allowed time for the review of three files. Therefore, a total of 22 open organized crime files were reviewed for this evaluation. The review of three of these files

²² IPOC counsel provide legal support for investigations, such as assistance with obtaining search warrants and authorizations for wiretaps and electronic surveillance. IPOC counsel are not funded by the Initiative.

from the Atlantic Region remains incomplete because the IPOC counsel involved has been unavailable for an interview.

Document Review

DOJ provided PRA with the relevant documents to review for this evaluation. Examples of the types of documents are:

- documents related directly to the Initiative, such as the RMAF and the baseline review
- the draft pilot study on the methodology to review closed organized crime files
- draft studies on the challenges of prosecuting organized crime cases under Bill C-95, legislative training and post-legislative training
- various studies on organized crime in Canada.

The document review also includes an analysis of Caseview data. Caseview is the file management system used by the FPS for case management, document generation and retrieval, and timekeeping. Caseview includes all FPS files, not just organized crime files.

Using the definition developed as part of the pilot study for reviewing closed organized crime files, FPS began to flag all active organized crime litigation and IAG advisory organized crime files in Caseview in July 2003.²³ Although they were not required to do so, some regions also flagged closed files. For this evaluation, DOJ extracted the Caseview data for these files, which were analysed using Microsoft Access and SPSS. The analysis in this report of the Caseview data provides the first systematic attempt to study the nature of organized crime files handled by the FPS.

Limitations

The data presented in this report have several limitations.

Overall Limitations

1. Since the focus of the mid-term evaluation is on assessing the implementation of Departmental activities, only DOJ representatives were interviewed. Other stakeholder perspectives are not included in this evaluation, with the exception of some questions posed

²³ Two of the files flagged were general files.

to RCMP managers on the behalf of DOJ during the SGC evaluation. The DOJ key informants are personnel from either FPS, CLPS, or the Research and Statistics Division. The views of defence counsel are not included in this report because, at this early stage, few defence counsel will have substantial experience with Bill C-24. The summative evaluation may include other perspectives.

2. Initiative funds have not been consistently tracked by an activity or project number. The lack of monitoring and reporting activities under the Initiative means the precise number of activities that have been funded under the Initiative is uncertain.
3. It is also not possible at this time to distinguish work conducted by the FPS under this Initiative from work conducted under other organized crime-related initiatives, such as the IPOC, Lawful Access, NICML, and ASI. Therefore, any results to date are based on work FPS conducts related to organized crime cases rather than solely the Initiative.
4. As a result of scheduling conflicts, only one of four potential IAG counsel and no representatives of ESO were interviewed. Therefore, these perspectives are not adequately represented.

Caseview Data

5. The Caseview data presented in this report are preliminary and focus on active files; however, FPS offices may not have been able to flag all active files by the time of this evaluation. Additionally, while some closed files were flagged in Caseview, the identification of all closed files is limited by the time and effort required to go back and determine which closed files meet the definition. Therefore, the flagged Caseview files do not represent the entire organized crime caseload, and the data presented are only indicators of the volume of organized crime files. However, this is a first step in identifying files for future analysis. Efforts will be made to estimate the number of organized crime files prior to the summative evaluation.
6. As of July 2003, Montréal is no longer using Caseview and is, instead, working with iCase, which is a new system being piloted by DOJ for file management. Organized crime files have been identified in iCase, but more detailed information from these files (e.g., case complexity codes) cannot be extracted from iCase at this time.
7. The flagged files in Caseview do not distinguish between files that have benefited from Initiative funds and those that have not, and many of the flagged files will have pre-dated the Initiative.

File Review

8. The review of open organized crime files included some files that pre-dated the Initiative, and it could not be determined whether the files reviewed had benefited from the Initiative. Therefore, the file review findings, as with the Caseview data, provide some insight into organized crime files, but not necessarily into organized crime files supported through this Initiative.
9. The files in the file review were not randomly selected and, therefore, do not necessarily represent the organized crime files in each regional office. Any conclusions drawn during the file review are only related to the actual files reviewed.

Notes on Reporting

In this report, the following terms are used to identify key informants:

- “FPS key informants” refers to regional prosecutors, paralegals, and FPS directors and deputy directors.
- “FPS directors” includes directors and deputy directors.
- “DOJ officials” includes CLPS, SPPS, IAG, and Research and Statistics.
- “Key informants” without a qualifier includes all of the above key informant groups.

3. FINDINGS

This section presents the evaluation findings and is organized according to the main evaluation questions outlined in Section 2.

3.1 Relevance

The Initiative's ultimate objectives are to disrupt, dismantle, deter, and incapacitate criminal organizations and enhance public safety and security. The relevance of these objectives depends on several factors, including the extent of organized crime in Canada and how well the goal fits with government priorities.

3.1.1 Extent and Impact of Organized Crime in Canada

Assessing the extent of organized crime is challenging. First, there is not an agreed-upon definition of organized crime among either criminal justice professionals or researchers. While the *Criminal Code* defines a criminal organization for law enforcement purposes, researchers of organized crime use a variety of definitions and, therefore, make different assessments of the magnitude of these criminal activities.²⁴ Second, there are very few quantitative studies of organized crime and no national framework for collecting organized crime statistics.²⁵ Research

²⁴ This definitional issue is raised in Beals, Lalonde, and Associates. Report on the Delphi Panel on operational definitions for the data collection on organized crime. Ottawa: Department of the Solicitor General Canada (October 2002) and Christine Bruckert and Colette Parent, *Trafficking in human beings and organized crime: A literature review*. Ottawa: Research and Evaluation Branch, Community, Contract and Aboriginal Policing Services Directorate, Royal Canadian Mounted Police (June 2002); and Holly Richter-White, *The direct and indirect impacts of organized crime on youth, as offenders and victims*. Ottawa: Research and Evaluation Branch, Community, Contract and Aboriginal Policing Services Directorate, Royal Canadian Mounted Police (March 2003).

²⁵ Nathanson Centre for the Study of Organized Crime and Corruption. *Organized crime data collection and impact assessment framework*. Toronto (2001). This study was conducted for the SCG. See also, Thomas Gabor. Assessing the effectiveness of organized crime control strategies: A Review of the Literature. Ottawa: Research and Statistics Division, Department of Justice Canada (March 2003).

often relies on statistics kept for criminal activities that are considered likely to involve organized crime. These crime statistics have the usual limitations: crimes are likely under-reported; any increase or decrease in crime may be due to new legislation, policies, or law enforcement practices; and demographic changes may also have an effect.²⁶

While organized crime encompasses more than gang activity, the Homicide Survey, which reports whether a homicide is gang-related, is the only national survey to identify offenders connected to criminal organizations. This survey shows an increase in gang homicides from 4.9% in 1997 to 13.1% in 2000.²⁷ Other studies do not quantify organized crime involvement in certain activities, but they do report substantial organized crime ties. In particular, organized crime is depicted as playing a major role in the illegal drug trade, smuggling, and economic crime (e.g., extortion, counterfeiting, money laundering).²⁸

The only study to assess the impact of organized crime in Canada was the *Organized Crime Impact Study* conducted for SGC in 1998. This study found high economic and social costs, although the cost estimates it contains are now somewhat dated.²⁹ For example, the illicit drug trade has cost between \$1.4 billion and \$4 billion per year for the three largest provinces, Québec, Ontario, and British Columbia; smuggling contraband, such as tobacco, alcohol, and jewellery, has cost the federal and provincial governments approximately \$1.5 billion a year in foregone revenue; and economic crime has cost Canadians \$5 billion per year. In addition, between \$5 billion and \$17 billion is laundered in Canada each year, which has little economic cost but a high social cost to the country.

3.1.2 Relevance of the Initiative's Objectives

As mentioned previously, the short-term objectives of the Initiative are:

- to increase knowledge and understanding of organized crime issues and tools
- to enhance the ability to investigate and prosecute organized crime offences/groups
- to improve case preparation.

²⁶ Damir Kukec, "Introduction" to *Organized Crime Statistics* by Myléne Lambert. Ottawa: Research and Statistics Division, Department of Justice (June 2002).

²⁷ Homicide Survey, Canadian Centre for Justice Statistics, Statistics Canada in Lambert (2002).

²⁸ Criminal Intelligence Service Canada. *Annual Report on Organized Crime in Canada*. Ottawa 2002; and Consulting and Audit Canada.

²⁹ Samuel D. Porteous, Porteous Consulting. *Organized Crime Impact Study: Highlights*. Solicitor-General Canada, 1998. Highlights at www.sgc.gc.ca/Publications/Policing/1998orgcrim_e.asp

These objectives are consistent with government priorities and are expected to lead to the long-term objective of more effective investigations and prosecutions of organized crime. In 2000, the federal government took several steps that demonstrated its determination to combat organized crime. Red Book III committed the government to introduce legislation and other measures that would assist law enforcement and prosecution. As noted in Section 1.2, the Deputy Ministers Steering Committee on Organized Crime then outlined the National Agenda to tackle organized crime using a multi-disciplinary approach. The Committee also set priorities in a number of areas, including the need to develop legislative tools and conduct research into organized crime. Soon after, the House of Commons Sub-Committee on Organized Crime presented its report with 18 recommendations for specific legislative changes (including new criminal organization offences and sentencing provisions) and non-legislative actions, such as ensuring that existing legislation, resources, and investigative and prosecutorial practices are being fully used and that teams of investigators and Crown prosecutors are established to investigate and prosecute organized crime.

When asked whether the objectives of the Initiative are still relevant today, almost all FPS directors and DOJ officials (questions of relevance were not posed to prosecutors and paralegals) agreed they are, noting the increasingly sophisticated nature of organized crime activities. They emphasized that by enhancing investigations through improved disclosure management and pre-charge advice, prosecutions are less open to challenges under the *Canadian Charter of Rights and Freedoms* and guilty pleas are more likely.

Most FPS directors and DOJ officials advocated continuing the activities under the Initiative. They believe that organized crime remains an issue, and the Initiative has improved investigations and prosecutions through the development of disclosure protocols and earlier consultation between police and prosecutors. Several also believe that the Initiative should be expanded by providing more resources to fund current activities. According to these key informants, current resource levels necessarily limit the number of organized crime investigations and, therefore, the number of prosecutions that can be pursued. However, they also noted that law enforcement (RCMP, provincial and municipal police) is devoting more resources to organized crime investigations and that prosecutors will require additional resources to handle the volume and complexity of these investigations. One key informant also suggested expanding the Initiative to e-crimes, as they are a growing area of organized crime activity. Only three key informants believe that the Initiative should not expand until it has met its current objectives.

3.2 Design and Delivery

3.2.1 Implementation of DOJ Activities under the Initiative

The Initiative includes five core DOJ activities:

- the designation of prosecutors for the provision of pre-charge advice and assistance
- the implementation of specialized disclosure units
- the designation of organized crime prosecutors and teams
- the provision of international legal assistance
- the continuation of work on improving legislation, policy, and research on organized crime.

These activities are intended to provide direction for the use of Initiative funds and are not intended to limit the flexibility of the FPS regions and DOJ divisions in addressing organized crime issues. Rather, they outline the areas (e.g., provision of pre-charge advice and assistance, improved disclosure management, experienced organized crime prosecutors, strengthened international cooperation) that are considered necessary to achieve the outcomes identified in the RMAF. This section considers the progress made in implementing these five core activities.

Pre-Charge Advice and Assistance

FPS key informants described a variety of approaches to the provision of pre-charge advice. The approaches demonstrate that regional offices have used an integrated approach across initiatives involving IPOC counsel (funded by the IPOC Initiative with offsets from the ASI), disclosure counsel (initially funded by the Strategic Investment Fund), and/or prosecutors funded on an ad hoc basis by the MCOC Initiative. Table 3 provides further details.

Table 3: Pre-Charge Advice and Assistance	
Regional Office	Approach
PRAIRIE REGION	
Calgary	<ul style="list-style-type: none"> • IPOC counsel usually handle pre-charge advice. They are assigned early in an investigation. • Identified organized crime prosecutors get involved later on an as-needed basis. • They are assigned through an informal process, where police call and request assistance.
Edmonton	<ul style="list-style-type: none"> • IPOC counsel usually handle pre-charge advice. They are assigned early in an investigation. • Identified organized crime prosecutors are involved later on an as-needed basis.
Saskatoon	<ul style="list-style-type: none"> • Usually IPOC counsel are identified to provide pre-charge advice. • Some prosecutors are dedicated to a specific case, but at other times, they are assigned as needed. • Prosecutors are assigned as soon as they are advised of an investigation.
Winnipeg	<ul style="list-style-type: none"> • A group of prosecutors are identified as contact Crowns for organized crime files. • For large investigations, they are assigned as soon as possible, after police have made a request. • When possible, prosecutors are assigned to assist throughout the investigation.
ATLANTIC REGION	
Halifax	<ul style="list-style-type: none"> • Organized crime team and IPOC are combined to enhance pre-charge advice. IPOC counsel are involved in investigations handled by the IPOC unit, and prosecutors become involved a few months before substantive charges are laid. • If the IPOC unit does not handle the file, prosecutors only become involved if police request their assistance. • The St. John’s sub-office has only four lawyers, including IPOC counsel. These lawyers get involved with pre-charge assistance on an as-needed basis when requested by police.
BRITISH COLUMBIA	
Vancouver	<ul style="list-style-type: none"> • Two prosecutors are assigned to providing pre-charge advice. One works out of the Organized Crime Agency, and the other specializes in wiretaps. • Otherwise, prosecutors are assigned as needed when requested by police. • They are usually assigned at the stage of discussing charges. • IPOC counsel also provide pre-charge advice. • An agent supervisor in Kelowna provides pre-charge advice to RCMP detachments in his area.
ONTARIO	
Toronto	<ul style="list-style-type: none"> • The disclosure counsel involved in the disclosure pilot project provide pre-charge advice. • They are assigned immediately after the investigation begins. • The same counsel is assigned throughout the file. • If a file is not part of the disclosure pilot project, then pre-charge advice is provided informally on an as-needed basis.
HEADQUARTERS	
Ottawa-Gatineau	<ul style="list-style-type: none"> • Organized crime prosecutors are assigned to provide pre-charge advice as needed. • IPOC counsel also provide pre-charge advice. • The prosecutor for pre-charge advice is assigned as soon as possible after a file is opened.
QUÉBEC	
Montréal	<ul style="list-style-type: none"> • Every case has a prosecutor assigned to it as early as possible. • For files emanating from the RCMP detachment at the Montréal airport, prosecutors are automatically assigned to provide assistance. • For downtown Montréal files, the police request a prosecutor, who is then assigned on an as-needed basis.
Source: FPS key informant interviews	

FPS directors noted that limited resources prevent prosecutors from being dedicated solely to pre-charge advice because they are also needed to prosecute files. Two indicated that having more prosecutors would enable them to be involved earlier in files. However, another commented that early involvement might not be the most effective use of prosecution resources: investigations do not always evolve as law enforcement expects and charges may never be filed, or priorities may change. One DOJ official cautioned against assigning prosecutors exclusively to an advisory role, noting that courtroom experience is essential to understanding where problems may arise.

