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**Enhancing Integrated  
Market Enforcement Teams,  
Achieving Results in  
Fighting Capital Markets  
Crime**

**Nick Le Pan, Special Advisor to the Commissioner of the RCMP**

October 25<sup>th</sup>, 2007

October 25, 2007

October 25<sup>th</sup>, 2007

William Elliott  
Commissioner  
RCMP  
1200 Vanier Parkway  
Ottawa, ON K1A 0R2

Dear Commissioner,

Pursuant to my mandate, I have completed my review of the Integrated Market Enforcement Teams (IMETs) and I am pleased to submit my report and recommendation to enhance the program.

Sincerely,

Nick LePan  
Special Advisor to the Commissioner

Encl. 1

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**Report to the Commissioner**

**Enhancing Integrated Market Enforcement Teams, Achieving Results in Fighting  
Capital Markets Crime**

**Nick Le Pan, Special Advisor to the Commissioner**

**Executive Summary**

The 2007 Federal budget indicated the Government's intention to enhance capital markets enforcement. This included initiating concrete steps to enable the RCMP's Integrated Market Enforcement Teams (IMETs) to attract and retain the best-qualified police and other expert resources, strengthen national coordination of the program and enhance collaboration with provincial authorities.

As these improvements are made, the Government announced it was prepared to supplement substantially the resources of the IMETs to achieve more effective and timely investigations. To this end, the Government appointed me as Senior Expert Advisor to help develop and guide the implementation of a plan to improve the effectiveness of the IMETs. I am available until October 2008 to assist in implementation. My mandate did not include making recommendations on legislative issues, which are being considered by a separate federal-provincial-territorial group. I believe my mandate was appropriate.

Most commentators, regulators, and federal and provincial governments agree that having an effective national element to criminal enforcement of capital markets offences is essential.

IMETS, started in 2003, were to be integrated teams of experienced RCMP investigators with capital markets fraud experience, legal advisors from the Public Prosecution Service of Canada (PPSC) and civilians with specialist expertise. Teams in Montreal, Toronto, Calgary and Vancouver were to conduct investigations with national oversight. Certain RCMP HR policies were to be changed to better attract and retain expertise. I believe that the essence of the original IMET concept was sound. The problem was in implementation.

Virtually all IMET cases will have international aspects. It is one reason why a national program like IMET is essential.

IMET investigation results have been disappointing to many, though there continues to be progress on existing cases. The preventative activities through the Joint Securities Intelligence Units (JSIU) are a success. Issues of timely results are partly a problem of unrealistic expectations, partly due to differences in Canada's legal framework compared to other jurisdictions that are unlikely to change soon, and partly due to issues within the RCMP and its partners. I conclude that IMET can improve within the current legal framework.

There is no one measure that would speed up investigations. The Report identifies several essential elements including focusing investigations from the start and having adequate ability to process and analyse the large body of electronic and hard copy documents that are typical of these investigations.

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Federal and provincial Crown prosecution offices are also part of the timeliness issue as, depending on the province, they must separately approve or review the police case, before charges are laid. In contrast to the U.S., Canadian legal tradition does not permit prosecutors to be in charge of investigations or participate in them on a day-to-day basis. There appear to be resource challenges in some jurisdictions that can slow down getting to charges and having appropriate prosecution teams in place.

IMET and the rest of criminal enforcement system is part of a continuum of enforcement tools that includes securities regulation. Each must work well for the whole to work well. The RCMP, the Public Prosecution Service of Canada (PPSC), and their partners, (including Provincial Crown agencies) need to demonstrate they can achieve more results soon.

Many people take for granted the integrity of the financial system. Sometimes I was told that capital markets fraud is not the same as other crimes. This is wrong. Fraud is not a victimless crime. Confidence in the integrity of capital markets translates into real benefits for our economy and for individual Canadians.

The IMET program is operating in a very challenging environment that it needs to be better equipped to succeed in. Public and policy maker expectations are extremely high and Canadian credibility on enforcement issues is low to start out with. Start-up knowledge was far from ideal about the challenges and risks the program faced in dealing with major complex capital markets cases. Even reasonable glitches or errors were magnified. Those being investigated or charged will understandably bring substantial high-quality resources to bear to defend themselves. The Program is 'playing in the big leagues' and needs to act that way.

Legitimate criticisms center on the lack of results and questioning whether the Program and its partners have the sense of urgency needed to succeed. Nor has IMET demonstrated the leadership, tone from the top, results focus, nimbleness or consistent cohesion of action or communication among the players (including within the RCMP and PPSC and among the federal players) that is necessary to succeed. The Director did not have clear authority to oversee. There are also frustrations building internally. There is a too high a vacancy rate and turnover, and significant key-person risk.

Expectations for IMET sometimes confuse regulatory enforcement with criminal enforcement, without realizing that the latter has a much higher bar for laying charges or for conviction. Expectations of U.S.-style results are unrealistic, given Canada's different legal environment. For example, our lack of ability to compel those not being investigated to provide information, documents and data pre-trial, hampers investigations compared to the U.S. or U.K.. Also, as an example, charging people in stages in a major investigation, as is done in the U.S., is not feasible in Canada due to rules on full disclosure of the Crown's case to accused.

Under-promising and over-achieving should become the watchwords for IMET, not the other way round.

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There are generally good working relations between IMET and provincial securities regulators. However, there can be tensions. The interests of regulators and police do not always coincide when they are both investigating an issue. There are other issues that can make for tensions, such as the legal constraints on information sharing, and what those mean in practise. The existence of multiple securities regulators in Canada can make achieving consensus on issues difficult and time consuming. For example, it took considerable time to sort out the approach to sharing of information between regulators and the police in Canada and between Canadian authorities and their international partners. It is not fully resolved. Canada did not have a uniform position vis a vis its international partners. Again, different provincial regulators have different interpretations of court decisions which has hampered setting up joint securities intelligence units with the RCMP in some provinces, though these are a success in other provinces.

In some provinces, there are moves for IMET to undertake more joint investigations with provincial police and regulators, and some Commissions want closer information sharing.