Both key informant interviews and the file review show that the types of pre-charge advice and assistance given usually involve investigation techniques, such as search warrants, wiretaps, and general warrants, that are often used in organized crime investigations. The file review found, on average, 19 search warrants per file and five wiretap authorizations, though this information was not always available in the file and was sometimes based on the prosecutor's best estimate. To a lesser extent, prosecutors are providing advice on disclosure, charges, evidence, and timing of takedowns.

Lead prosecutors interviewed during the file review identified some difficulties in providing pre-charge advice and assistance. In some files, the failure to seek advice of counsel or inform counsel of relevant information created inefficiencies in the prosecution. For example, the failure to seek advice of counsel led to irrelevant wiretapped calls being transcribed and relevant ones being omitted; the failure to bring issues about investigation techniques to the attention of the prosecutor led to sensitive information being disclosed; and the failure to advise the prosecutor of relevant matters requiring disclosure resulted in successful defence applications and further delays. Pre-charge advice and assistance is most often provided to investigating officers, and sometimes also to other prosecutors. Advice is usually given orally, but it may be written for major or recurring legal issues. The majority of FPS key informants could not specify what percent of the work week is spent on pre-charge advice, nor could they identify the number of requests for assistance for a typical file or the amount of time spent giving advice. According to these key informants, pre-charge advice on a file can fluctuate from all consuming to sporadic, and depends on the type, length, and stage of the investigation.

Disclosure Management

Another component of the Initiative is the development of specialized disclosure units or other methods to improve the handling of disclosure. These methods of handling disclosure are to assist prosecutors in meeting their disclosure management obligations. The decision in *R. v.*

Stinchcombe, (1991) 3 S.C.R. 326 established the constitutional right of the accused, upon his/her request, to all relevant, non-privileged information in the possession of the state that might be of assistance in the preparation of a defence. The information is to be provided as soon as reasonably practicable; for a timely request, disclosure should be made before election of the mode of trial or any resolution discussion or plea, and when the request is not timely, disclosure must be made as soon as practicable and, in any event, before trial.

Improved disclosure management is intended to reduce mistakes in disclosure, such as the inadvertent release of sensitive material, and to make organized crime prosecutions more resistant to Charter challenges by improving the completeness and timeliness of disclosure. With improved disclosure, police and prosecutors (or disclosure counsel) are to review material as the investigation proceeds so that initial disclosure is ready when charges are laid. Disclosure management is recognized as particularly critical in organized crime files because their scope and complexity can result in vast amounts of material.

FPS key informants involved in disclosure management said that estimating the volume and length of time for disclosure in a typical organized crime file is difficult. They provided broad estimates of volume, most suggesting that disclosure ranged between thousands and tens of thousands of pages, although five prosecutors said that they had files with hundreds of thousands of pages. There was similar variation in the file review, where estimates of disclosure ranged from 200 to 200,000 pages with most files having 30,000 or fewer pages. To provide this estimate, the research team calculated 2,500 pages per box, though this is complicated by a number of files that include both paper and electronic disclosure. The length of time for disclosure after charges are laid often depends on the volume of material and the length of the investigation. Most FPS key informants and prosecutors interviewed during the file review agreed that disclosure generally takes several months. Some specified that, in their experience, police often did not begin to prepare disclosure until after charges were laid.

Additional information on disclosure was gathered in the file review. Prosecutors were asked to compare the time for disclosure in the reviewed file to other FPS files they have worked on. They were asked to give the file a rating of “better than most,” “about average,” or “worse than most.” The files that were “better than most” benefited from police practices. For example, police had either multiple officers involved in vetting the material or one officer who handled disclosure simultaneously with the searches. Files receiving the “worse than most” rating suffered from three general difficulties: inadequate police methods for handling disclosure (6); inadequate resources (3); or the complex characteristics of the file (3). Some of the problems arising from inadequate police methods in some files included: materials were improperly edited

and disclosed privileged information; information was missing or disorganized; and responses to prosecutor requests were not timely. Inadequate resources for disclosure management were reported at the police level and in the prosecutor's office due to the lack of support staff and large files consuming office resources to the detriment of other files. Finally, characteristics of the file, such as the number of accused, the file's affiliation with a larger file, and wiretaps involving protected witnesses, slowed disclosure.

The regional offices are at different stages in disclosure management. Although most regions have not implemented specialized disclosure units, all regions are actively involved in developing methods to improve disclosure. The Toronto and Vancouver regional offices benefited from a disclosure pilot project that began before the Initiative and was funded by the DOJ Strategic Investment Fund (SIF). The SIF-funded pilot projects responded to the fact that federal disclosure obligations were not being met in a timely manner, causing delays, cost orders, and stays of prosecution. In Toronto, specialized pilot disclosure units that handled disclosure in major cases, including organized crime cases, were located in three RCMP detachments (Bowmanville, Newmarket, and Milton). The units were staffed with disclosure officers, disclosure counsel, and a paralegal who was shared among the units. The Bowmanville unit developed a disclosure protocol that required ongoing vetting of material. The three-box system segregates privileged material (box one), material to be disclosed after Crown review (box two), and the edited material to be disclosed (box three). A daily report cross-references the materials and ultimately provides a detailed file chronology for the prosecutor. The Vancouver pilot project had a senior prosecutor who, along with the RCMP, developed a system to improve disclosure practices and conducted disclosure-training sessions for RCMP detachments throughout British Columbia. In 2002, SIF funding ended for the pilot projects. While the Toronto pilot projects continue under other DOJ funds; the Vancouver pilot has ended.

Currently, two regions (Ontario and Ottawa-Gatineau) have prosecutors working directly in RCMP detachments, however, at this time it is not known whether these disclosure units are receiving funding under the Initiative. In addition to the pilot disclosure units discussed above, Ontario has also recently expanded its pilot project to the Toronto Police Service's drug squad. Ottawa-Gatineau has introduced a disclosure counsel and two legal assistants into the Kingston RCMP detachment because of the volume of files in Kingston (which also services northern Ontario and Cornwall). In this disclosure unit, the disclosure counsel and paralegals assist the RCMP disclosure officer in vetting the material during the investigation and using an indexing system in organizing the material. In major cases handled in Ottawa-Gatineau that are not part of this Kingston project, some prosecutors are using a protocol that is similar to Bowmanville's: if they are involved in the investigation early on, they ask the investigators to use a single notebook

method for keeping notes on the project. These notes are reviewed and vetted on a daily basis using the three-box method and are then indexed.

In Vancouver, since the pilot project ended, prosecutors have continued to provide training to the RCMP on disclosure. They also have prosecutors involved at the pre-charge stage to discuss disclosure management with investigating officers; however, they have not placed prosecutors and paralegals in RCMP detachments, citing funding limitations and the large number of detachments throughout the province.

Some of the offices have worked on developing protocols for disclosure. Montréal and Halifax have protocols, although they do not have designated disclosure counsel. In Montréal, there is a preference for extending expertise in disclosure throughout the office, instead of having designated counsel. Depending on the file, they may request that a disclosure officer be assigned. The office has developed a model for management of information that includes a disclosure calendar, which lists the evidence, where it is located, and who is responsible for it. Prosecutors work with investigators to complete these calendars.

In Halifax, the FPS office has recently developed a disclosure protocol, which is adapted from Bowmanville. The protocol calls for the involvement of disclosure officers and IPOC counsel in the disclosure management process. The disclosure officers organize and vet all materials during the investigation and provide them to IPOC counsel for review. The IPOC counsel also assist the officer in preparing the court brief.

Edmonton has developed a disclosure protocol for use in one particular organized crime file. That protocol is not formally used in the other files handled in the office. In Edmonton, Saskatoon and Winnipeg, disclosure is handled by informal understandings with the RCMP and municipal police services. No prosecutors have been assigned to manage disclosure. Winnipeg has hired additional support staff to assist.

Several of the offices (Halifax, Vancouver, Montréal, Toronto, and Ottawa-Gatineau) either have or are developing templates for court briefs or reports to the Crown. These templates outline what should be included in a court brief and provide an organizing system so that the prosecutor can effectively use the information in handling the prosecution.

Dedicated Prosecutors and Teams

According to FPS directors, five offices have dedicated organized crime prosecutors and organized crime prosecution teams (Ottawa-Gatineau, Halifax, Edmonton, Toronto, and Vancouver). Winnipeg and Montréal have prosecutors who mostly handle organized crime files, although the offices do not have specific organized crime prosecution teams. The other offices (Calgary and Saskatoon) assign prosecutors to an organized crime file on an as-needed basis.

In the review of 22 open organized crime files, staffing for files primarily consisted of one prosecutor, with a third (8) of the files handled by two prosecutors. Two files had three prosecutors assisting. Three files, two in Toronto and one in Edmonton, had dedicated paralegal assistance; the rest did not.

Assigning prosecutors on an as-needed basis was seen as necessary in all the offices. Key informants commented on the need for flexibility in staffing, so they can change caseloads as new files emerge that require specific resources. Therefore, teams dedicated to organized crime alone were not necessarily seen as the best approach. A few of the offices either considered their major crimes team to be the “organized crime” team or combined organized crime prosecutors with other pre-existing teams (proceeds, major crimes) because these teams usually work on organized crime files. These teams are usually structured with two to four lawyers and involve a senior counsel or team leader and junior counsel. Only four FPS key informants said that paralegals were part of the team.

Some key informants commented on the difficulties in staffing organized crime teams, which require senior counsel who are experienced in handling major cases but are not burned out by the demands of organized crime prosecutions. These key informants believe that additional senior counsel positions are necessary to staff dedicated organized crime teams.

International Legal Assistance³⁰

The Department’s IAG received funding under the Initiative to provide advice and assistance on extradition and mutual legal assistance requests for organized crime. The IAG carries out the functions assigned to the Minister of Justice as central authority for Canada under the *Extradition Act* and the *Mutual Legal Assistance in Criminal Matters Act*. The IAG divides its staff into three teams. One team handles all extradition requests between Canada and the United States, a

³⁰ Please note that the information pertaining to IAG is based on one interview with a representative from that section and may not represent of all the views in IAG.

second team handles all other extradition requests, and the third team deals with all requests under mutual legal assistance treaties (MLAT). The MLAT team is the largest of the three teams.

The IAG reviews and coordinates all extradition and MLAT requests in criminal matters made by Canada to other countries, as well as those made to Canada. Acting on behalf of the Minister of Justice, at the request of the prosecution (the Attorney General of Canada, the Attorney General of a province, or, in the case of British Columbia, the FPS regional office) or correctional authorities in Canada, the IAG will seek the provisional arrest and the extradition of a person found outside of Canada who is wanted either for prosecution or for the imposition or enforcement of a sentence. While Ottawa is the central authority for the IAG, applications for mutual legal assistance are drafted and court hearings conducted by the FPS regional offices. In addition, IPOC units also handle incoming and outgoing MLAT requests at the operational level. Once a competent Canadian authority (the Attorney General of Canada, the Attorney General of a province, or any person or authority with responsibility in Canada for the investigation or prosecution of offences) has made a request for mutual legal assistance, it is reviewed and coordinated by the IAG.

According to key informants, in the last two years to March 31, 2003, IAG has assisted on several organized crime files. These files can involve many accused, multiple charges, and lengthy period of criminal activity and involve multiple requests for extradition and mutual legal assistance. The foreign evidence is often in several countries, and the accused are scattered. It was estimated that IAG has opened approximately 46 files for mutual legal assistance requests made by Canada and about 28 files for similar requests made by foreign governments. As for extradition requests, IAG has opened some 13 files for Canadian requests and three for foreign requests. One key informant suggested that the number of files opened is an increase caused, in part, by the loosened evidentiary standards in the *Extradition Act* of 1999.

As part of Canada's membership in the G-8, IAG is active in the Lyon Group, which was established after the 1995 G-8 heads of state and government summit in Halifax. This summit established a group of organized crime experts (now known as the Lyon Group) to address transnational organized crime. While this group took a terrorism-focus after September 11th, much of the work is of general application and will assist with organized crime, according to a key informant. IAG has contributed to a handbook on judicial cooperation by providing information on how Canada handles MLAT and extradition requests. As part of the Lyon Group, the IAG has been involved in the development of agreed principles and measures. These include agreed principles relating to the use of videolinks in mutual legal assistance practice, measures to

protect witnesses, measures to be invoked by countries that will not extradite their nationals, and measures to enhance international cooperation with the confiscation of assets, including a model agreement on asset sharing.

Legislation, Policy, and Research

The Initiative is also intended to conduct legislative consultation, develop new policies, and conduct research on organized crime issues. According to five key informants involved in CLPS and Research and Statistics, work is ongoing. They reported that stakeholder consultations around Bill C-24 were extensive but that consultations have not occurred at the same level since, largely because subsequent phases of policy development on the remaining National Agenda items have only been partially completed, and the events of September 11, 2001 have shifted the focus to terrorism. CLPS staff have conducted legislative training on Bill C-24, such as law enforcement training on the justification provisions, developed a training video on CD-Rom for law enforcement, and conducted a two-day training session for prosecutors in Ottawa in 2002. CLPS and the Evaluation Division conducted two follow-up studies on training. One looked at the training that was provided and documented any additional training scheduled. The second involved post-training interviews with a sample of prosecutors and RCMP officers that attended the two training sessions.

The Research and Statistics Division has undertaken several activities under the Initiative that support the CLPS. It has produced annotated bibliographies on specific criminal activities; funded literature reviews on the activities of criminal organizations and on the effectiveness of organized crime control strategies; and undertaken an in-house research project on methodological and measurement issues in studying organized crime. It has also worked closely with the Evaluation Division on two projects: the challenges of prosecuting criminal organizations under the Bill C-95 legislative regime and a pilot study to test a methodology for reviewing closed organized crime files. Part of the latter engagement included a workshop in May 2003, attended by FPS regional prosecutors and others from the Department, that resulted in an operational definition of organized crime files to be used in flagging these files for identification in Caseview. Related to this work, the Research and Statistics Division has contributed Initiative funding to SGC for its work in developing an organized crime flag for use in the Canadian Centre for Justice Statistics. As well, SGC and Research and Statistics are co-chairs of an Interdepartmental Working Group on Organized Crime Research and Impact Assessment.

Areas Still to be Implemented and Barriers to Implementation

The implementation of the Initiative differs from the original design, according to one-third of FPS directors and DOJ officials³¹. However, because the Initiative's activities are broadly defined and intended to allow for flexibility, it is difficult to draw conclusions on the stage of implementation. Dedicated organized crime prosecutors for pre-charge advice, specialized disclosure units, and organized crime prosecution teams have not occurred across all of the regions. However, the FPS regions and DOJ divisions are undertaking substantial work in each Initiative activity area, and key informants believe that the goal of improving prosecutions remains the focus; just the methods may differ from the original design of the Initiative and in particular for the IFPS which requires flexibility to meet operational demands and the evolving nature of organized crime prosecutions.

For pre-charge advice and assistance, all of the regions recognize the potential benefits and have developed methods for earlier involvement in investigations. Likewise, all of the FPS regions have developed methods to improve disclosure, although they may handle disclosure management differently. Most of the regions also have either dedicated organized crime prosecution teams or prosecutors who mostly handle organized crime files. The difficulty is in attributing these activities directly to the Initiative. Financial records do not specify which activities received Initiative funding, and some FPS regions began their efforts to improve disclosure management and provide pre-charge advice before the Initiative.

For all of the activities, FPS directors believe that more could be done, citing resource constraints. For example, they noted that FPS regions do not have sufficient prosecutors, a situation that was worsened in 2002 when DOJ responded to budgetary constraints by instituting a hiring freeze (along with other measures). Prosecutors are fully occupied with ongoing prosecutions, and this limits early involvement in investigations. Similarly, specialized disclosure units with prosecutors and paralegals working out of RCMP detachments require resource commitments that are beyond many regions, according to FPS directors. However, they believe that their region's implementation choices fall within the spirit of the Initiative and also meet their needs. For example, some regions fund senior prosecutors and rely on separately funded IPOC counsel to handle pre-charge advice, seeing this as the best staff allocation. Others have used Initiative funding to support their current activities in prosecuting organized crime.

Implementation among the other DOJ divisions varies and, in some cases, is also difficult to determine. The Initiative funded IAG to assist with the forecasted increase in requests for

³¹ IAG was not asked this question.

international assistance created by Bill C-24 and the Initiative. However, information regarding whether IAG has experienced an increase in requests in organized crime files is currently not available as IAG has just begun tracking this information in Caseview. For CLPS, legislation and policy development appears to have started well with consultations and training around Bill C-24; however, work on other National Agenda items is only partially completed, in part because of the events of September 11, 2001. One key informant commented that the priorities set in the National Agenda should be reassessed to determine if they are still worth pursuing. Key informants reported that while consultations about the National Agenda continue, the original plan to broaden the consultations beyond established institutional links has not occurred. Finally, research into organized crime issues is intended to benefit legislation and policy development, and while research is ongoing, it would benefit from closer integration and better communication with CLPS.

3.2.2 Workload

For the purpose of this section, workload includes both the volume and complexity of organized crime files. However, the pilot study to develop a methodology for identifying and reviewing closed organized crime files found that regional offices employ different file management practices for assigning file numbers, which affects the number of files in each region. Some offices assign a different file to each accused, others have files for each information and indictment, and some create separate files for the overall police operation. Situations where co-accused or certain charges are severed from the original case and pursued separately are sometimes assigned new file numbers. Similarly, appeals are not always assigned the same file number as the trial. These differences exist both across and within offices. Therefore, all findings as to workload must be read with these differences in mind.

All three data sources (key informant interviews, Caseview, and the file review) provided information on workload. For Caseview, the following information is based on the organized crime files that the regions and IAG flagged using the organized crime definition agreed upon at the May 2003 workshop. As discussed above, the data from Caseview are preliminary. Regions were asked to flag their active organized crime files, but this process may not yet be complete (i.e., some active files may have been overlooked) and only some regions flagged their closed files. In addition, as noted in the methodology section, Montréal has flagged its organized crime files in iCase, but more detailed information from these files (e.g., case complexity codes) cannot be extracted from iCase at this time. As well, the flagged files may not necessarily have

benefited from the Initiative: some opened before the Initiative began, and for the others, Caseview does not distinguish files receiving Initiative funding from those that do not.

In Caseview, the files are given a status (active or closed). However, these categories may not accurately reflect the status of a file because of the lag time in re-categorizing a file from active to closed. There are also regional differences in how promptly this occurs. With these cautions in mind, of the organized crime files identified by regional offices, 53% are active files, and 47% are closed. See Table 4 for details.

Table 4: Files Identified as Organized Crime by Regional Office (1990-2003*)			
Regional Office	Total files identified (n=1,272)	Active/Open files (n=673)	Closed/Archived files** (n=599)
Halifax	126	62	64
Montréal***	310	165	145
Ottawa-Gatineau	98	27	71
Toronto	55	41	14
Winnipeg	39	29	10
Saskatoon	47	42	5
Calgary	83	59	24
Edmonton	89	37	52
Vancouver	236	109	127
IAG	189	102	87

Source: Caseview, except as noted below.
 Caution: Data is preliminary and the number of identified files is expected to increase, as the process of identifying open organized crime files is not complete and is only just beginning for closed files. Regional differences may be an artifact of different file management.
 *IAG active caseload between January 1, 1990 and July 23, 2003, and closed files as of July 23, 2003.
 **Some closed files have been sent for archiving under FPS file management practices.
 ***Montréal identified a total of 310 files (158 in Caseview and 152 in iCase. Twenty active/open files were identified in Caseview and 145 files in iCase. The files in iCase did not have a status code; however, they were identified as active/open by a prosecutor in the Montréal office. In addition, Montréal identified 138 closed/archived files in Caseview and 7 in iCase.

Table 5, below, presents the organized crime caseload for active files as flagged by each region and IAG. Only three regional offices, Calgary, Saskatoon and Vancouver had an identified organized crime active caseload of more than 1%. The percentage of active files that are organized crime could not be calculated for the Montréal or IAG regional offices as their active caseloads were not available at the time of the evaluation.

Table 5: Organized Crime Active Caseload by Regional Office (as of September 19, 2003*)			
Regional Office	Total number active files	Number of active organized crime files	Percentage of active caseload
Halifax	7,052	62	1%
Montréal	N/A	165**	N/A
Ottawa-Gatineau	2,387	27	1%
Toronto	8,511	41	0.5%
Winnipeg	2,646	29	1%
Saskatoon	1,303	42	3%
Calgary	2,424	59	2%
Edmonton	3,498	37	1%
Vancouver	5,742	109	2%
IAG	N/A	102	N/A

Source: Caseview, except as noted below.
 Caution: Data is preliminary and the number of identified files is expected to increase, as the process of identifying open organized crime files is not complete. Regional differences may be an artifact of different file management.
 * IAG active caseload between Jan 1, 1990 and July 23, 2003.
 **Montréal identified 20 active/open files in Caseview; another 145 files flagged in iCase did not have a status code but were identified as active/open by a prosecutor in the Montréal office.

When FPS directors were asked what percentage of their office's caseload was organized crime cases, their answers ranged from less than 1% to about 65%. The median response was around 20%. This wide range may reflect some FPS directors' estimates of the volume of workload generated by organized crime files rather than the proportion of files they represent. The majority of prosecutors and paralegals interviewed indicated that at least 60% of their current files are organized crime. Half reported that they are currently working on at least three files.

Some FPS directors pointed out that while organized crime files may represent a small percentage of an office's total files, they consume substantial resources. They typically have numerous charges and are more complex than other files (e.g., they may require surveillance or have a large number of wiretaps and/or defendants). One organized crime file can strain office resources and may require the full-time efforts of several prosecutors over many years. In the study on the challenges of prosecuting organized crime, prosecutors also commented on the complexity of organized crime cases. Evidence obtained by these sophisticated investigative techniques has more onerous rules governing its admissibility. It is challenging to prove that a crime occurred when criminal organizations employ complex methods to avoid detection. These cases require more resources for disclosure and vast amounts of time to prepare. They also have a greater potential for Charter challenges than other criminal cases because of the sophisticated investigative tools used, the complexity and volume of disclosure, and the greater resources available to defence teams in these cases to fund challenges.

FPS files are assigned a complexity code that is based on a number of factors, including the number of charges, the number of accused, the type of charges, the number of counsel acting for the accused, the value of assets seized or subject to forfeiture, the number of victims, the type of evidence, and disclosure issues, including the volume of disclosure. FPS directors estimated that anywhere from 75% to 100% of their organized crime files are complex (analogous to high or mega/exceptional in Caseview), and 86% of open files in the file review also received these ratings.³² Caseview also showed high proportions of complex organized crime files. Half (52%) of the files were rated high or exceptional/mega, which represents almost two-thirds of files with complexity codes. For approximately one-fifth of files, a complexity code was not available. Many of these files without a complexity code are from Montréal, where the organized crime files have been flagged in iCase, and more detailed information cannot be retrieved from these files at this time. The summary information from Caseview is provided in Table 6.

Table 6: Case Complexity		
Code	# of files (n=1,272)	Total %
Exceptional/mega	125	10%
High	541	42%
Medium	301	24%
Low	69	5%
Complexity code not available	236	19%
Source: Caseview Caution: Data is preliminary and the number of identified files is expected to increase, as the process of identifying open organized crime files is not complete and is only just beginning for closed files.		

About half of FPS key informants believe that the number of organized crime files handled by their offices is increasing. They believe that law enforcement priorities, which target organized crime, are the reason for this increase. Available Caseview data do not permit an analysis of organized crime caseload over time. As mentioned above, the data on active organized crime files are preliminary and closed files remain largely unflagged, so both current caseload and caseload over time are unavailable.

³² Regional Directors selected the files for the review and therefore, the files may not be representative of the organized crime caseload.

3.2.3 Resources

Financial information on the use of Initiative funds is limited. Initiative funds are not tracked by activity or project number, so information on which prosecutions received Initiative funds is unavailable. In addition, amounts spent on specific Initiative activities cannot be determined. While Caseview allows allocation of lawyer time to certain tasks (e.g., pre-charge advice, disclosure), this is not necessarily done consistently, and regions were not asked to collect financial information on individual activities.

To fund its activities under the Initiative, DOJ expected to receive a total of \$48.46 million over the five-year period of 2001-2006 (including Employee Benefit Plan but excluding accommodation costs retained by Treasury Board). However, starting in 2002, DOJ had to take steps to address departmental budget pressure, which affected the funds received under the Initiative. These steps included a 10% reduction to DOJ's operating and maintenance (O&M) budget, a freeze on staffing new positions, and a freeze on discretionary contracting. Then, in early 2003, DOJ undertook a re-basing exercise whereby O&M budgets were reallocated based on 75% of the amount spent in the previous fiscal year. This action also affected the amount of O&M available for the Initiative in 2003-2004.

The two tables below show the salary and O&M funding for the 2002/03 and 2003/04 fiscal years.

Region/Division	Salary			O&M		
	TBS Cost Model*	Funding Transferred	Actual Expenditures	TBS Cost Model	Funding Transferred	Actual Expenditures
Prosecution	\$3,108,861	\$3,108,861	\$4,252,167 ³³	\$950,568	918,107	739,056
Legislation/Policy/Research**	\$999,914	\$999,914	\$663,248	\$1,439,251	\$1,421,796	\$886,264

Source: DOJ
 * Excluding corporate and regional overhead, Employee Benefit Plan and accommodation costs.
 ** Includes CLPS, Research and Statistics Division and the Evaluation Division.

³³ The overall prosecution salary expenditure exceeds the salary transfer for 2002-2003 and 2003-2004. This is a result of three groups at headquarters and one regional office exceeding their salary transfer for these two years.

Region/Division	Salary			O&M		
	TBS Cost Model*	Funding Transferred	Actual Expenditures	TBS Cost Model	Funding Transferred	Actual Expenditures
Prosecution	\$3,954,498	\$3,954,498	\$4,486,823 ³⁴	\$1,363,883	\$1,363,883	\$871,417
Legislation/Policy/Research**	\$1,195,327	\$790,311	\$804,903**	\$1,875,174	\$665,710	\$566,476**

Source: DOJ
* Excluding corporate and regional overhead, Employee Benefit Plan and accommodation costs.
** Includes CLPS, Research and Statistics Division and the Evaluation Division.

Key informants were asked a series of questions about whether the resources under the Initiative are sufficient. While some (6) said that no additional resources are needed to undertake their activities under the Initiative, most noted that more resources are necessary. More training opportunities (18), more prosecutors (18), and more support staff (16) were the most common suggestions. While most key informants simply said that they desire more training opportunities, a few offered specific suggestions, such as: introduction of electronic evidence in court; legal issues involving wiretaps; the use of technology in criminal activities; forensic accounting; and procedures for restraining funds that are believed to be proceeds of crime. One DOJ official mentioned the need for another researcher and statistician.

While key informants desire additional resources, most FPS directors and DOJ officials acknowledged that Initiative resources have helped close the gap between what is needed and what is available. However, one DOJ official noted that DOJ resources under the Initiative are still not sufficient compared to what law enforcement (RCMP, provincial and municipal police) is spending on organized crime investigations. Because of the hiring freeze, the FPS regions have been unable to convert all of the new resources into actual hiring.

Six DOJ officials were asked about Initiative funding in the context of the horizontal partnerships with SGC, RCMP, and CSC.³⁵ Four indicated that from their perspective, the resources appear to be generally adequate. While two believe that some of the Initiative partners (RCMP and SGC) have insufficient resources, four believe that the resources are sufficient. When asked whether working in partnership had allowed them to leverage resources, most did not know.

³⁴ The overall prosecution salary expenditure exceeds the salary transfer for 2002-2003 and 2003-2004. This is a result of three groups at headquarters and one regional office exceeding their salary transfer for these two years.

³⁵ IAG was not asked questions about horizontal partnerships.

3.2.4 Management

Assessing the effectiveness of the management of the Initiative is difficult because of limited information. As mentioned above, financial information on how DOJ divisions and FPS regions spent Initiative funds is largely unavailable because it is not effectively tracked (for example, by activity or project number). This situation, however, is not unique to this Initiative and reflects a larger issue with financial reporting within DOJ. Currently, financial reporting does not adequately support evaluations of Initiative-funded activities.

Until the recent flagging of organized crime files, there was no agreed upon method for the FPS regions to identify their organized crime caseload. Understanding the volume and nature of organized crime files would assist in managing and evaluating the Initiative. The Initiative's performance measurement strategy contained in the RMAF indicated Caseview as the data source for information on organized crime files. However, at the time of the RMAF (February 2002), Caseview did not have a field to capture whether a file involved organized crime. To ensure the reliability and validity of a Caseview code for organized crime files, DOJ needed an operational definition of organized crime files. As mentioned earlier, a definition was developed in May 2003, and very preliminary data are now available.

FPS regional offices collect performance information through Caseview, which is currently the only system used to keep performance information. However, two directors raised concerns about the data. One lacked confidence that prosecutors routinely entered their time by task (e.g., disclosure, pre-charge advice, trial preparation) or that decisions about how to allocate time among different tasks were consistent across prosecutors. For example, work on disclosure could also be regarded as trial preparation or vice versa. Another director noted that initiatives overlap; time may be entered under one initiative but also relate to another (e.g., time spent on wiretaps could be allocated to Legal Access, IPOC, or to this Initiative). Some directors (3) commented that there is a cost to keeping information, and one suggested that detailed tracking concentrate on fewer files because it is not feasible to accurately keep detailed data on all files. Others (2) requested that the DOJ provide directors with more guidance on how to measure success and what information they want to track early in the Initiative. One DOJ official commented that DOJ and FPS need to develop a coherent and uniform methodology for reporting on initiatives.

Over half of prosecutors and paralegals could not comment on how well their office manages the IFPS, and, similarly, half of the FPS directors could not offer an opinion on the management of the Initiative. Part of the reason for this is their level of awareness of the IFPS and the larger

Initiative. Prosecutors and paralegals cited lack of awareness of both, and directors said that they knew little about activities at DOJ headquarters.

In comparison, most DOJ officials at headquarters were able to comment on the management of the Initiative. The majority of them believe that it is effectively managed given the challenges of working interdepartmentally, which can often become bureaucratic and focused on process. They find that the collaboration among the partners works well. However, one noted that the partners do not meet to discuss the Initiative per se; rather, they simply work together on many issues, some of which involve organized crime. Another noted that the roles of the partners are very agency-specific and, therefore, the Initiative may not lend itself to horizontal management. Management within DOJ received similar comments about good collaboration among divisions at headquarters, particularly between the Research and Statistics and Evaluation Divisions, which worked on the study to develop the definition of organized crime to be used in Caseview with FPS. Two officials said that the financial situation of FPS has hampered their ability to manage and implement the Initiative.