Major recommendations in the Report include:

- Enhanced leadership and tone from the top emphasizing results.
- Fighting capital markets fraud having a higher priority within the RCMP and the Public Prosecution Service of Canada (PPSC).
- Making sure all the investigation and prosecution options under existing legislation are developed and pursued. This includes the PPSC, together with its provincial counterparts and the police, examining use of ability to charge corporations and reach deferred prosecution and cooperation agreements with them, as is done in the U.S.. It also includes the RCMP reviewing the possibility of more use of various proactive investigative techniques.
- Clarifying accountability and who is in charge within the RCMP. Appointing a more senior leader at RCMP HQ to actively oversee the Program and lead the enhancement. More senior PPSC staff actively overseeing their involvement.
- Having the day-to-day IMET operations more closely aligned with RCMP Divisions where the Program is located, while strengthening the HQ oversight, national coordination and ability to intervene to help get results.
- Put in place a more disciplined results-based management and oversight of investigations to focus, keep them on track and speed up getting to results.
- Identifying priorities for additional funding including a high priority on additional resources for information management and technical crime support for these very complex investigations.
- Enhancing cooperation between PPSC and provincial Crowns and the RCMP to reduce delays in Crown consideration of charges, and enhance the likelihood of having high-quality prosecution teams.
- Specific measures to improve HR management in IMET including: reviewing and adjusting the desired make-up of teams based on experience to-date; improving career development possibilities for regular police, civilian and public service members of IMET; enhancing succession planning; creating a work environment more conducive to attracting and retaining people; enhancing necessary expertise including added

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willingness to bring in outside resources; and, targeted compensation measures, to address retention issues that would otherwise seriously hamper investigations. Enhancing career development opportunities for PPSC staff is also addressed.

- Take advantage of the closer links with Divisions to make sure that the IMET teams have the right mix of people with seasoned police skills who know how to control the focus, pace and direction of major investigations (from the larger economic and financial crime staff pool), and people from inside or outside the RCMP, with the necessary specialist expertise.
- Public Prosecution Service of Canada and Provincial Crown offices having a plan for enhanced capability, where necessary. Aggressively pursuing use of federal funding and resources from the IMET reserve and contingency funds to augment prosecution teams. In situations where there is a short-term lack of personnel, federal and provincial prosecution agencies should not hesitate to engage outside experts as ad hoc counsel to achieve results, even if there is additional cost.
- Enhancing relations between IMET and securities commissions including: all provinces with IMET units finding ways to participate in the successful joint securities intelligence units; pushing for relevant national coordination issues with securities commissions being dealt with consistently and expeditiously, such as information exchange between regulators and police; and, that the Canadian Securities Administrators be asked to share experiences on enhancing provincial securities enforcement with federal authorities on a regular basis.

I also recommend that the RCMP, Public Prosecution Service of Canada and the federal government who funds the Program, should develop a simple more-formal, medium-term implementation plan re desired and achievable caseload, including potentially more capacity to investigate and prosecute more, smaller, less-complex, investigations. Accepting more investigations should not become a priority until the accountability structure and improved management practices I recommend are in place and working and until resourcing issues that can hamper existing investigations are dealt with.

Having success in smaller cases adds to credibility of IMETS and to credibility of capital markets enforcement. It would also help enhance career opportunities and reduce key person risk in the current program.

The Report concludes by noting that fighting capital markets fraud effectively is very important to Canada and to individual Canadians. I have been impressed by the dedication and energy of the people involved in IMET. Theirs' is not an easy job. The achievements to date in getting IMET up and running are real. There is room for improvement but with leadership, focus and determination by all the organisations involved, I believe that a better job in achieving results can be done.

**Enhancing Integrated Market Enforcement Teams, Achieving Results in Fighting  
Capital Markets Crime**

**Nick Le Pan, Special Advisor to the Commissioner**

**Chapter 1: Introduction and Background**

**I. Introduction**

Mandate

The 2007 Federal budget indicated the Government's intention to enhance capital markets enforcement. This included initiating concrete steps to enable the RCMP's Integrated Market Enforcement Teams (IMETs) to attract and retain the best-qualified police and other expert resources, strengthen coordination of the program on a national basis and enhance collaboration with provincial authorities.

As these improvements are made, the Government announced it was prepared to supplement substantially the resources of the IMETs to achieve more effective and timely investigations. Up to \$10 million per year, on top of the current budget of some \$30 million was allocated to this purpose, and will be accessible once a plan is in place.

Capital-markets-related criminal enforcement involves multiple bodies: RCMP; other police forces; federal and provincial prosecution services; and the judicial system. IMET and the rest of criminal enforcement system is part of a continuum of enforcement tools that includes securities regulation and enforcement. Each must work well for the whole to work well.

This Report deals only with the criminal enforcement activities of IMET and relations with its partners.

In addition to those matters this Report was to:

- Address key recommendations contained within several external studies for improvement of investigation and prosecution of capital market crime in Canada;
- Respond to the recommendations of the federal provincial territorial working group on capital market fraud enforcement;
- Reflect the role of the provinces and provincial regulators, as well as the federal government and take account the federal Government's capital markets agenda;
- Make clear recommendation on priorities for IMETS that integrate HR, Finance, IM/IT and communication issues;
- Make recommendations to ensure timely investigations and prosecutions; and,



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- Recommend changes to build an effective sustainable organization including potential enhancement to the governance of IMETS and coordination with partners.

This mandate does not include making recommendations for changes in legislation. Nor does the mandate of this Report include creating a separate investigation/prosecution agency as exists in some other countries such as the UK. I believe this scope is appropriate.

While I have not done an in-depth study, it is clear to me that Canada's legal system hampers timely investigation compared to what is possible in the U.S. or the U.K. The federal-provincial-territorial working group is considering legislative issues.

There is room for improvement under the current legislative arrangements. I believe there is also the ability to improve. However, the RCMP, the Public Prosecution Service of Canada (PPSC), and their partners, (including Provincial Crown agencies) need to demonstrate they can achieve more results soon. Otherwise, more fundamental changes will have to be considered.

#### Availability of the Report

The Report is to the Commissioner of the RCMP and is also provided to the Public Prosecution Service of Canada (PPSC), Finance Canada (Finance), Justice Canada (Justice), and Public Safety Canada (PSC).

The Minister of Finance committed to provide the key recommendations to Provincial and Territorial Ministers responsible for securities regulation.

I have agreed to be available until October 2008 to assist the RCMP and its partners in implementation. In some areas covered by the Report, implementation has started.

I refer throughout this Report to 'the IMETS Program' or 'the Program'. I mean: the investigation activity within the RCMP; the legal advice provided by PPSC legal advisors co-located in the IMET units (PPSC advisors); the policy, coordination and governance arrangements for the program which include the IMET Branch at RCMP headquarters (HQ); the IMET coordinator role at Public Prosecution Service of Canada; the accountability and oversight provided by senior staff in the RCMP and PPSC, and the Executive Council, chaired by Public Safety with representation from the RCMP and the four federal departments, which deals with strategic direction.

Other acronyms and references used in this Report are set out in an Annex.

#### Process

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In preparing this Report I have reviewed a wide variety of documents on the IMETS program, discussed the issues with: IMET Program staff at all levels; Criminal Operations officers (CROPS) in the RCMP; senior executives of RCMP and PPSC, enforcement staff and Chairs of Securities Commissions where IMET has full time operations (Ontario, Quebec, Alberta and British Columbia); and, private sector observers of the program. I have also considered the comparable efforts in the U.S. and U.K. My observations on provincial prosecution issues are based on observation of their interaction with the Program, not on in-depth study of their operations.

I have been briefed on IMET investigations so as to understand how policy translates into action on the ground. I have also reviewed the Program's own Reformulation Plan, other Reports on the Program and talked directly to the authors for necessary clarification (Cory-Pilkington for the IDA, Canadian Securities Administrators, Deloitte).

Cooperation by all has been outstanding.

This Program has many skilled, dedicated and committed people who strongly believe in the vision of effective capital markets enforcement. They are often working very hard, sometimes under adverse circumstances and lack of clear direction, to bring that vision to fruition.

Many of them have excellent ideas on how to improve, and are willing to do so.

The fact that the program was up and running in such short time, and has demonstrated some, even if limited results, is a testament to the commitment and effort that many have put in to-date.

However, there are problems of leadership, accountability, oversight, management, timely focus, timely support for investigations, internal and external communications, and human resources that must be addressed. Some of these are RCMP issues, but there are also in my view some issues with the participation of the PPSC and Provincial Crowns and securities commissions. My recommendations are designed to facilitate better working relations and trust within the IMET Program, and between IMET and its partners.

This Chapter provides background on the Program, its results, and its importance and my summary observations. Recommendations start in Chapter 2 which considers governance, organisation and accountability. Chapter 3 deals with achieving timely results. Chapter 4 lays out my views of priority for enhanced funding and certain pre-conditions that need to be in place. Chapter 5 covers HR matters. Chapter 6 deals with other matters and is followed by a brief Conclusion. In each of the recommendation sections I have focussed more on what needs to be done rather than on the detailed analysis of the existing situation.

This Report complements the work of the Federal/Provincial/Territorial Ministers Responsible for Justice Securities Fraud Enforcement Working Group (FPT). That Working Group is not considering specific issues with IMETS. This Report does not touch on matters they are likely to recommend. While that Group has not finalised its Report, I am aware of its potential contents. Following my mandate, I am prepared to respond, as necessary, in a supplemental memorandum when the FPT Report is available.

## **II. Background**

### History of the Program

In June 2003 the federal government approved the creation of integrated investigative teams of police, legal advisors and other specialised resources, and enhanced federal prosecution capability, dedicated to enforcing serious capital markets fraud offences, along with coordination, oversight and contingency mechanisms. The objective was to increase the risk that persons who commit serious capital markets fraud offences will be detected, charged and prosecuted, thereby supporting cultures of compliance in the corporate world and promoting investor confidence in financial markets.

Provincial governments, provincial securities regulators and many commentators have agreed with these goals. The issue has been delivering against them.

It was understood that there were challenges. Those who created the program realised that existing policies made it difficult to hire private sector secondees as investigators, and made it difficult to adjust current pay scales associated with obtaining internal promotions, which had an impact on staff retention. There was recognition that a limited number of prosecutors then had the requisite expertise.

The original mandate of IMETS was limited to the most serious cases of capital markets fraud—i.e. the limited number of highly-complex capital market fraud cases that are judged to be of national significance involving public companies. These were to be given IMET 'Project' status.

IMET investigations were to be conducted by teams which were to include Justice (now PPSC) legal advisors. Teams were to handle only one investigation each. Teams were set up in Toronto, Montreal, Calgary and Vancouver. They now number nine. All team members were to be available for rapid deployment to launch immediate investigations in other locations, then pass over responsibilities to local investigators, counsel and support staff (the 'quick start' capability). There is one 'quick start' investigation ongoing.

There was to be a Joint Management Team in each locale including representatives from RCMP, Justice and Securities Commissions. Due to concerns that others were not to be seen managing investigations, this was changed to a Joint Consultative Group. They were to report regularly to the Executive Council, which was also to ensure that strategic direction was maintained. Responsibility for directing specific investigations would rest with the RCMP lead investigator.

Within the RCMP, HQ was to 'oversee' the program.

The RCMP agreed to amend its human resource policies to ensure that investigators were properly trained, kept abreast of the latest investigative techniques and legal developments, and dedicated to the task for a specified period of time. Personnel had to devote at least 90 percent of their time to the task at hand, obtain promotions within the teams, and receive

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competency-based pay. There was to be a higher involvement than normal of civilian members in investigations.

A reserve fund of \$3.75 million per year was established at the start to fund extra-ordinary prosecution expenses and a contingency fund of \$3.75 million per year was established to fund extra-ordinary investigation expenses. The reserve fund has never been used. The contingency fund is accessed regularly.

While there were clearly concerns that funding designed for IMET not be used for other initiatives, the mechanisms to achieve this were only partially elaborated at the outset.

I believe that the essence of this original high-level concept was sound. The problems originate in implementation.

### Prosecution

Justice Canada (now PPSC) was provided \$4.7 million per year for legal advisors to be imbedded within IMET units, a coordinator at HQ, and prosecution resources. The federal government had asserted concurrent jurisdiction to prosecute these cases. Subsequently, it was agreed that provinces could exercise a right of first refusal on IMET prosecutions. Provinces are likely to have carriage of most, but not all, IMET prosecutions. That means provinces must find appropriate experienced prosecutors and incur the costs of prosecution.