All key informants were asked for suggestions to improve management. Prosecutors' main suggestions were more resources, particularly for paralegals and technical support, and developing disclosure protocols. FPS directors and DOJ officials believe that management could be improved by more cooperation between the policy and prosecution levels of DOJ and by a better reporting structure where requirements are clearly established. DOJ officials also mentioned the need among horizontal partners to share information, and one suggested that a central directing authority be considered.

When asked if their roles and responsibilities under the IFPS are clearly defined, most prosecutors and paralegals either did not know or considered them not well defined. Few FPS directors noted roles and responsibilities unique to the Initiative. They saw little distinction between what was expected of them under the Initiative and what their general responsibilities were – to manage resources in the best way to effectively prosecute cases.

3.3 Success

The mid-term evaluation considered three potential immediate outcomes under the Initiative: increased knowledge and understanding of organized crime issues and tools; improved case preparation; and enhanced ability to investigate and prosecute organized crime offences. Each of

these potential immediate outcomes as well as whether partnerships have been enhanced across stakeholders is discussed in this section.

3.3.1 Increasing stakeholder knowledge of organized crime issues and tools

Between April 2001 and January 2003, DOJ (either solely or in partnership with the RCMP or provincial justice departments) held approximately 48 legislative training sessions on Bill C-24 under the Initiative. In total, these sessions are estimated to have reached approximately 1,742 law enforcement personnel and prosecutors in all three levels of government. Table 9 below identifies these training sessions.

Table 9: Bill C-24 Training Sessions			
Province Where Session Held	Number of Sessions	Primary Participants	Estimated Number of Total Participants
Newfoundland and Labrador	1	Municipal prosecutors	15
Nova Scotia	7	Federal law enforcement Federal prosecutors	148
New Brunswick	2	Prosecutors	45
Québec	3	Municipal law enforcement Federal prosecutors	90
Ontario	15	Federal law enforcement Provincial law enforcement Municipal law enforcement Provincial prosecutors	600
Manitoba	1	Federal law enforcement	43
Saskatchewan	2	Federal law enforcement	70
Alberta	5	Federal law enforcement	240
British Columbia	10	Federal law enforcement	350 ³⁶
Prosecutor Training Session on Organized Crime and Law Enforcement held in Ottawa	1	Federal prosecutors Provincial prosecutors Municipal police and Canadian military legal counsel	121
National video-conference	1	Federal prosecutors	20
Total	48		1742
Source: Department of Justice, Evaluation Division and Criminal Law Policy Section. (2004). <i>Post-Legislative Training on Bill C-24: A Summary Report</i>			

Some of these sessions focused exclusively on the law enforcement justification provision of Bill C-24 and were conducted across the country by teams of DOJ and law enforcement personnel.³⁷ RCMP managers interviewed by CAC estimated that 800 officers attended these training sessions, and, of those, DOJ has received 209 feedback forms on the training sessions. Analysis

³⁶ For two sessions, there were no estimates for the number of participants.

³⁷ Department of Justice, Evaluation Division and Criminal Law Policy Section. (2004). *Post-Legislative Training on Bill C-24: A Summary Report*

of the data from these forms shows that about one-third of respondents had no prior knowledge of the law enforcement justification provisions, demonstrating that the training sessions served a real need. Nine-tenths of respondents said that the session would help them apply the provision to their work and would impact the way their unit operated.

Other training sessions organized by DOJ included a two-day “Train the Trainers” Prosecutor Training Session on Organized Crime and Law Enforcement held in Ottawa in June 2002. This session provided federal and provincial prosecutors with information on the provisions of Bill C-24 with the intention that participants could then serve as trainers on Bill C-24 within their own offices and regions. While the “Train the Trainers” session did not have evaluation forms for participants, a post-legislative training study was conducted.³⁸ According to that study, 33 out of 58 prosecutors interviewed rated the session as “very good” or “good.” In addition, 53 out of 58 found the training to be relevant to their current job. When asked if the training assisted them in understanding specific provisions (e.g., law enforcement justification, intimidation, new criminal organization offence, and proceeds of crime), about 90% of those interviewed said that it had.³⁹ In addition, the Bill C-24 training study found that one-quarter of the 33 key informants gave Bill C-24 training after attending the session.⁴⁰ The report specifically identifies training offered by four provincial justice departments (Newfoundland, Québec, Ontario, and Alberta) and one municipal police force (Montréal). In all of these sessions, the organizers used the “Train for Trainers” binder of materials developed by DOJ for the June 2002 session, along with other materials.

When key informants were asked about training received under the Initiative, two-thirds of FPS directors and half of prosecutors and paralegals reported that they or their office had Bill C-24 training. Two prosecutors mentioned having attended presentations on the Bowmanville disclosure pilot project. No other forms of training under the Initiative were mentioned.

The training on Bill C-24 was generally well received by all FPS personnel (directors, prosecutors, and paralegals); the majority of those who received training reported that it improved their knowledge of Bill C-24.⁴¹ When asked how they had used their training, most could not name specific uses. Those who could either included aspects of the training in presentations given to the RCMP or other prosecutors (8), used the training to inform the pre-

³⁸ Ibid

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ DOJ officials also reported that they thought the training offered on Bill C-24, including the “Train the Trainers” session, had increased the knowledge of the participants.

charge advice provided to police (2), or evaluated their current caseload based on information they learned in the training (2).

Over one-third of prosecutors and half of FPS directors reported that they developed training, usually for the RCMP or other law enforcement officials. However, several also provided training to other prosecutors, and one conducted an information session for judges.⁴² For prosecutors, the types of training were almost evenly divided between informal training given to police while providing pre-charge advice and more formal training on disclosure, court briefs, and Bill C-24. FPS directors reported formal training to RCMP/police on disclosure management. Some of the training on disclosure management was conducted under the pilot projects rather than the Initiative. The majority of directors and prosecutors who had given training believe that it has increased RCMP/police awareness, particularly of disclosure issues. As a result, according to one key informant, RCMP/police are becoming convinced of the need to work with the Crown.

DOJ officials mentioned other types of training, some of which may not have received funding under the Initiative. This training included a Bill C-24 instructional video on CD-Rom made by CLPS for law enforcement; disclosure training in British Columbia and Ontario, with headquarters involvement; and sessions given by DOJ to RCMP Criminal Operations (CROPS) officers across the country on best practices arising out of the disclosure pilot project. IAG has provided instruction on extradition and mutual legal assistance to FPS prosecutors, IPOC counsel, the RCMP, the Ontario Provincial Police, and the Attorney General of Ontario. Internationally, IAG also took part in a joint training program with its US counterpart for Canadian and American prosecutors.

3.3.2 Enhancing Partnerships

DOJ officials (IAG was not asked these questions) commented on the effectiveness of the Initiative's horizontal partnerships with the RCMP, SGC, and CSC. In general, DOJ officials emphasized the importance of partnerships for sharing front-line knowledge in combating organized crime (e.g., how the legislation is working, experiences with types of crimes committed by criminal organizations, and identifying future trends). In particular, they noted the importance of the partnership with the RCMP, which helps ensure effective prosecutions by working to improve disclosure and by reducing the potential for Charter challenges in how they handle investigations. However, some officials commented that DOJ is not as well integrated

⁴² The FPS directors were responding for their entire offices and not just about training they personally provided.

with the RCMP as it would like. While the understanding of each department's culture has increased, implementation of the Initiative is seen as lagging, particularly in disclosure management. According to these DOJ officials, barriers exist at the front-line; some RCMP officers and DOJ prosecutors still need to embrace their overlapping roles, where police work includes preparing for the prosecution by organizing disclosure and drafting helpful court briefs, and Crown work includes assisting with the investigation by advising on potential legal issues and helping with disclosure preparation.

In addition to the formal partners, the Initiative also encourages building new partnerships at the national and regional level. The only new cooperative working arrangements mentioned by DOJ officials involved regional memoranda of understanding with RCMP on disclosure and agreements with current Initiative partners, such as SGC, for conducting research into organized crime. DOJ officials were divided on whether there was a role for new partner agencies. Four DOJ officials suggested potential new partner agencies, such as Canada Customs and Revenue Agency, Citizenship and Immigration, the Competition Bureau, the Department of Finance, Environment, and Fisheries and Oceans, while two did not see a role for new partners at this time. One did not offer an opinion.

Prosecutors and FPS directors reported that partnerships formed in the regions typically work with a number of different agencies on organized crime files. The most common ones are: the RCMP; municipal police; customs officials; provincial police; and foreign law enforcement agencies. The file review also shows that many law enforcement agencies participate in organized crime investigations. The most common agency was the RCMP, followed by Canada Customs and Revenue Agency, municipal police, and various foreign agencies (typically American).

Prosecutors and paralegals were more uncertain than FPS directors about whether the IFPS has enhanced their working relationships with other agencies. Of the 26 prosecutors and paralegals participating in the evaluation, one-quarter did not feel that they could comment. Just over one-third believes that the IFPS has not affected their working relationships with partner agencies. Those remaining (10) are divided evenly into those who believe that the IFPS has enhanced their partnerships and those who have noticed an improvement but do not know if the IFPS has been a factor. Both of these groups describe the changes as an improvement in attitudes and teamwork, particularly with the RCMP and other law enforcement agencies. They believe that more regular contact between DOJ and the RCMP during organized crime prosecutions has reduced territoriality and increased openness. About half of FPS directors believe that the IFPS has enhanced partnerships for many of the same reasons as the prosecutors and paralegals. The more

regularized contact through providing pre-charge advice and having designated organized crime prosecutors has improved RCMP confidence with the DOJ, according to FPS directors.

Interviews with 19 RCMP managers conducted by CAC echoed the importance of partnership in combating organized crime. However, the RCMP managers consider their partnerships with other law enforcement agencies to have the most importance. They characterized their relationship with DOJ as evolving. They pointed to the law enforcement justification provisions as evidence of successful partnership with DOJ.

3.3.3 Improving Case Preparation

One of the IFPS's immediate outcomes is to improve case preparation. Because case preparation is assisted by well-managed disclosure and well-organized court briefs, key informants (except for IAG, CLPS, and Research and Statistics Division) were asked whether they have noticed any effects of the IFPS in each of these areas. In all three areas, a substantial minority (from one-quarter to almost half) did not provide an opinion or could not attribute any changes to the IFPS. Of these, most cited their lack of knowledge of the IFPS and/or their limited experience prosecuting organized crime cases. Others said that it is too early to assess the effects of Bill C-24 or the IFPS. The following discussion includes the views of those who could comment on the effect of the IFPS on disclosure management, court briefs, and case preparation.

Disclosure management. One difficulty in assessing the success of specific disclosure management activities under the Initiative remains that key informants often consider the activities of the disclosure pilot projects, which pre-date the Initiative, to be part of the Initiative. However, about half of the FPS key informants believe that the IFPS has led to improvements in disclosure management. FPS personnel, particularly those in the Ontario and Atlantic regions, cited the use of disclosure protocols (9) as a reason for the improvements. Besides the use of protocols, FPS key informants have experienced an improved police response to disclosure (9) and better teamwork with police (5).⁴³ Part of the reasons for this, according to some key informants, is the earlier involvement of DOJ, either by a disclosure Crown or a paralegal. This has resulted in better organized, more complete, and more timely disclosure.⁴⁴ A few key informants also commented on the usefulness of electronic disclosure; however, others have

⁴³ Please note that the earlier discussion about RCMP response to disclosure came from DOJ officials only.

⁴⁴ These results are similar to those from the mid-term review of the Toronto Disclosure Pilot Project, where improved disclosure practices were attributed to increased officer awareness of disclosure obligations and satisfaction with DOJ guidance.

found electronic disclosure difficult because the format used by the RCMP is not well organized from a prosecution perspective.

Eight key informants responded that disclosure management has not changed as a result of the IFPS. These respondents are divided into those who think that nothing has changed – disclosure management remains under-resourced, especially by the RCMP, and reactive – and those who credited any changes to court decisions or experiences in other cases, rather than to the IFPS. Two respondents called for an expansion of the disclosure pilot project.

Court briefs. Key informants are divided on whether the IFPS has resulted in improved court briefs. Just over one-quarter credited the IFPS with improvements in court briefs. However, an almost equal number have not noticed an increase in the quality. Over one-third did not offer an opinion. Key informants who believe that the IFPS has helped improve court briefs cited a number of improvements, including better organization of materials and the production of more timely, consistent, and complete court briefs. Some key informants noted that these improvements have come about because their region has been actively involved in training police, developing templates for their use, and reviewing court briefs with police. Of the key informants who have not noticed changes in court briefs, half commented that the quality is still poor; while two in one office in the Prairie Region said that they have always received high quality Crown briefs. The remaining key informants credited any improvements to court decisions or experiences in other cases.

Case preparation. Key informant opinion was mixed about whether the IFPS has affected case preparation. About one-third believes that better disclosure management and earlier involvement of the police and prosecutor has improved case preparation. According to these key informants, better disclosure management has reduced the time prosecutors must spend on disclosure, thereby freeing them to work on prosecution strategies. In addition, earlier prosecutor involvement has improved the course of investigations by reducing mistakes and has enabled prosecutors to assist police with improving the quality of court briefs. The police are also becoming involved in case preparation earlier by organizing information and creating reports as the investigation progresses, which can lead to more timely disclosure. Overall, these key informants noted a better sense of teamwork between police and prosecutors.

However, about one-quarter of key informants think that the IFPS has not had an effect on case preparation, with most simply commenting that case preparation has been unaffected. A few attributed improvements to other causes; rather than the IFPS, prosecutors are responding to court decisions on disclosure responsibilities or negative experiences in organized crime files.

3.3.4 Improving Investigation and Prosecution of Organized Crime Offences

Bill C-24 continued the legislative agenda that began with Bill C-95 to improve organized crime investigations and prosecutions. Prosecutors interviewed for the earlier DOJ study about the challenges of organized crime prosecutions considered the criminal organization offence in Bill C-95 difficult to prove and supported Bill C-24's provision that broadened the definition of criminal organization.⁴⁵ These prosecutors also thought that the new participation offence in Bill C-24 would assist in conducting prosecutions because it broadly defined membership in a criminal organization. Finally, prosecutors applauded the new intimidation offence, which they believe addressed a gap in the Bill C-95 legislation. However, prosecutors had limited direct experience with these provisions because the legislation is recent and organized crime cases can take years to investigate and prosecute.

For the mid-term evaluation, key informants were asked whether Bill C-24 and IFPS have affected the ability to investigate or will affect the ability to prosecute organized crime offences. Key informant opinion on these questions was mixed. Just under half were unable to comment because they either were not aware of the IFPS and/or had limited experience prosecuting organized crime cases, or considered it too early to assess the effects of Bill C-24 or the IFPS. Most of those able to comment (18) believe that Bill C-24 and the IFPS have improved organized crime investigations and prosecutions. However, some consider the legislation and the IFPS to have effected no real improvements.