It also means that the relations must work well between RCMP investigators, embedded PPSC legal advisors, other federal legal staff and Provincial Crown offices. It is possible for PPSC to have its staff assist in provincial prosecutions, and the reserve fund is available to help fund extra-ordinary prosecution costs. In contrast to the U.S. and U.K., Canada's legal system does not have prosecutors leading investigations, in order to maintain the independence of prosecutors from investigators with a check and balance in the system.

### Initial Start-up

The program initially struggled to commence investigations at the same time as it was being set up. There were delays in setting up and staffing investigative and support positions, and there were delays in Justice (now PPSC) putting legal advisors in place. Within the RCMP, the IMET program was initially centrally controlled by the IMET Branch at HQ. In 2006, the RCMP Senior Executive Committee approved a change to reporting relations so that Officers in Charge of the four IMET units (OICs) reported to the RCMP division in their province. As well, part of the funding was devolved to Divisions, subject to the 'ring fencing' constraints. HQ retained some O&M funding control and responsibility for Regular Member and Civilian Member staffing.

### Added Responsibilities

With separate funding of \$1 million per year, IMET took over and re-vitalised the Joint Securities Intelligence Units (JSIU), starting in 2005. They work in cooperation with Securities Commissions and others in gathering intelligence about emerging capital markets fraud issues, and engage in preventative activity. This is not permanent IMET ring-fenced

funding. Currently a JSIU is operational in Ontario and one is about to commence in Quebec. But other provinces with IMET units have reservations about participating so intelligence units there are not fully functional.

Smaller related activities were also added to IMET since its start-up.

#### New Mandate

The mandate of the Program was reformulated in the federal government's 2007 Budget to include cases that are regional in importance. The new mandate also added timeliness as an explicit objective. It is:

- To investigate serious Criminal code capital markets fraud offences that are of regional or national significance and threaten investor confidence or economic stability in Canada.
- To work to ensure that those who commit these offences are brought to justice in an effective and timely manner.
- To collaborate with other law enforcement agencies and securities regulators to ensure that all complaints and enquiries received by the IMETs pertaining to other market offences (e.g. money laundering in capital markets, securities law violations and other commercial crimes and violations) are addressed by the appropriate body. In particular, infractions to the Criminal Code not within the mandate of IMETS will be referred to the RCMP Commercial Crime Branch.

Few, if any, disagree with this mandate. If anything, the demand is for the RCMP and IMETS to be able to take on more capital markets cases, effectively.

#### Basic Program Information

Key statistics on the program are contained in Table 1. Even at a high level they indicate some issues. But it is essential to understand and deal with causes, not symptoms.

**Basic IMET Program Information**  
**Table 1**

<b>RCMP</b>	
FTE's authorised September 30, 2007	142
FTE actual September 30, 2007	112
Vacancy rate	21%*
Authorised Budget for Normal Operations 2006/07.	\$18.2 m
Actual Spending for Normal Operations 2006/07	\$16.7m
Contingency Fund available 2006/07	\$3.75m
Actual Contingency Fund expenses 2006/07	\$2.2m**
<b>Total Cost Since Inception</b>	\$65m
<b>PPS</b>	
Number of FTE authorised: Legal Advice and IAG counsel	6
Number of FTE actual: Legal Advice and IAG counsel	6
FTE authorised: Prosecutors and HQ Coordinator	15
FTE actual: Prosecutors and HQ Coordinator	1***
Budget PPS Authorised 2006/07	\$4.7m***
Budget PPS spent on IMET 2006/07	\$2.0m***
<b>Operational Information Project Status (Major)</b>	
<b>Investigations</b>	
Number of Active Project Status Investigations Including Quick Start	13
Charges Laid to date	1
Number at initial stages of being considered by Crown for charge approval	4
Conviction/Guilty Plea to date	1
Averaged Elapsed Time Since Investigation Started, Current Cases****	2.8 years
Range of Elapsed Time****	1.5-4.6 years
<b>Operational Information Other (Non-Project-Status)</b>	
<b>Investigations Conducted by IMET</b>	
Number of Non-Project Status Investigations now active	34
Investigations Resulting in Charges to date	4

\* The program added additional functions to its original mandate. Measured against the initially-authorized 103 RM, CM and PS positions, there were 77 filled at year-end 2006-07, for a vacancy rate of 25%.

\*\*These were not charged to the contingency fund in 2006/07 as the RCMP economic crime program was under-spent and could pay for these expenses.

\*\*\*PPSC numbers are subject to a margin of error. The difference was spent on other PPSC activities.

\*\*\*\*These exclude three cases recently started and are not final times as cases are ongoing. Elapsed time commences when the investigation started not when it became IMET 'Project' status.

### **III. Results**

IMET investigation results have been disappointing to many. (Results to me means completed investigations, with a reasonable proportion leading to charges.) Partly, this is a problem of unrealistic expectations. Over the period from the start of the Program to now, there have been 13 Project Status (major) investigations commenced by IMET units. One has lead to charges being laid with a conviction. Currently, four Project Status investigations are at the initial stages of referral of possible charges to Crown Counsel for their approval or review (depending on the jurisdiction) before being laid. In many investigations the expected date for laying charges is well beyond what was originally foreseen by the RCMP, and informally communicated to partners. For IMET investigations, other than those recently started, the average length of time from start of investigation to now (or from the start to when the file was turned over to Crown for charge approval where that is earlier) is 2.8 years. The range is 1.6 to 4.6 years.

In addition, since its inception, IMET has undertaken non-project status investigations (non-major). There are currently some 34 in progress. To date four investigations have resulted in six individuals being charged with 15 Criminal Code offences, within a period of 28 months between January 2004 and May 2006.

It is very difficult to fairly compare experience in Canada with that elsewhere. Other countries have similar efforts, and their results often include smaller, less complex cases. The legal environment in the U.S. and U.K. makes faster action more feasible than in Canada, as detailed below. It is impossible to adjust reported results for those differences. Some allowance has to be given for the fact that IMET only really commenced operations in 2004. Timeliness is not only the responsibility of the RCMP investigation, but the timeliness of federal and prosecution offices pre-charge approval/review is important as well (as considered below).

There are larger issues of how the courts deal with complex cases that pre-date the creation of IMET. For the sole Project Status conviction (based on a guilty plea) the sentence was 7 years, less than the maximum 10, for a person already convicted of 103 previous counts of fraud.

Indications suggest that there is reason for the critics' concern, particularly if IMET and its partners cannot achieve more results soon.

In the U.S., for example, the President's Corporate Fraud Task Force that was created in mid-2002 (following the Enron collapse) reported over 250 criminal convictions or guilty pleas in its first year, rising to some 500 by the end of its second year. This was greatly increased from the year before. Of course those agencies were investigating many smaller cases as well as the more limited number of complex cases that is the mandate of IMET. However, even a most-complex case like Enron took 4.5 years from start of investigation to trial conclusion. The first charges were six months after the investigation started. Nineteen

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people had been charged, including some senior officers, within 18 months. All charges were laid within 2.5 years.

The Serious Fraud Office (SFO) in the U.K. regularly reports results. For example, in its most recent annual report (2006-07) it had just over 60 cases under investigation or where proceedings commenced. Eleven cases were completed, involving trials with 21 defendants, of whom 15 were convicted. Several of these they classify as major cases. The SFO publishes its targets for a long-run average investigation-stage length of 16.5 months and a long-run average prosecution-stage length of 14.5 months.

#### Successful Preventative Activity

IMET also correctly points to preventive activity, conducted by the Joint Securities Intelligence Units, as evidence of making a difference. IMET staff work with securities regulators and self regulatory authorities to identify and deter potential criminal fraud activity. This can act to deter things such as public offerings based on potentially fraudulent activity. Provincial Securities Commissions who participate in the JSIU's are very supportive and agree that it has had significant deterrent effects. I have reviewed information on preventative activity. It is an IMET success.

#### Criminal Prosecutions and Regulatory Sanctions are Not the Same

It is important to distinguish criminal investigations and prosecutions on the one hand, and enforcement action by the Provincial and Territorial Securities Commissions on the other. The Securities Commissions report regularly on their enforcement actions, which are naturally far more numerous than criminal convictions. While they have enforcement challenges as well, it is important to realise that not all regulatory infractions are criminal in nature. Also, because of the seriousness of criminal matters for an accused, the bar for investigating, laying charges and securing a criminal conviction is justifiably much higher than for a regulatory penalty.

In particular, to investigate successfully and secure convictions, there must be proof beyond a reasonable doubt, and investigators and prosecutors must prove criminal action and criminal intent by those charged. Federally and by province, prosecutors have formal or informal standards before charges are laid, such as there being a reasonable or substantial likelihood of conviction. How that threshold test works can be key to whether investigations lead to criminal charges.

#### Expectations for IMET are Unrealistic, But Results Should Be Better

Often, the results in Canada for criminal cases conducted by IMETS are compared to that elsewhere, and to the number of regulatory enforcement actions. But IMET investigations, by their nature, are mostly large complex cases, while bodies elsewhere are also investigating and prosecuting smaller, less-complex, cases as well.

Most importantly, Canada's legal environment does not support U.S.-style investigations or U.S.-style results. Canadian criminal law does not allow police to compel testimony during an investigation from persons, including corporations, who are not charged with an offence,



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but who may have relevant information and data that would help and expedite the investigation. This slows down investigations. Compelled testimony and documentation from those not accused is inherent in the U.S. grand Jury process and the powers of the U.K. Serious Fraud Office.

In the U.S., authorities often proceed in stages, charging some individuals in the first stage, often relatively quickly, then laying charges subsequently against others. Because of legal requirements in Canada related to disclosure of the Crown case to accused, the widespread view is that such staging is not feasible in Canada.

There are other differences in Canadian practise compared to the U.S, which are not the result of criminal code differences. For example in 2003, the U.S. developed and published guidelines for investigators and prosecutors as to when corporate or other business organisations have involvement in an alleged fraud, and non-cooperation, that was serious enough to justify charging the corporation itself (as opposed to individual corporate officers or employees). This practise, coupled with deferred prosecution and cooperation agreements with corporations who were charged, was a major contributor to changing corporate behaviour and to successful investigations.

The U.S. and U.K. also seem to me to be more organised than Canada to link pursuit of proceeds of crime and restitution to primary investigations. In the IMET cases I reviewed, there seemed to be room for greater involvement during planning and carrying out investigations between the IMET teams and proceeds of crime teams in the RCMP.

However, the IMET Program cannot just hide behind the lack of realism in expectations. It contributed to these unrealistic expectations initially (by unrealistically promising to complete investigations within a year), but has done little to communicate effectively more reasonable expectations since then. Results do need to be, and I believe can be, better within the current legal framework.

#### **IV. Importance of the Program**

Starting in 2003, Economic Integrity has been added as one of the RCMP's five strategic priorities. I believe that serious capital markets fraud is one of the most important components of this strategic priority. Results are intimately tied to the reputation of the RCMP and the reputation of federal and provincial prosecution services. They matter greatly to the federal government's capital markets plan tabled with Budget 2007, and to public confidence.

For the PPSC, providing advice and prosecuting complex capital markets fraud cases is a small part of their broad priority to prosecute federal offences to protect the environment, natural resources, economic and social health.

Recent survey data released by the Canadian Securities administrators show

- 70% of people think fraudsters "get away with it"
- 71% of people think jail terms are "light"

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- 68% strongly agree that economic crime is as serious as robbery

Many people take for granted the integrity of the financial system. Many times I was told that capital markets fraud is not the same as other serious crimes against people. This is both wrong, and misses the point. Fraud is not a victimless crime.

Confidence in the integrity of capital markets translates into real benefits for our economy and for individual Canadians. How can we say that an elderly or unsuspecting person, who is criminally swindled out of their life savings, and lives in penury with lasting, disastrous consequences on their health or lifestyle, is less important than other victims of crime? The victims of capital markets fraud are also often numerous.

#### Importance of a National and International Enforcement Capability

Most commentators regulators, and market participants agree that having a workable, national element to criminal enforcement of capital markets offences, that produces results, is an essential component of Canada's system. IMETS is one of the few truly national elements of Canada's capital markets regulation that exists.

IMET should be supported as much as possible. I do not believe that this could be left fully to local investigation and enforcement in individual provinces or cities.