Only a couple of key informants credited the IFPS (in particular, pre-charge advice and assistance) with improving investigations, while most pointed to provisions of Bill C-24 as the reason for any improvements. The aspects of the legislation receiving the most comments were: the criminal organization offence (5), broader wiretap powers (5), and the law enforcement justification (3).⁴⁶ Three key informants generally applauded the additional investigative tools contained in Bill C-24 without citing specific provisions. The legislation is seen as giving police more flexibility in conducting investigations, and the new offence provides a clear mandate for targeting criminal organizations.

⁴⁵ Department of Justice, Research and Statistics Division and Evaluation Division (2003) *Challenges to Prosecuting Organized Crime cases: An Examination of Bill C-95*.

⁴⁶ RCMP managers interviewed by CAC commented that the law enforcement justification provision has been useful in allowing police to conduct effective investigations in areas that often involve organized crime, such as commercial crime. It has also assisted police in their undercover operations, which often target organized crime.

For improving organized crime prosecutions, key informants credited Bill C-24 and the IFPS about equally. About half of key informants, who believe that prosecutions have improved, cited the new criminal organization offence in Bill C-24. In addition to lessening the prosecutorial burden for proving this offence, the stiffer sentencing provisions received support for providing both a deterrent and an incentive that will assist plea negotiations. The key informants who commended the IFPS for improving prosecutions (6) found the dedicated resources for organized crime prosecutions to be effective measures in assisting prosecutions; the three main aspects of the IFPS – pre-charge advice and assistance, organized crime prosecutors, and disclosure management – all received mention.

The small number of key informants who do not believe that the legislation or the IFPS has made improvements in investigations or prosecutions said that little has changed under either. They do not notice differences in how police investigate cases because the police are reluctant to use Bill C-24. Some consider the legislation burdensome (e.g., separate warrants are required for the drugs and proceeds cases) or largely unnecessary (e.g., conspiracy is equally effective). More commonly, they find that police and prosecutors are reluctant to use the legislation for fear of Charter challenges. One key informant emphasized that improving prosecutions requires better disclosure management and more manageable cases (i.e., fewer accused); until the IFPS accomplishes this, the ability to prosecute organized crime cases will remain largely unchanged.

Both key informant interviews and Caseview data show that Bill C-24 criminal organization offences are not common. There are many possible reasons for this. The legislation is recent (2001), and it will take years for investigations to produce prosecutions under these offences. As well, not all cases involving organized crime will have the evidence to support a criminal organization offence, and some prosecutors may prefer to proceed with other charges.

While the organized crime files handled by FPS key informants have a variety of charges, they primarily involve some type of drug offence and conspiracy charge. However, ten key informants said that they have files with charges under one of the criminal organization offences; they did not specify whether the charges were under the criminal organization provisions of Bill C-95 or Bill C-24. Caseview data also show the small percentage of flagged active organized crime files that involve one of the criminal organization offences; however, Caseview data is again limited because not all organized crime files have been flagged. The criminal organization charge in Bill C-95 (section 467.1) occurred in 4% of files, and Bill C-24 organized crime offences (sections 467.11 to 13) do not appear in any of the flagged files.

3.4 Effectiveness and Other Strategies

Effectiveness. While it is still too early to examine the effectiveness of the Initiative, key informants were asked about the allocation of resources.⁴⁷ The summative evaluation will explore the issue of effectiveness more fully.

About half of FPS directors and DOJ officials (8) did not offer an opinion about whether resources were allocated in the best way within the DOJ. Of those who did, a majority believes that resources could be better distributed. Two main suggestions emerged: more funding for staffing needs, and a reallocation of funding among Initiative partners in favour of DOJ. Two key informants questioned the funding equity within the DOJ, commenting that funding levels did not correspond to a region's organized crime caseload and that FPS should receive more of the Initiative funding. Another wanted more funding allocated to pre-charge advice so that this could be handled in-house rather than relying on IPOC counsel to provide all of this assistance. One DOJ official said that the FPS financial situation (staffing freeze, reductions in O&M budgets, inadequate A-base) makes it difficult to assess the allocation of resources; FPS finds itself struggling to meet its operational requirements while remaining accountable for funding under a variety of initiatives.

FPS directors and DOJ officials who found the allocation of resources to be adequate still offered advice. In general, they believe that more resources are necessary for meeting the Initiative's objectives. For instance, one mentioned that current resources are inadequate to fund counsel for pre-charge advice and organized crime prosecutors; this key informant says that, faced with a choice, regions fund organized crime prosecutors.

Several key informants wanted more resources for organized crime prosecutions. In particular, they said that more paralegals are needed to assist prosecutors, and more staff (prosecutors and paralegals) are necessary to oversee implementation of disclosure protocols and best practices in court briefs. Some also commented on the need for more senior prosecutor positions to staff organized crime teams. Two key informants mentioned the need for more resources to prevent intimidation of witnesses and criminal justice professionals, such as more security staff. In the study on challenges in prosecuting organized crime cases, prosecutors also suggested that, in appropriate cases, panels of judges rather than juries hear cases to minimize intimidation.⁴⁸

⁴⁷ FPS prosecutors and paralegals were not asked this question.

⁴⁸ Department of Justice, Research and Statistics Division and Evaluation Division (2003) *Challenges to Prosecuting Organized Crime cases: An Examination of Bill C-95*.

Other strategies. All key informants (46) were asked to suggest future strategies for combating organized crime. While several key informants from DOJ headquarters were involved in developing the Initiative, many of the FPS key informants felt that this evaluation was their first opportunity to provide input into the development of policy and legislation to assist with the investigation and prosecution of organized crime. These suggestions reflect the opinions of the key informants; other perspectives outside of the DOJ are not included in this evaluation.

PRA categorized key informants' suggestions into four broad categories: improving legislation that affects organized crime prosecutions; improving investigative tools; enhancing partnerships; and developing better prosecution management strategies. Just over one-quarter of respondents did not provide suggestions.

Several key informants wanted legislative improvements. Some (4) advocated rules of criminal procedure, arguing that they would facilitate the flow of cases through the system. In particular, they wanted procedures for Charter challenges and for other defence applications that would set notice requirements, time lines for bringing, hearing and deciding these applications, and restrictions on the number of *Rowbotham* applications made by accused who have been refused legal aid coverage and are requesting a remedy from the court. In the study on challenges in prosecuting organized crime cases, prosecutors also promoted the codification of disclosure rules, claiming that defence counsel use disclosure challenges as a procedural tactic.⁴⁹

A few key informants (3) desire improvements in proceeds legislation to make it a more effective tool. In particular they suggested that it is still too difficult to prove that particular assets are proceeds of crime. One key informant suggested that, in order to be able to pursue the funds more effectively, once an accused is found guilty, the onus should be placed on him/her to prove that his/her assets were gained legitimately. Furthermore, one key informant suggested that the fact that the accused can use seized assets to fund his/her defence is proof enough that the proceeds legislation is not as effective as it could be. Prosecutors participating in the study on challenges in prosecuting organized crime cases also commented on the use of possible proceeds of crime to fund the defence. They suggested that the defence fees should be tied to the applicable legal aid tariff structure to conserve the funds for the entire criminal proceeding.⁵⁰ In a related matter, two key informants specifically called for the use of civil forfeitures as a tool in organized crime prosecutions.

⁴⁹ Ibid.

⁵⁰ Ibid.

Seven key informants wanted improvements in investigative tools. Suggestions for improvements included the adoption of tools to facilitate and encourage collaboration with police. One key informant advocated substantial minimum sentences, which the accused can avoid if he or she collaborates with authorities. He argued that Canada's lack of minimum sentences coupled with mandatory parole means that sentences are not severe enough to recruit informants. Another key informant proposed giving the police the authority to require individuals to submit to questioning under oath if they are guaranteed immunity. Others wanted to relax certain procedures. Three key informants would like more flexible wiretap provisions. They reported that a static wiretap over the course of an investigation requires constant updating to add other individuals' phone numbers and their associated list of offences. One suggested that wiretap legislation pertaining to organized crime should allow wiretaps to cover *Criminal Code* and federal offences because organized criminal activities often involve both. Allowing investigators to get dual-purpose wiretap authorizations obviates the need for tandem wiretaps. Other suggestions (each made by one key informant) included: simplifying the process to gain access to third-party records through production orders; adopting preservation orders that temporarily require the preservation of electronic evidence until a production order or search warrant is obtained; and removing the requirement of Attorney General consent for the use of peace bonds.

Some key informants (4) suggested that new partnerships with related agencies (such as Canada Customs and Revenue Agency and foreign law enforcement agencies) should be encouraged. A few key informants (3) also mentioned that improving teamwork between prosecution teams and the police would be useful. Specifically, they pointed to improvements that could be made in the understanding of each other's role, a more coordinated approach to large prosecutions, and better training on file management skills.

The final suggestions key informants made about additional strategies to combat organized crime are best categorized as developing better prosecution management strategies. Key informants did not provide much information beyond mentioning the need to promote best practices in disclosure management (2) and in the prosecution of mega cases with large numbers of accused and multiple charges (2).

4. CONCLUSIONS

This final section of the report summarizes the evaluation findings.

4.1 Relevance

The Initiative's objectives are consistent with government priorities.

The short-term objectives of DOJ under the Initiative are to increase knowledge and understanding of organized crime issues and tools, enhance the ability to investigate and prosecute organized crime offences/groups, and improve case preparation. These are intended to lead to the long-term objectives of more effective investigations and prosecutions of organized crime. These objectives are consistent with government priorities as outlined in Red Book III, which committed the federal government to introduce legislation and other measures to assist law enforcement and prosecutors, and with the National Agenda, in which the Federal, Provincial, and Territorial Ministers of Justice agreed to coordinate their efforts to combat organized crime through work on legislative/regulatory, research and analysis, and public education fronts. The Initiative also responds directly to the House of Commons Sub-Committee on Organized Crime. This Sub-Committee recommended specific legislative enhancements including new criminal organization offences, as well as non-legislative measures to ensure that existing legislation and resources are used to their fullest potential.

In addition, the Initiative objectives are considered still relevant and necessary to respond to the increasingly sophisticated nature of organized crime activities. It was also suggested that the Initiative activities be expanded in order to keep pace with the growth in organized crime activities and in police investigations of organized crime.

4.2 Design and Delivery: Implementation

While Initiative activities are not fully implemented within the original design, progress is being made towards achieving the Initiative objectives.

While Initiative activities are not fully implemented as they were originally designed, progress is being made toward achieving the Initiative objectives. Under the Legislative/Policy and Research Component of the Initiative progress is being made on the policy development on the remaining National Agenda items; legislative training of federal, provincial, and municipal law enforcement, prosecutors, and other justice officials on Bill C-24 has occurred each year since the Initiative was announced; and research into organized crime issues and tools has also been ongoing. Within the Prosecution Component of the Initiative, activities have been undertaken in the areas of pre-charge advice and assistance, disclosure management, prosecution, and international assistance. However, to meet operational demands and the evolving nature of organized crime prosecutions, the IFPS requires flexibility to allow for the reallocation of resources within the Strategy.

Pre-charge advice and assistance. Not all regions are providing the level of pre-charge advice under the IFPS that they would like, largely for resource reasons. While only two regional offices (Vancouver and Toronto) have prosecutors dedicated to providing pre-charge advice, all the regions reported that they provide an increasing amount of this advice using a variety of different models with the resources available. The approaches demonstrate that regional offices have used an integrated approach across initiatives involving IPOC counsel (funded by the IPOC Initiative with offsets from the ASI), disclosure counsel (initially funded by the Strategic Investment Fund), and/or prosecutors funded on an ad hoc basis by the MCOC Initiative. Not all regions are providing the level of pre-charge advice under the IFPS that they would like. However, the dedication of prosecutors exclusively to an advisory role was not seen as the best or most efficient approach by all of the FPS Directors. It was not seen as most efficient use of the resources available as not all investigations lead to charges, and courtroom experience is also seen as essential for prosecutors.

Disclosure management. Currently, the Ontario and Ottawa-Gatineau regions have prosecutors working directly in RCMP detachments. Ontario has recently expanded its pilot project to the Toronto Police Service's drug squad, and Ottawa-Gatineau has introduced disclosure counsel and two legal assistants into the Kingston RCMP detachment. However, at this time it is not known whether these new disclosure units are receiving funding under the Initiative, as the financial system is not currently tracking funding by activity. Halifax, Montréal, and Vancouver have developed or are in the process of developing disclosure protocols that are intended to

improve the timeliness and completeness of disclosure. While some other offices rely on unwritten understandings with police for handling disclosure.

Dedicated organized crime prosecutors and teams. Ottawa-Gatineau, Halifax, Edmonton, Toronto, and Vancouver have dedicated organized crime prosecutors and organized crime prosecution teams. The other offices may have prosecutors who work primarily on organized crime files, but they do not have specified organized crime teams. For most offices, the team approach was not an innovation; they already had teams (for example, major case teams, proceeds of crime teams, etc.). For the Initiative, they either combined these teams with designated organized crime prosecutors or they made the organized crime focus more explicit in the pre-existing teams. In all offices, the teams appear somewhat fluid, at least at the junior level. Caseload demands require flexibility in staffing, and prosecutors are still assigned on an as-needed basis to all files, including organized crime. The dedicated teams included a paralegal in only two offices (Toronto and Edmonton). According to key informants, more paralegals and other support staff would fill a critical need, and more senior prosecutor positions are necessary to staff dedicated teams.

Key informants raised the issue that dedicated teams may not be the best approach. Key informants said that flexibility in staffing is necessary so they can allocate staff to best meet the needs of the office's caseload.

International legal assistance. Initiative funding does not create new responsibilities for the IAG but helps fund its current work and the expected increase in international legal assistance requests stemming from the Initiative. For this reason, IAG appears to have fully implemented its Initiative activities. The IAG reported increased requests for assistance in files with more than three individuals or where organized crime links are involved. The organized crime files can involve many accused, multiple charges, and lengthy period of criminal activity and involve multiple requests for extradition and mutual legal assistance. The foreign evidence is often in several countries, and the accused are scattered. The IAG has also continued to work with the Lyon Group on issues of transnational organized crime.

Legislation, policy, and research. While there have been extensive stakeholder consultations around Bill C-24, consultations have not continued at the same level, largely because subsequent phases of policy development on the remaining National Agenda items are only partially completed. Legislative training of federal, provincial, and municipal law enforcement, prosecutors, and other justice officials has occurred each year since the Initiative was announced. Research into organized crime issues and tools has also been ongoing. The largest project

involves developing a definition of an FPS organized crime file, which will enable accurate national reporting and monitoring of organized crime files handled by FPS. This work should result in the ability to conduct large-scale national studies of organized crime files in the future.

Resources are cited as the major constraint in implementing the Initiative.

FPS directors believe that a lack of resources hampers their ability to respond to their obligations under the Initiative. They reported being unable to dedicate prosecutors to one task (e.g., pre-charge advice or disclosure management) or to the prosecution of one type of file (e.g., organized crime prosecution teams). They stated that increased and stable funding would assist them in implementing their activities under the Initiative.

Resource levels strain to meet operations, and some regions have used Initiative funding to support their current activities in prosecuting organized crime. Regions do not have sufficient prosecutors, so new hires become fully occupied with ongoing prosecutions and have limited time for pre-charge advice. The departmental hiring freeze in 2002/2003 has certainly affected the Initiative; some offices had unfilled Initiative-funded positions when the freeze took effect. However, key informants do not attribute the need for more staff (prosecutors and paralegals) solely to the most recent FPS fiscal situation.