Virtually all IMET material capital markets criminal fraud cases will have international aspects. This underscores the need for developing and maintaining relations to support workable timely cooperation between authorities. It is one reason why a national program like IMET is essential. IMET has to have national coordination on key matters to achieve credibility, consistency and effectiveness in dealings with international partners. It also means that the international aspects of investigations have to be taken into account, explicitly, in initial planning and focussing of investigations. They also have to be managed effectively during the investigation in order to get timely results.

#### V. Summary Observations On the Program

The Program is operating in a very challenging environment that it is not equipped to succeed in. Public and policy-maker expectations are extremely high and Canadian credibility on enforcement issues is low to start out with. Start-up knowledge was far from ideal about the challenges and risks the Program faced. The Program did not react fast enough to unexpected challenges. The network of knowledgeable, interested observers is substantial, well connected and communicates well among themselves. Potential critics are many. As a result even reasonable glitches or errors are magnified. Those being investigated or charged can be expected to rightly bring substantial very-high-quality resources to bear to defend themselves.

Legitimate criticisms of IMET center on the lack of results and whether the Program and its partners has the sense of urgency needed to succeed.

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In many ways the RCMP and other federal partners were embarked on a difficult task. They were trying to set up a specialised policing unit with an integrated concept, designed to ramp up quickly, in the middle of a much larger organisation with, in part, a different culture and institutional set-up. Doing a task like that well requires a lot of hands-on leadership, constant explanation to staff of how and why trade-offs are being made, awareness of how things are going and willingness to readjust. Not enough of those behaviours have been evident to me. Certain basic management practises necessary to achieve more-timely results, and attract and retain staff, have not been in place.

Unfortunately, the program also had some unexpected implementation issues. Those will occur in any organisation but are more important in a Program like IMET with just a few case files. What is important is recognising the issues and dealing with them in a timely way.

Nor has IMET demonstrated, consistently, the leadership, tone from the top, results focus, clarity of roles, nimbleness or cohesion of action or communication among the players (including within the RCMP and PPSC and among the federal players) that is necessary to succeed.

I am also struck by the practical additional complexities the program faces in dealing with multiple Canadian partners, each a little different, whether multiple securities regulators or multiple federal and provincial Crown offices. That is in addition to the multiple international partners. This complexity is real, and makes it harder to run a national program.

The program has a negative reputation in many quarters, externally. There are also frustrations building internally. The Program is under immense scrutiny, and expectations by the public and by professional and knowledgeable observers are also very high. While expectations of U.S.-style results are unrealistic, given Canada's legal and enforcement environment, the IMET should be producing more results, more quickly. The Program is approaching a point where there must be more-tangible results. Without enhanced credibility, the existence of the Program in its current form in the RCMP will be questioned more than it is today.

Program Managers, senior RCMP executives, including the Commissioner, and senior executives in the PPSC including the Director, senior staff in Justice and PSC must understand and accept the state the Program is truly in. Remedial action needs to have priority within these organisations. Senior Executives and Heads of these organisations have to periodically keep abreast of progress and ensure it is on-track.

Accepting the seriousness of what needs to be done will lead to more communication and action from the top focussed on the need for improvement, on what is necessary and doable, and on setting and communicating expectations that can be exceeded. Succeeding is not just about 'tweaks to the program'. It is about accepting the bad and the good, with persistent sustained action to fix what's needed.

Without better leadership, management and oversight, more money will not help, though more money is needed.

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Under-promising and over-achieving should become the watchwords, not the other way round.

## **Chapter 2: Governance, Organisation and Accountability**

Enhancements are needed in these areas to increase the likelihood of timely results.

### **I. Leadership and Tone from the Top**

**1. I recommend that the Commissioner and the Director of the PPSC, communicate their expectations of enhanced urgency and results focus to staff, and have periodic means to personally follow up on progress and reinforce their expectations.**

The Commissioner should communicate to staff that IMET is a priority within the economic integrity strategy of the RCMP and his expectations of better performance. This should be followed up by periodic communications that emphasise that the Commissioner is aware of, and monitoring progress. The Director of the PPSC should communicate that IMET is a priority in their strategy and his expectation of enhanced focus on results.

At least for a while, the Deputy Commissioner overseeing IMET and the Program Leader should regularly report to the RCMP Senior Executive Committee to make sure enhancement is on-track and all are acting in a coordinated way.

The Director, who is the head of the PPSC and the Commissioner should also jointly communicate to staff their expectations of enhanced cooperation between the two agencies in the conduct of investigations, management and oversight of the program.

By linking these themes to goals of individual senior executives in the Program the priority given to IMET will be enhanced.

Finance Canada, up to and including the Minister, should also regularly communicate the importance it places on success by IMETS as a key part of its capital markets strategy, and emphasise that, regardless of the current need for improvement, the IMET program is here to stay.

Tone from the top in the RCMP and PPSC includes an enhanced sense of urgency, proactivity and the need for focus, achieving more timely, high-quality results, and expectations of enhanced cooperation. This message needs to be followed up by strong leadership to address internal blockages that slow down investigations, by better monitoring of the program at senior levels and by reacting in a more timely way to program successes and challenges.

In meeting with persons involved in capital markets enforcement in the U.S. and those in Canada (in both the criminal and provincial regulatory domain), I am struck by very significant differences of tone and the assertiveness of approach. We should not blindly emulate others rules, policies or behaviours. And many believe that the responses in the U.S. were somewhat excessive to failures of corporate governance that occurred.

However, I do believe that more of that tone of results focus, and assertiveness, is essential in Canada in order to get the results that most Canadians want. That starts with 'Tone at the Top' in organisations like the RCMP and PPSC. It needs to carry down the RCMP chain of

command to the program leader, to staff at HQ, to individual Officers in Charge of IMET units and to investigation team leaders. Those selecting persons for leadership positions in the Program need to look for that results focus. PPSC advisors and coordinators need that as well.

That tone also needs to be evidenced by federal policy makers in Justice, PSC, the PPSC, and Finance, considering what further tools need to be available in Canada, following the recommendations of this Report and of the FPT working group.

## **II. Enhance Priority within the RCMP, PPSC and Other Organisations**

I recommend the RCMP give IMETS a higher priority. That involves it having a higher place in RCMP internal and external plans and priorities. It needs more focussed, continued, proactive, and knowledgeable leadership at senior executive levels to help solve the inevitable management issues that arise (including the current backlog of such issues). That leadership should also participate, more pro-actively, in strategic decisions, in oversight, and in driving program expectations and program enhancement. One goal of this higher priority is to increase the likelihood that, when choices have to be made between IMETS and other priorities, IMETS receives the necessary resources and attention.

### **2. I recommend that the RCMP appoint a Program Leader for IMET at the A/Comm level for financial crime, with the understanding that he or she spends half of their time on IMETS reformulation over the short term.**

Detailed IMET roles for this position are set out in the next Chapter.

Rank matters in the RCMP. This is more senior than the existing position in HQ overseeing the financial crime program. This is essential to raising priority and making clear internally and externally the additional focus being put on achieving results. It is also essential to making the new accountability arrangements I am proposing work in practise. As well, it is essential that the person in the position spend the time necessary to drive the enhancement. Because of natural links between programs it is desirable to maintain oversight at RCMP HQ over IMET together with other financial crime programs.

### **3. I recommend that PPSC ensure that senior staff, up to and including the Director, have timely processes in place to be aware of the situation with their staff's participation in the program, and the prosecution situation with provinces on individual investigations. Then they can identify issues and gaps more quickly and better assist in dealing with those proactively.**

This involvement of the Director, who is head of the PPSC, will emphasise the enhanced priority given to the program.

### **4. PPSC should enhance contributing to combating capital markets fraud in its published strategic priorities. It should also develop a plan to play a lead coordinating role, together with Justice Canada and provincial colleagues in Crown Offices in**

**developing prosecution approaches under existing legislation that could improve results. It should use the existing federal-provincial heads of prosecution process to regularly review issues raised in this Report of improving prosecution capacity.**

I have noted earlier, for example, that charging corporations or other business organisations, together with deferred prosecution agreements, are key tools in the U.S. PPSC should take the lead in coordinating FPT heads of prosecution in developing guidelines for when this is appropriate, based on the guidelines in the U.S.. The issue of better functioning co-operators immunity agreements has also been raised and could be part of this process.

**5. I recommend that co-chairmanship of the Executive Council be assumed by Finance Canada and the RCMP. Finance has the greatest interest, involvement and understanding of securities-related policy issues. On behalf of the Federal Government it is the Minister of Finance who has the role in championing these issues. That will also enhance the priority given to these matters. It will also maximise the chance that capital market enforcement policy initiatives are linked to the broader government agenda.**

This should not alter Public Security Canada's role relative to Program reporting or funding.

**6. I recommend that the five federal departments and agencies involved in IMET meet at least twice a year at the level of Deputy Minister and/or Minister to review progress on IMET enhancement and reemphasise the priority given to capital markets crime.**

Federal Ministers should also look for opportunities to engage their provincial colleagues in discussions of progress being made at both federal and provincial levels to enhance investigation and enforcement capacity.

### **III. Clarify Accountability Within the RCMP**

#### **The Issue—Who is in Charge?**

The RCMP is a federal, provincial and municipal police force, depending on the province it operates in. One of the RCMP's challenges is to deal with the roles of HQ and Divisions in managing a national program like IMET. The issue of the roles of HQ and Divisions is more general than IMETS. Federal operations within the RCMP, which naturally are focussed on more by HQ, and Contract Policing for Provinces and municipalities, naturally focussed on more by RCMP Divisions, are both important. But the push-pull between them can lead to tensions which undercut performance of a program like IMET.

Initially IMET was set up with strong central accountability. OIC's reported to the IMET Branch at HQ, and HQ was responsible for staffing and funding. Support resources, such as source witness protection, undercover support, Tech crime and surveillance teams were to come from Divisions, when needed. RCMP policies mean that resources in one area of the Force have to be available for other duties, though this was deliberately, and rightly, constrained by government in the case of IMET. IMET human resources must spend at least 90% of their time on IMET duties (which has not always been observed).

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However, the precise roles of HQ and Divisions, and how differences were to be resolved, were never laid out. Divisions felt they lacked information on local IMET operations which lead to 'surprises'. Having IMET divorced from Divisions can mean that opportunities to move people back and forth to the benefit the Program were not identified.

In part due to lack of coordination with Divisions, the original IMET accountability structure was changed by the RCMP Senior Executive Committee, effective April 2006. Day-to-day operational responsibility and most financial resources were to be devolved to Divisions, and OIC's reported to Divisional Criminal Operations (CROPS) officers. The HQ Branch was to become more of a 'policy centre'. However HQ still had to agree to operational plans for 'project status' investigations and retained control over HR resources. Its necessary national coordination function was never clearly specified. The Director did not have clear authority to oversee. Some OIC's of IMET units felt that they had two masters. Frictions continued.

The decision to make this change did not appear to take account of the impact on the Program. While it referred to retaining 'strong national coordination', what that meant in practise was never defined. Again, the roles, responsibilities, accountabilities and expectations of HQ and Divisions were never laid out. Only senior executive leadership, not the Program Director, could sort this out, and it was their responsibility to do so. Because of lack of clarity, Divisions and IMET at HQ had recurring conflicts, more than was necessary. Some senior executive decisions were resisted in certain Divisions. The Senior Executive Committee had no other involvement.

The HQ Director of the IMET program had limited authority to actually direct or coordinate the Program, which was essentially run as four semi-independent units under the guidance of four Criminal Operations managers.

There is also only limited evidence, after devolution, of the Divisional chain of command in certain Divisions taking the necessary active role in oversight of IMET operations. Staff at IMET locales often told me the value added by Divisions in IMET operational plans and decisions was not large. I saw evidence of problems that Divisional oversight did not identify or deal with expeditiously. This appears to vary by Division depending on priorities, personal relationships and personal expertise. Divisional expertise may be limited and CROPS and COs have wide responsibilities and multiple priorities.

Accountability of Divisions for IMET operations and results is not clearly and consistently specified in job descriptions, personal goal setting and evaluation. Nor is there consistency and clarity in accountability, goal setting and evaluation of HQ officers and the HQ chain of command for its role in oversight. Communications by the Force externally can be confusing as to who is 'in charge'.

One area where there is excellent accountability is in the RCMP financial accountability for its ring-fenced funding. However, even there, HQ personnel report increasing difficulties in accurate divisional reporting. IMET locale managers have requested additional administrative support to make sure the funding controls are being met.