Information on the Initiative is inadequate to fully assess its progress and future effectiveness.

As noted above, most key informants said that they needed more resources to fully implement the Initiative. However, demonstrating the need for additional Initiative funding is difficult due to the limited nature of financial data available. In particular, since the use of Initiative funds is not tracked by activity, it is difficult to attribute specific activities directly to the Initiative. The FPS receives funding under several initiatives, many of which have activities that overlap with the MCOC Initiative. Without the ability to segregate activities funded by each initiative, assessing results becomes difficult and can only result in estimates.

There is also limited performance data for the Initiative. The FPS has only recently begun to identify organized crime files in its electronic time and file management system. In addition, regional offices do not have a standard method for assigning file numbers: some offices assign a different file to each accused; others have files for each information and indictment; and some create separate files for the overall police operation. This complicates large-scale studies of the nature and volume of organized crime because the unit of measure – the file – is not consistent.

The performance information identified in the RMAF is also kept in Caseview. However, because the implementation of business rules to standardize the use of Caseview did not occur until 2001, this information is often incomplete and may be inconsistent (e.g., how to assign lawyer time to different tasks and to different initiatives). Certain types of information may be subject to different interpretations, but these decisions are left to regional offices and individual prosecutors.

There is a cost to keeping information, and FPS regions need guidance on what type of information they are required to keep and standards to ensure its reliability and validity. Caseview is a file management system and not a database. If it is to be used to monitor organized crime prosecutions and evaluate initiatives, FPS needs directions from a central authority on how to manage the information. As well, the amount of information required must be realistic and not very burdensome.

Some key informants are still unaware of the Initiative or the IFPS.

They could not provide information about what activities had been undertaken under the Initiative or about the management of the Initiative in their office. This limited awareness does not necessarily reflect that Initiative and IFPS activities are not being pursued in FPS regional offices, but it does limit information that prosecutors can provide on implementation as well as outcomes.

4.3 Success

The mid-term evaluation considered three immediate outcomes under the Initiative: increased knowledge and understanding of organized crime issues and tools; improved case preparation; and enhanced ability to investigate and prosecute organized crime offences. In addition, the evaluation considered whether the Initiative enhanced partnerships among stakeholders.

Training has increased stakeholder knowledge of Bill C-24.

Recent studies conducted by DOJ of training activities show that approximately 1,742 individuals have received some form of training from DOJ under the Initiative (usually Bill C-24 training). The training was well received; participants found it relevant to their jobs and thought that it helped them understand the legislative provisions. Key informant interviews supported

these findings, as most said that the training improved their knowledge of Bill C-24. In addition, there was evidence that some attendees of training sessions used their knowledge to train others.

While partnerships have been enhanced at the managerial level, more work is required to improve the partnerships within all levels of the agencies/departments.

It would appear that partnerships with local law enforcement agencies have been enhanced by the Initiative. More regular contact between DOJ and the RCMP during organized crime prosecutions has reduced territoriality and increased openness. However, prosecutors are more divided between those who believe that the IFPS has not affected their working relationships with partner agencies and those who have noticed an improvement but are uncertain if it can be attributed to the Initiative. There are also those who do not believe that partnerships have been affected. The impression that RCMP management is supportive of Initiative activities and front-line staff are more hesitant may account for these differences.

Overall, DOJ officials believe that the horizontal partnerships with Initiative partners have been effective. They emphasized the importance of sharing front-line knowledge. However, some officials commented that DOJ is not as well integrated with the RCMP as it would like to be. While the understanding of each department's culture has increased, implementation of the Initiative is seen as lagging, particularly in disclosure management. According to these DOJ officials, barriers exist at the front-line.

In addition to the formal partners, the Initiative also encourages building new partnerships at the federal, provincial and municipal levels. However, few new partnerships have formed.

It is still too early to fully assess the effects on case preparation, investigations, and prosecutions, but initial findings show that improvements have been noted in some areas.

As it is still early in the Initiative, many key informants were unable to comment on the effects of the Initiative. Of those who offered an opinion, most believe that the IFPS has improved disclosure management, crediting the use of disclosure protocols and better teamwork with police on handling disclosure. Likewise, about half believe that improvements in investigating and prosecuting organized crime have occurred as a result of the Initiative and/or Bill C-24. For investigations, Bill C-24 received the most credit for giving police more flexibility in conducting investigations and for providing a clear mandate to pursue criminal organizations. For prosecutions, the legislation reduces prosecutorial burden for proving the criminal organization offence, and the stiffer sentencing provisions act as a deterrent and as an incentive in plea negotiations. Key informants also commended the dedicated resources under the IFPS (pre-charge advice, prosecutors, and teams).

4.4 Effectiveness/Other Strategies

It is still too early to examine the effectiveness of the Initiative, but resource allocation may influence future effectiveness.

Because organized crime prosecutions can take years to conclude, the Initiative requires many years of operation before the effects of prosecutions will become apparent, and examining issues like effectiveness is still premature after only three years. Therefore, this evaluation only asked FPS directors and DOJ officials about the allocation of resources. About half could not comment, again showing a lack of detailed knowledge about the Initiative. Most of those who offered an opinion said that resources could be better distributed to focus on staffing needs and to provide DOJ with more support so that it can keep pace with complex organized crime investigations. Also the FPS financial situation (staffing freeze, reductions in O&M budgets, inadequate A-base) makes it difficult to assess the allocation of resources; FPS finds itself struggling to meet its operational requirements while remaining accountable for funding under a variety of initiatives.

Other policies and legislation were identified to assist the investigation and prosecution of organized crime.

Legislative and policy development under the Initiative appears to have slowed since Bill C-24. Key informants offered many suggestions that in their opinion would assist the investigation and prosecution of organized crime. In particular, they mentioned reforms in rules of criminal procedure to facilitate the flow of cases through the system such as setting notice requirements and time lines for defence application and codification of disclosure rules. They made suggestions to improve proceeds legislation, including placing the onus on those convicted to prove that assets were gained legitimately. They would like changes in the law to encourage collaboration with law enforcement, such as harsh minimum sentences, no mandatory parole, and the ability to require individuals to submit to questions under oath if they are guaranteed immunity. Some wanted to relax certain procedures such as the need to update static wiretaps over the course of the investigation and the process to gain access to third-party records. They also advocated adopting preservation orders that temporarily require the preservation of electronic evidence until a production order can be obtained.

In conclusion, the Initiative responds to concerns about organized crime and reflects government priorities to improve investigations and prosecutions. The work done in the areas covered by the

Initiative (e.g., pre-charge advice, disclosure management) supports Initiative objectives. Because organized crime investigations and prosecutions can take years, it is too early to fully assess the effectiveness and outcomes of the Initiative, but there are some early indications of improvements in investigations and prosecutions.

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**APPENDIX A:
INTERVIEW GUIDES**

MCOC Department of Justice Mid-Term Evaluation
Key Informant Interview Guide
ESO and SPPS

The Department of Justice (DOJ) is currently evaluating its implementation of the Measures to Combat Organized Crime Initiative and has retained Prairie Research Associates (PRA) Inc., an independent research firm, to assist in conducting the evaluation. You may have already received communication from the DOJ introducing the evaluation and asking for your assistance.

As you may know, a major objective of the Initiative is to develop legislation and policies to assist law enforcement and prosecutors in the investigation and prosecution of organized crime. The Initiative involves a horizontal partnership among four federal departments – the DOJ, the Royal Canadian Mounted Police (RCMP), the Correctional Service of Canada (CSC), and the Department of the Solicitor General (SGC). All four partners are conducting evaluations of their activities under the Initiative.

There are two main components of the DOJ's activities under the Initiative.

- The **Intensive Federal Prosecution Strategy Against Organized Crime** includes the provision of legal advice and support to organized crime investigations; improve management of the great volume of evidence typically gathered during criminal organization cases; dedicated organized crime prosecution teams; and the provision of international assistance with evidence gathering and extradition.
- **Legislation, policy, and research** includes the establishment of a dedicated team within the DOJ to complete the Parliamentary phase of Bill C-24 (Organized Crime and Law Enforcement); conduct legislative training on Bill C-24; continue the development of policies and legislation; and conduct research to increase the knowledge and understanding of organized crime issues.

This interview should take about one hour and, with your permission, will be tape-recorded to ensure the accuracy of information reported. The information that you provide will be reported in aggregate form; individual responses will not be shared outside of PRA and the DOJ. All tape recordings will be erased at the end of the evaluation.

In responding to the questions, please consider the definition of organized crime used by the DOJ. To assist you, we have attached this definition as an appendix to this guide.

We realize that you may not have the personal knowledge required to answer some of the questions. Please let us know if you cannot answer a question.

1. Before you were contacted to participate in this evaluation, were you aware of the Measures to Combat Organized Crime Initiative? Were you aware of Bill C-24 and the Intensive Federal Prosecution Strategy?
2. Please describe your role in the Initiative.
3. As you may know, the short-term objectives of the Initiative are to increase knowledge and understanding of organized crime issues and tools, improve detection and targeting of organized crime offences/groups, enhance the ability to investigate and prosecute organized crime offences/groups, and improve case preparation. These are intended to lead to the long-term objectives of more effective investigations and prosecutions of organized crime. Do you think that these objectives are relevant today?

The next several questions ask about the implementation of the Intensive Federal Prosecution Strategy and the overall Initiative.

4. Has the Intensive Federal Prosecution Strategy been implemented in terms of the following? Please answer for areas in which you have specific knowledge, and describe what activities have been undertaken in each region.
 - Prosecutors to provide advice and assistance to police
(Additional probes: how are they assigned to investigations, are they dedicated or assigned on an as-needed basis)
 - Disclosure management
(Additional probes: what are the different methods of disclosure management used; are personnel assigned to disclosure management; where are the pilot projects situated)
 - Prosecutors identified to prosecute organized crime files
(Additional probes: are there dedicated individual prosecutors/teams or are prosecutors assigned on an as-needed basis; if there are teams, how are the teams structured [number of members and their positions])
 - Provision of international assistance with evidence gathering and extradition
5. Does the implementation of the Intensive Federal Prosecution Strategy differ from what was originally proposed in the Treasury Board submission? (Probe: dedicated organized crime prosecutors to provide advice and assistance and to conduct prosecutions; dedicated disclosure units) If it does, what impact do you think this has on the overall Initiative?
6. What, if anything, still needs to be done to implement the objectives of the Intensive Federal Prosecution Strategy?
7. Are there any barriers to the implementation of the Intensive Federal Prosecution Strategy? If yes, what are they? (Probe: barriers internal to the DOJ and external barriers)

8. How is the Intensive Federal Prosecution Strategy being managed? What reporting systems have been put in place? (Probe: at regional and national level) What type of planning process is being done?
9. In your opinion, is there a need to continue or expand the activities under the Initiative?
10. In your opinion, has the Initiative been well managed (both horizontally and within the DOJ)? Are there ways in which the management of the Initiative could be improved?

Workload and Resources

11. On average, approximately how many organized crime files do the regional offices work on in a year? Does the number of files appear to be increasing? If so, why do you think this is happening?
12. In your opinion, do the regional offices have sufficient resources to undertake the activities related to the Initiative? In your answer, please consider financial, staffing, and training resources. What other resources are needed?
13. In your opinion, have the resources provided under the Initiative helped to close the resource gap for organized crime files? Please explain.
14. In your opinion, do your partners (RCMP, SGC, CSC) have sufficient resources to undertake the activities related to the Initiative? In your answer, please consider financial, staffing, and training resources.
15. By working in partnership, have you been able to leverage resources? If yes, what additional activities has this allowed you to undertake?

Partnerships

16. What are the roles and responsibilities of the Department of Justice within the Initiative? Have they been clearly identified and communicated?
17. In your opinion, how well have the components of the Initiative been integrated within your own section? With the Initiative partners (DOJ, SGC, RCMP, CSC)? What is working well? What needs to be improved? (Probe: cooperation levels, timeliness of advice/services, access to/sharing of information/intelligence)
18. Have the roles and responsibilities of the partners within the overall Initiative been clearly identified and communicated? What do you see as their roles and responsibilities?
19. Besides the current partners, do you think there is a role for other departments/agencies to contribute to the Initiative? If yes, which ones and how could they contribute?

20. How have the partnerships affected the ability to investigate and prosecute organized crime? (Probe: more openness among partners, better quality of case briefs, more timely investigations, better compliance with disclosure requirements) Has working in partnership with the RCMP, SGC, and CSC allowed you to achieve anything you would have been unable to achieve on your own? If yes, what?
21. In your experience, are there any challenges to working in partnership on the Initiative? How have you dealt with these challenges? In your opinion, do the partners share information when needed?
22. Have you established any new cooperative working arrangements with other stakeholders or signed any memorandums of understanding nationally or internationally as a result of the Initiative? With whom? Have any of these arrangements ended? If you know, please explain why. Are you targeting any new stakeholders (nationally or internationally) with whom to sign memorandums of understanding or enter into cooperative working arrangements?

Training

23. Has your office developed any new training programs or provided training under this Initiative? Please describe. (Probe: to whom was the training given; was it C-24, disclosure management, preparation of Crown briefs, or other relevant training)
24. In your opinion, has the training you provided under the Initiative increased stakeholder (law enforcement and prosecutors) awareness and knowledge of organized crime issues and the legislative tools available under the Initiative?

Impacts

25. In your opinion, has disclosure management changed as a result of the Intensive Federal Prosecution Strategy? If yes, how? If no, why not?
26. In your opinion, has the quality of court briefs changed as a result of the Intensive Federal Prosecution Strategy? If yes, how? If no, why not?
27. In your opinion, has case preparation changed as a result of this Intensive Federal Prosecution Strategy? If yes, how? If no, why not?
28. In your opinion, has the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affected the ability to investigate organized crime offences? If yes, how?
29. In your opinion, will the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affect the ability to prosecute organized crime offences? If yes, how?

Alternatives

- 30. In your opinion, have resources been allocated in the best way within the Department?
Should they be allocated differently?

- 31. Other than the current activities under the Initiative, are there other strategies or tools
(legislative, investigative, or prosecutorial) that you can think of to combat organized crime?

To be completed by researcher:

DOJ Section: _____

Position: _____

MCOC Department of Justice Mid-Term Evaluation
Key Informant Interview Guide
FPS Regional Directors

The Department of Justice (DOJ) is currently evaluating its implementation of the Measures to Combat Organized Crime Initiative and has retained Prairie Research Associates (PRA) Inc., an independent research firm, to assist in conducting the evaluation. You may have already received communication from the DOJ introducing the evaluation and asking for your assistance.

As you may know, a major objective of the Initiative is to develop legislation and policies to assist law enforcement and prosecutors in the investigation and prosecution of organized crime. The Initiative involves a horizontal partnership among four federal departments – the DOJ, the Royal Canadian Mounted Police (RCMP), the Correctional Service of Canada (CSC), and the Department of the Solicitor General (SGC). All four partners are conducting evaluations of their activities under the Initiative.

There are two main components of the DOJ's activities under the Initiative.

- The ***Intensive Federal Prosecution Strategy Against Organized Crime*** includes the provision of legal advice and support to organized crime investigations; improved management of the great volume of evidence typically gathered during criminal organization cases; dedicated organized crime prosecution teams; and the provision of international assistance with evidence gathering and extradition.
- ***Legislation, policy, and research*** includes the establishment of a dedicated team within the DOJ to complete the Parliamentary phase of Bill C-24 (Organized Crime and Law Enforcement); conduct legislative training on Bill C-24; continue the development of policies and legislation; and conduct research to increase the knowledge and understanding of organized crime issues.

This interview should take about one hour and, with your permission, will be tape-recorded to ensure the accuracy of information reported. The information that you provide will be reported in aggregate form; individual responses will not be shared outside of PRA and the DOJ. All tape recordings will be erased at the end of the evaluation.

In responding to the questions, please consider the definition of organized crime used by the DOJ. To assist you, we have attached this definition as an appendix to this guide.

We realize that you may not have the personal knowledge required to answer some of the questions. Please let us know if you cannot answer a question.

1. Before you were contacted to participate in this evaluation, were you aware of the Measures to Combat Organized Crime Initiative? Were you aware of Bill C-24 and the Intensive Federal Prosecution Strategy?
2. Please describe your role in the Initiative.
3. As you may know, the short-term objectives of the Initiative are to increase knowledge and understanding of organized crime issues and tools, improve detection and targeting of organized crime offences/groups, enhance the ability to investigate and prosecute organized crime offences/groups, and improve case preparation. These are intended to lead to the long-term objectives of more effective investigations and prosecutions of organized crime. Do you think that these objectives are relevant today?

The next several questions ask about the implementation of the Intensive Federal Prosecution Strategy. Please answer for areas in which you have specific knowledge.

Prosecutors providing pre-charge advice and assistance

4. Has your region identified prosecutors to provide advice and assistance to police at the pre-charge stage in organized crime files? (Probe: which prosecutors [names]) Are these prosecutors dedicated to this function, or are they assigned on an as-needed basis? (Probe: is the same prosecutor assigned throughout the case; how soon after the investigation is opened are prosecutors assigned)
5. How do these prosecutors usually become involved in providing pre-charge advice and assistance? Is there a standard procedure or is the process more informal?
6. What kinds of advice and assistance are these prosecutors generally asked to provide? (Probe: search warrant, wire tap, etc.) To whom do they give advice and assistance? How do they generally provide this advice? (Probe: oral or written)
7. What percentage of their work week do these prosecutors typically spend giving pre-charge advice for organized crime files? In a typical organized crime file, about how many requests for advice and assistance are received? Approximately how much time is typically spent on any given file?

Disclosure management

8. What has been done in your region to put in place disclosure management? (Probe: are personnel assigned to manage disclosure; who are they [names])
9. Is there a disclosure pilot project in your region? (Probe: where is the unit situated)
10. What are the steps in handling disclosure? (Probe: formal process; is process handled by police or DOJ; does it occur before or after charges are laid) Has the Intensive Federal Prosecution Strategy affected how disclosure is managed? Please provide details.

11. For an average organized crime file, what is the volume of disclosure? Please estimate the number of pages.
12. In general, how long does disclosure take? Please estimate in days. Has the length of time changed since the Intensive Federal Prosecution Strategy began? Has late disclosure been reduced under the Strategy?

Organized crime prosecutors

13. In your region, have certain prosecutors been identified to conduct organized crime prosecutions or are they assigned on an as-needed basis? (Probe: which prosecutors are dedicated to this function [names])
14. Does your region have dedicated organized crime prosecution teams? If there are teams, how are they structured? How many members are on the team, and what are their positions? Which offices have these teams?
15. Has the identification of organized crime prosecutors or the use of dedicated prosecution teams changed the way organized crime prosecutions are handled? In what ways?
16. In your opinion, have dedicated organized crime prosecutors or organized crime prosecution teams made prosecutions more successful? Why or why not?

The next several questions concern implementation more generally and are to be asked of everyone.

17. Does the implementation of the Intensive Federal Prosecution Strategy in your region differ from what was originally proposed in the Treasury Board submission? (Probe: dedicated organized crime prosecutors to provide advice and assistance and to conduct prosecutions; dedicated disclosure units) If it does, what impact do you think this has on the overall Initiative?
18. What, if anything, still needs to be done to implement the objectives of the Intensive Federal Prosecution Strategy?
19. Are there any barriers to the implementation of the Intensive Federal Prosecution Strategy? If yes, what are they? (Probe: barrier internal to the DOJ and external barriers)
20. Is your office collecting information on your activities under the Initiative? If yes, please describe what kind of information is collected. (Probe: number of organized crime files; work being conducted on files such as disclosure management and the provision of advice; training sessions provided or attended) How is this information collected? (Probe: electronically, paper, other) Are any reports produced that analyse this information? If no information is being collected, why has this not occurred? What information should be kept?
21. In your opinion, is there a need to continue or expand the activities under the Initiative?

22. Are your roles and responsibilities under the Intensive Federal Prosecution Strategy clearly defined? What are they?
23. In your opinion, has the Initiative been well managed (both within FPS/DOJ and horizontally)? Are there ways in which the management of the Initiative could be improved?

The next questions ask about workload and resources.

24. For this year, approximately what percentage of your office's caseload is organized crime files? Does the number of files appear to be increasing? If so, why do you think this is happening?
25. What kinds of organized crime files does your office typically handle? What types of charges do they involve? Based on the CASEVIEW definition, what percentage of them are complex?
26. In your opinion, do you have sufficient resources to undertake the activities related to the Initiative? In your answer, please consider financial, staffing, and training resources. What other resources are needed?
27. In your opinion, have the resources provided under the Initiative helped to close the resource gap for organized crime files? Please explain.

17. The following questions concern partnerships.

28. Outside of the DOJ, who does your office typically work with on organized crime files? (Probe: RCMP, municipal or provincial police, provincial Crown, customs officer, other)
29. Has the working relationship with these individuals or agencies changed as a result of the Strategy? If yes, how?

The next questions are about training.

30. What training under the Initiative has your office taken? Did your staff's knowledge improve after this training? If so, how?
31. How has your office made use of the training? Please describe.
32. Has your office developed any new training programs or provided training under this initiative? Please describe. (Probe: who delivered the training [IPOC or prosecutors]; to whom was the training given; was it C-24, disclosure management, preparation of Crown briefs, or other relevant training)
33. In your opinion, has the training your office provided under the Initiative increased stakeholder (law enforcement and prosecutors) awareness and knowledge of organized crime issues and the legislative tools available under the Initiative?

The following questions ask you to consider impacts of the Intensive Federal Prosecution Strategy and the overall Initiative.

34. In your opinion, has disclosure management changed as a result of the Intensive Federal Prosecution Strategy? If yes, how? If no, why not?
35. In your opinion, has the quality of court briefs changed as a result of the Intensive Federal Prosecution Strategy? If yes, how? If no, why not?
36. In your opinion, has case preparation changed as a result of this Intensive Federal Prosecution Strategy? If yes, how? If no, why not?
37. In your opinion, has the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affected the ability to investigate organized crime offences? If yes, how?
38. In your opinion, will the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affect the ability to prosecute organized crime offences? If yes, how?

A few final questions about the overall Initiative:

39. In your opinion, have resources been allocated in the best way within the Department? Should they be allocated differently?
40. Have you had any input in developing the Initiative? If yes, please describe. (Probe: C-24 and the Intensive Federal Prosecution Strategy)
41. Other than the current activities under the Initiative, are there other strategies or tools (legislative, investigative, or prosecutorial) that you can think of to combat organized crime?

To be completed by researcher:

Region: _____

MCOC Department of Justice Mid-Term Evaluation
Key Informant Interview Guide
IAG

The Department of Justice (DOJ) is currently evaluating its implementation of the Measures to Combat Organized Crime Initiative and has retained Prairie Research Associates (PRA) Inc., an independent research firm, to assist in conducting the evaluation. You may have already received communication from the DOJ introducing the evaluation and asking for your assistance.

As you may know, a major objective of the Initiative is to develop legislation and policies to assist law enforcement and prosecutors in the investigation and prosecution of organized crime. The Initiative involves a horizontal partnership among four federal departments – the DOJ, the Royal Canadian Mounted Police (RCMP), the Correctional Service of Canada (CSC), and the Department of the Solicitor General (SGC). All four partners are conducting evaluations of their activities under the Initiative.

There are two main components of the DOJ's activities under the Initiative.

- The ***Intensive Federal Prosecution Strategy Against Organized Crime*** includes the provision of legal advice and support to organized crime investigations; improved management of the great volume of evidence typically gathered during criminal organization cases; dedicated organized crime prosecution teams; and the provision of international assistance with evidence gathering and extradition.
- ***Legislation, policy, and research*** includes the establishment of a dedicated team within the DOJ to complete the Parliamentary phase of Bill C-24 (Organized Crime and Law Enforcement); conduct legislative training on Bill C-24; continue the development of policies and legislation; and conduct research to increase the knowledge and understanding of organized crime issues.

This interview should take about one hour and, with your permission, will be tape-recorded to ensure the accuracy of information reported. The information that you provide will be reported in aggregate form; individual responses will not be shared outside of PRA and the DOJ. All tape recordings will be erased at the end of the evaluation.

In responding to the questions, please consider the definition of organized crime used by the DOJ. To assist you, we have attached this definition as an appendix to this guide.

We realize that you may not have the personal knowledge required to answer some of the questions. Please let us know if you cannot answer a question.

1. Before you were contacted to participate in this evaluation, were you aware of the Measures to Combat Organized Crime Initiative? Were you aware of Bill C-24 and the Intensive Federal Prosecution Strategy?
2. Please describe your role in the Initiative.
3. As you may know, the short-term objectives of the Initiative are to increase knowledge and understanding of organized crime issues and tools, improve detection and targeting of organized crime offences/groups, enhance the ability to investigate and prosecute organized crime offences/groups, and improve case preparation. These are intended to lead to the long-term objectives of more effective investigations and prosecutions of organized crime. Do you think that these objectives are relevant today?

The next several questions ask about the implementation of the international assistance piece of the Initiative's Intensive Federal Prosecution Strategy.

4. What IAG activities have been funded under the Initiative?
5. What forms of international assistance are being provided under the Intensive Federal Prosecution Strategy?
6. What work has been done on the Judicial Cooperation Sub-group of the G8 (Lyon Group) and the Canada-US Cross Border Crime Forum? Has Initiative funding been used for this work? If so, please provide details.
7. Has your office identified counsel to provide advice and assistance to prosecutors and police on international organized crime files? Are certain counsel dedicated to this function, or are they assigned on an as-needed basis?
8. How do these counsel usually become involved in providing advice and assistance? Is there a standard procedure, or is the process more informal?
9. What kinds of advice and assistance are these counsel generally asked to provide? To whom do they give advice and assistance?
10. What, if anything, still needs to be done to implement the IAG objectives of the Intensive Federal Prosecution Strategy?
11. Are there any barriers to the implementation of the Intensive Federal Prosecution Strategy? If yes, what are they? (Probe: barriers internal to the DOJ and external barriers)
12. Is your office collecting information on your activities under the Initiative? If yes, please describe what kind of information is collected. (Probe: number of organized crime files; work being conducted on files such as the provision of advice; attendance at international forums on organized crime; training sessions provided) How is this information collected? (Probe: electronically, paper, other) Are any reports produced that analyse this information?

If no information is being collected, why has this not occurred? What information should be kept?

13. In your opinion, is there a need to continue or expand the Initiative's activities in the area of international organized crime?
14. In your opinion, has the Initiative been well managed (both within IAG/DOJ and horizontally)? Are there ways in which the management of the Initiative could be improved?

The next questions ask about workload and resources.

15. On average, approximately how many requests for mutual legal assistance in organized crime files does your office work on in a year? Does the number of mutual legal assistance requests appear to be increasing? If so, why do you think this is happening?
16. On average, approximately how many requests for extradition in organized crime files does your office work on in a year? Does the number of extradition requests appear to be increasing? If so, why do you think this is happening?
17. In your opinion, do you have sufficient resources to undertake the activities related to the Initiative? In your answer, please consider financial, staffing, and training resources. What other resources are needed?
18. In your opinion, have the resources provided under the Initiative helped to close the resource gap for international organized crime files? Please explain.

The following questions concern partnerships.

19. What officials or agencies outside of the DOJ request IAG assistance with organized crime files? What officials or agencies do you contact when a domestic organized crime file has an international aspect? (Probe: other Attorney Generals, SGC, Department of Justice counterparts in other G8 countries)
20. Has the working relationship with these officials or agencies changed as a result of the Intensive Federal Prosecution Strategy? If yes, how?

The next questions are about training.

21. Has your office developed any new training programs or provided training under this Initiative? Please describe. (Probe: who delivered the training; to whom was the training given; was it C-24, MLAT, extradition or other relevant training)
22. In your opinion, has the training your office provided under the Initiative increased stakeholder (law enforcement and prosecutors) awareness and knowledge of international organized crime issues and the legislative tools available under the Initiative?

The following questions ask you to consider impacts of the overall Initiative.

23. In your opinion, has the investigation and prosecution of international cases changed as a result of the Initiative? If yes, how? If no, why not?
24. In your opinion, has the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affected the ability to investigate organized crime offences? If yes, how?
25. In your opinion, will the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affect the ability to prosecute organized crime offences? If yes, how?

A few final questions about the overall Initiative:

26. Have you had any input in developing the Initiative? If yes, please describe. (Probe: C-24 and the Intensive Federal Prosecution Strategy)
27. In your opinion, have resources been allocated in the best way within the Department? Should they be allocated differently?
28. Other than the current activities under the Initiative, are there other strategies or tools (legislative, investigative, or prosecutorial) that you can think of to combat organized crime?

To be completed by researcher:

Position: _____

MCOC Department of Justice Mid-Term Evaluation
Key Informant Interview Guide
CLPS, Research and Statistics

The Department of Justice (DOJ) is currently evaluating its implementation of the Measures to Combat Organized Crime Initiative and has retained Prairie Research Associates (PRA), an independent research firm, to assist in conducting the evaluation. You may have already received communication from the DOJ introducing the evaluation and asking for your assistance.

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- ***Legislation, policy, and research*** includes the establishment of a dedicated team within the DOJ to complete the Parliamentary phase of Bill C-24 (Organized Crime and Law Enforcement); conduct legislative training on Bill C-24; continue the development of policies and legislation; and conduct research to increase the knowledge and understanding of organized crime issues.

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In responding to the questions, please consider the definition of organized crime used by the DOJ. To assist you, we have attached this definition as an appendix to this guide.

We realize that you may not have the personal knowledge required to answer some of the questions. Please let us know if you cannot answer a question.

1. Before you were contacted to participate in this evaluation, were you aware of the Measures to Combat Organized Crime Initiative? Were you aware of Bill C-24 and the Intensive Federal Prosecution Strategy?
2. Please describe your role in the Initiative.

Relevance of the Initiative and implementation

3. As you may know, the short-term objectives of the Initiative are to increase knowledge and understanding of organized crime issues and tools, improve detection and targeting of organized crime offences/groups, enhance the ability to investigate and prosecute organized crime offences/groups, and improve case preparation. These are intended to lead to the long-term objectives of more effective investigations and prosecutions of organized crime. Do you think that these objectives are relevant today?
4. Has the legislative, policy, and research component of the Initiative been implemented in terms of the following? Please answer for areas in which you have specific knowledge, and describe what activities have been undertaken.
 - Successive phases of policy development to complete the National Agenda mandate
 - Legislative consultation with stakeholders
 - Training and education sessions
 - Research
5. Does the implementation of the legislative, policy, and research component of the Initiative differ from what was originally proposed in the Treasury Board submission? If it does, what impact do you think this has on the overall Initiative?
6. What, if anything, still needs to be done to implement the legislative, policy, and research component of the Initiative?
7. Are there any barriers to the implementation of the legislative, policy, and research component of the Initiative? If yes, what are they? (Probe: barriers internal to the DOJ and external barriers)
8. In your opinion, does Bill C-24 meet the objectives of the Initiative? What additional legislation would assist prosecutions further?
9. In your opinion, is there a need to continue or expand the activities under the Initiative?
10. In your opinion, has the Initiative been well managed (both horizontally and within the DOJ)? Are there ways in which the management of the Initiative could be improved?

Research

11. In your opinion, what are the priorities of the National Agenda to Combat Organized Crime?
12. Do the activities under the Initiative reflect these priorities or are there other emerging priorities?
13. Are you aware of any research that discusses the following? If so, who conducted the research?
 - The extent of organized crime in Canada
 - Trends in the number and span of organized crime groups and activities
 - Trends in the volume and nature of organized crime
14. What research on organized crime issues has the Research and Statistics Division conducted to date?
15. Have research or evaluations of other DOJ initiatives been used in the development of policy and legislation related to organized crime? If yes, how? If no, why not?

Resources

16. In your opinion, do you have sufficient resources to undertake the activities related to the Initiative? In your answer, please consider financial, staffing, and training resources. What other resources are needed?
17. In your opinion, have the resources provided under the Initiative helped to close the resource gap? Please explain.
18. In your opinion, do your partners (RCMP, SGC, CSC) have sufficient resources to undertake the activities related to the Initiative? In your answer, please consider financial, staffing, and training resources.
19. By working in partnership, have you been able to leverage resources? If yes, what additional activities has this allowed you to undertake?

Partnerships

20. What are the roles and responsibilities of the Department of Justice within the Initiative? Have they been clearly identified and communicated?
21. In your opinion, how well have the components of the Initiative been integrated within your own department? With the Initiative partners (DOJ, SGC, RCMP, CSC)? What is working well? What needs to be improved? (Probes: cooperation levels, timeliness of advice/services, access to/sharing of information/intelligence)

22. Have the roles and responsibilities of the partners within the overall Initiative been clearly identified and communicated? What do you see as their roles and responsibilities?
23. Besides the current partners, do you think there is a role for other departments/ agencies to contribute to the Initiative? If yes, which ones and how could they contribute?
24. How have the partnerships affected the ability to investigate and prosecute organized crime? (Probe: more or better training, more or better research studies) Has working in partnership with the RCMP, SGC, and CSC allowed you to achieve anything you would have been unable to achieve on your own? If yes, what?
25. In your experience, are there any challenges to working in partnership on the Initiative? Please explain. In your opinion, do the partners share information when needed?
26. Have you established any new cooperative working arrangements with other stakeholders or signed any memorandums of understanding nationally or internationally as a result of the Initiative? With whom? Have any of these arrangements ended? If you know, please explain why. Are you targeting any new stakeholders (nationally or internationally) with whom to sign memorandums of understanding or enter into cooperative working arrangements?

Training – This section is only to be asked of CLPS

27. Have you developed any new training programs or provided training under this Initiative? Please describe. (Probe: C-24 or other relevant training)
28. In your opinion, has the training you provided under the Initiative increased stakeholder (law enforcement and prosecutors) awareness and knowledge of organized crime issues and the legislative tools available under the Initiative?
29. Have there been any systems put in place to track the provision of training, collect and assess feedback on training, and monitor the effectiveness of training? If yes, what are these systems? If no, why have they not been implemented? What systems need to be developed?

Impacts

30. In your opinion, has the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affected the ability to investigate organized crime offences? If yes, how?
31. In your opinion, will the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affect the ability to prosecute organized crime offences? If yes, how?

Alternatives

32. In your opinion, have resources been allocated in the best way within the Department? Should they be allocated differently?

33. Other than the current activities under the Initiative, are there other strategies or tools (legislative, investigative, or prosecutorial) that you can think of to combat organized crime?

To be completed by researcher:

DOJ Section: _____

Position: _____

MCOC Department of Justice Mid-Term Evaluation
Key Informant Interview Guide
Crown Prosecutors and Paralegals

The Department of Justice (DOJ) is currently evaluating its implementation of the Measures to Combat Organized Crime Initiative and has retained Prairie Research Associates (PRA) Inc., an independent research firm, to assist in conducting the evaluation. You may have already received communication from the DOJ introducing the evaluation and asking for your assistance.

As you may know, a major objective of the Initiative is to develop legislation and policies to assist law enforcement and prosecutors in the investigation and prosecution of organized crime. The Initiative involves a horizontal partnership among four federal departments – the DOJ, the Royal Canadian Mounted Police (RCMP), the Correctional Service of Canada (CSC), and the Department of the Solicitor General (SGC). All four partners are conducting evaluations of their activities under the Initiative.

There are two main components of the DOJ's activities under the Initiative.

- The ***Intensive Federal Prosecution Strategy Against Organized Crime*** includes the provision of legal advice and support to organized crime investigations; improved management of the great volume of evidence typically gathered during criminal organization cases; dedicated organized crime prosecution teams; and the provision of international assistance with evidence gathering and extradition.
- ***Legislation, policy, and research*** includes the establishment of a dedicated team within the DOJ to complete the Parliamentary phase of Bill C-24 (Organized Crime and Law Enforcement); conduct legislative training on Bill C-24; continue the development of policies and legislation; and conduct research to increase the knowledge and understanding of organized crime issues.

This interview should take about one hour and, with your permission, will be tape-recorded to ensure the accuracy of information reported. The information that you provide will be reported in aggregate form; individual responses will not be shared outside of PRA and the DOJ. All tape recordings will be erased at the end of the evaluation.

In responding to the questions, please consider the definition of organized crime used by the DOJ. To assist you, we have attached this definition as an appendix to this guide.

We realize that you may not have the personal knowledge required to answer some of the questions. Please let us know if you cannot answer a question.

1. Before you were contacted to participate in this evaluation, were you aware of the Measures to Combat Organized Crime Initiative? Were you aware of Bill C-24 and the Intensive Federal Prosecution Strategy?
2. Are you involved in any of the following:
 - providing advice and assistance to police at the pre-charge stage for organized crime files;
 - disclosure management related to organized crime files (if so, are you working in a pilot project or receiving disclosure from a pilot project); or
 - the prosecution of organized crime cases?

Questions 3-6 are for those involved in providing advice and assistance to police at the pre-charge stage.

3. How do you usually become involved in providing pre-charge advice and assistance in organized crime files? Is there a standard procedure or is the process more informal? Are you identified as the prosecutor to provide this advice or is your involvement on an as-needed basis?
4. What kinds of advice and assistance are you generally asked to provide in these files? (Probe: search warrant, wire tap, etc.) To whom do you give advice and assistance? How do you generally provide this advice? (Probe: oral or written)
5. What percentage of your work week do you spend giving pre-charge advice for organized crime files?
6. In a typical organized crime file, about how many requests for advice and assistance do you receive? Approximately how much time would you spend on any given file?

Questions 7-9 are for those involved in disclosure management.

7. What are the steps in handling disclosure in your office? (Probe: formal process; is process handled by police or DOJ; does it occur before or after charges are laid) Has the Intensive Federal Prosecution Strategy affected how disclosure is managed? Please provide details.
8. For an average organized crime file, what is the volume of disclosure? Please estimate the number of pages.
9. In general, how long does disclosure take? Please estimate in days. Has the length of time changed since the Intensive Federal Prosecution Strategy began? Has late disclosure been reduced under the Strategy?

Questions 10-13 are for those who prosecute organized crime cases.

10. Have certain prosecutors in your office been identified as organized crime prosecutors or are they assigned on an as-needed basis?
11. Does your office have a dedicated organized crime prosecution team? If there is a team, how is it structured? How many members are on the team, and what are their positions?
12. Has the identification of organized crime prosecutors or the use of dedicated prosecution teams changed the way organized crime prosecutions are handled? In what ways?
13. In your opinion, have dedicated organized crime prosecutors or organized crime prosecution teams made prosecutions more successful? Why or why not?

The remaining questions are for everyone.

14. How many organized crime files are you working on now? Approximately what percentage of your caseload is organized crime files?
15. What are the kinds of organized crime files that you typically handle? What types of charges do they involve?
16. Does the number of organized crime files handled by your office appear to be increasing? If so, why do you think this is happening?
17. Please briefly describe the various steps you take in handling an organized crime file from pre-charge through appeal.

The next questions are about the implementation of the Intensive Federal Prosecution Strategy.

18. Are your roles and responsibilities under the Intensive Federal Prosecution Strategy clearly defined? What are they?
19. Is the Strategy well managed in your office? Are there ways to improve how your office is managing its responsibilities under the Strategy?

The next two questions are about partnerships.

20. Outside of the DOJ, who do you typically work with on organized crime files? (Probe: RCMP, municipal or provincial police, provincial Crown, customs officer, other)
21. Has the working relationship with these individuals or agencies changed as a result of the Strategy? If yes, how?

The next several questions concern resources and training.

22. In your opinion, do you have sufficient resources to conduct your work on organized crime files? In your answer, please consider financial, staffing, and training resources. What other resources, if any, do you need?
23. What training under the Initiative have you taken? Did your knowledge improve after this training? If so, how?
24. How have you made use of the training? Please describe.
25. Have you provided any training under the Initiative? If yes, what type? (Probe: C-24, disclosure management, preparation of Crown briefs, or other relevant training) To whom was the training given?
26. In your opinion, has the training you provided under the Initiative increased stakeholder awareness and knowledge of organized crime issues and the legislative tools available under the Initiative?

The following questions ask you to consider impacts of the Intensive Federal Prosecution Strategy.

27. In your opinion, has disclosure management changed as a result of the Strategy? If yes, how? If no, why not?
28. In your opinion, has the quality of court briefs changed as a result of the Strategy? If yes, how? If no, why not?
29. In your opinion, has case preparation changed as a result of the Strategy? If yes, how? If no, why not?
30. In your opinion, has the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affected the ability to investigate organized crime offences? If so, how?
31. In your opinion, will the enactment of Bill C-24 and the Intensive Federal Prosecution Strategy affect the ability to prosecute organized crime offences? If so, how?

A few final questions about the overall Initiative:

32. Have you had any input in developing the Initiative? If yes, please describe. (Probe: C-24 and the Intensive Federal Prosecution Strategy)
33. Other than the current activities under the Initiative, are there other strategies or tools (legislative, investigative, or prosecutorial) that you can think of to combat organized crime?

To be completed by researcher:

Region: _____

Position: _____

APPENDIX B:
DEFINITION OF FPS ORGANIZED CRIME FILE
(May 2003 workshop)

Federal Prosecution Service Definition of Organized Crime File

The following definition was developed by the Federal Prosecution Service and refined during the May 30th, 2003 Pilot Study Workshop in Ottawa. It is important to note that the definition will be used to identify FPS organized crime files retrospectively (going back in time) as well as prospectively (future monitoring on CASEVIEW/iCASE).

FPS Definition:

A file is to be identified as an organized crime file if:

- (i) it contains one or more charges under section 467.1 of the *Criminal Code* stemming from the 1997 organized crime legislation (C-95);

OR

- (ii) it contains one or more charges under section 467.11, 467.12, 467.13 of the *Criminal Code* stemming from the 2001 organized crime legislation (C-24);

OR

- (iii) the file or related files contain **information** that an offence(s) may be or was committed for the benefit, at the direction of, or in association with a “criminal organization” as defined below;

OR

- (iv) one or more accused or targets of the investigation were targeted due to their known involvement in organized crime activities

Notes:

FPS Definition of Criminal Organization:

“**criminal organization**” means a group, however organized, that is composed of three or more persons in or outside of Canada, one of whose main purpose or activities is the commission or facilitation of offences that if committed, would likely result in the direct or indirect material benefit, including financial benefit, by the group or by any person who constitute the group. It does not include a group formed randomly for the immediate commission of a single offence.

The FPS definition of criminal organization has one significant departure from the *Criminal Code* definition. The offences committed as one of the main purposes or activities of the organization need not be a “serious offences” within the meaning of s. 467.1 of the *Criminal Code* in order to qualify the file as an organized crime file.

“**information**” means reliable or credible information provided to prosecution by law enforcement or otherwise within the knowledge of the prosecution. This information does NOT have to be admissible in court. However, it must go beyond bare assertion or speculation.

The determination that a file is an organized crime file is not dependent on an intention to prove the organized crime connection in court, to pursue charges under s. 467.11, 467.12, 467.13 or to rely on the sentencing provisions of s. 718.2 (iv) of the *Criminal Code* for the purpose of aggravating sentence.

Prepared: June 6th, 2003

**APPENDIX C:
FILE REVIEW GUIDE**

File Review Guide

(Information not available in the files is to be obtained from an interview with the lead prosecutor and/or paralegal assigned to this file.)

1. Regional Office.
Vancouver Edmonton Toronto Ottawa-Gatineau Montreal Halifax

2. Date of site visit. _____
3. File number. _____
4. Lead prosecutor. _____

5. Paralegal. _____

6. How was the lead prosecutor assigned to this file?
Member of dedicated OC prosecution team
Designated OC prosecutor in office
Other _____

7. Number of prosecutors who have assisted on file.

8. Date file opened. _____
(mm/dd/yy)
- 9a. What is the status of the file? (open, closed)
Identify source document or interview.

- 9b. If open, in what phase is the file? (pre-charge, disclosure, trial, appeal, other)

10. Linked file.
Yes No
11. Linked files FPS number. _____

12. Rated complexity. _____
(See CASEVIEW)
- 13a. **[Interview]** Do you consider this to be an organized crime file?
Yes No
- 13b. If yes, what are the aspects of the file that make it an organized crime related?

26a. Description of offence in Crown brief/ information/indictment includes named individuals who are not among the accused in this file.

Yes No

26b. If yes, number of individuals in addition to accused listed above. _____

27a. Did the file involve the following:

Extradition request

No. of requests by Canada _____

No. of requests by foreign agency _____

No. granted _____

Mutual Legal Assistance (MLA)

No. of MLA requested by Canada _____

No. of MLA requested by foreign agency _____

Wiretaps

No. of requests _____

No. granted _____

Forfeiture order

No. of requests _____

No. granted _____

Search warrants

No. of requests _____

No. granted _____

Restraint order

No. of requests _____

No. granted _____

Foreign witnesses

No. of foreign witnesses _____

27b. **[Interview]** Did a prosecutor/counsel assist with any of these requests?

Yes No

27c. If yes, what assistance did the prosecutor/counsel provide?

IF FILE INVOLVES ANY OF THE ABOVE IN Q27a, PLEASE COMPLETE Q27b AND Q27c