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While neither the HQ-lead nor the Division-lead regime was in place for a long period of time, I see no clear difference in results between the two.

### Importance of Clarifying Accountability to Achieve Results

Without clear definition of roles and expectations, and without effective mechanisms to resolve issues of lack of coordination and priority, it is no surprise that performance is suffering. Without clarity, the risk is that no one is really in charge. I saw many, many examples of this in practise. Staff lives with this ambiguity on a day-to-day basis. That is unfair to them.

Greater clarity of roles, responsibilities and accountability up and down the chain of command and at HQ is essential for results. Then, people in charge focus and drive investigations, are available to make strategic decisions, watch out for and deal with problems, and resolve blockages expeditiously. That reduces unproductive duplication, reduces potential confusion, and allows a culture of teamwork and cooperation to have a chance of being enhanced.

The Program cannot succeed if this is not rectified. And rectifying this has to be a precursor to dealing with many other matters, including additional funding.

**7. I recommend that the RCMP clarify the role of HQ and Divisions in accountability and responsibility for IMETS, including placing specific, appropriate goals and objectives in performance agreements for OIC's, the Program Director at HQ, Division CROPS officers and CO's, and the A/Comm and D/Comm involved. Positive or negative ratings should reflect performance against goals.**

This should be part of the regular goal setting and evaluation process in the RCMP. For some senior executives, separate goals related to IMET may only be needed while the enhancement program is underway.

### Better HQ Oversight and Coordination

One identified person in the RCMP executive management team has to be, and be seen to be, clearly in charge of driving the Program enhancement with the persistence, sustained hands-on oversight and knowledge needed. That person must have credibility with divisions, HQ and partners. They must be the consistent, knowledgeable, senior face of the Program. That person does not have to control the program on a day-to-day basis.

Also, given all the confusion resulting from lack of clear accountability, one of the Deputy Commissioners, with the Commissioner's authority, must monitor the new accountability arrangements and deal with any non-adherence, or lack of desired behaviours expeditiously. The RCMP Senior Executive Committee should be involved in any strategic decisions and be aware and satisfied with progress on enhancement.

**8. I recommend that the A/Comm Financial Crime as IMET Program Leader have responsibility for overseeing the Program, driving the enhancement, intervening to deal with operations not meeting expectations or raising significant policy, priority or**

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**performance issues, or issues of necessary national or international coordination and provides challenge and direction to CROPS as set out in the accountability framework. The Program Leader is the consistent, credible, knowledgeable senior face of the Program internally and externally, and ensures that the priority of the program is not lost in other RCMP priorities.**

The Program Leader has to display proactive leadership, have credibility in driving major cases to conclusion, have or acquire quickly the knowledge of the program and capital markets fraud issues and has to be able to devote at least one-half of his or her time to these tasks over the next few years. That rank is equivalent to the division Commanding Officers (COs) who, through their CROPS officers, are accountable for investigations in their Divisions.

The current A/Comm position through which IMET headquarters staff reports has too broad a range of responsibilities beyond Financial Crime to be able to devote sufficient time to the task of IMET reformulation.

As noted, I believe that it would be desirable for that A/Comm to also have the HQ responsibility for the economic and financial crime program more generally. That amounts to giving that more priority within the Force. It is also sensible to keep this integrated at HQ, given the links between programs, just as having IMET closer to other financial and economic crime programs in Divisions will, I believe, be beneficial.

#### Role of HQ and Divisions

The issue then is the role of HQ and divisions in operations, staffing, and policy development. The RCMP is a para-military organisation, where accountability and responsibility often flows up and down in straight lines. The need to respect the rank structure and the RCMP Act is understandable. Not everything should be done by Committee. Matrix management is difficult, in any organisation.

Many think the program should revert to HQ control, while formally keeping Divisions informed so as to deal with previous problems. That was the recommendation of the recent Deloitte Report. However, there is little or no consensus on this option, including at the most senior levels in the Force. The RCMP cannot run an accountability model it does not believe in. I am also convinced that links to Divisions can be very useful to the Program. As well, a degree of local variation in how the Program runs is essential given the difference in markets and partners across the country. IMET will not benefit if it is an island unto itself.

At the other extreme, some have said that the RCMP should merely fold IMET into the existing Division accountability structure. They believe that IMET investigations are fundamentally no different than other complex criminal cases. They also believe that Division control will ensure the strongest links for support, and the best staffing and career development.

I reject the idea of only using the existing Division accountability structure. That is not what the program committed to the government and to partners. The risk is that to do so would lose the necessary national perspective and coordination and priority, much as happened with

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previous attempts to create effective capital markets fraud enforcement. The Program is too important to take that risk. Capital markets are global. The reputation of the RCMP and Canada in this area is too important to take a chance that lack of strong national oversight will perpetuate the lack of results.

However, I do not believe that day-to-day HQ control is necessary, or even desirable to achieving results. Oversight, properly exercised, is not control. Oversight does not mean involvement or second guessing all details. But it does mean having full and timely information for constructive challenge and the authority and willingness to intervene in things that matter to achieving timely results and to national coordination.

**9. I recommend that the RCMP adopt an accountability structure with Divisions responsible for day-to-day IMET operations subject to strong national oversight and coordination by the A/Comm Program Leader, based on the following principles and key elements:**

- **The Divisional chain of command (OICs reporting to CROPs officers and then to COs) has authority for day-to-day conduct of IMET investigations, subject to HQ oversight.**
- **One Deputy Commissioner has final authority over IMET investigations.**
- **The HQ IMET Program leader (A/Comm) has responsibility for monitoring IMET operations, constructively challenging and intervening, if they are not meeting agreed expectations or raise material policy, priority or performance issues, or issues of essential national coordination. The Program Leader can issue direction to CROPs.**
- **The IMET Program Leader also has responsibility for leading the IMET reformulation plan, with formal input from Divisions, and to decide, or recommend strategic issues affecting the program.**
- **A Strategic Review Committee of the Program Leader (chair) and CROPs should support the Program Leader and CROPs/COs in meeting their responsibilities.**
- **Divisions are accountable for ensuring that IMET has sufficient, appropriately-skilled human resource teams, with training and tools (including IM/IT tools) required to effectively investigate in a timely manner. These responsibilities are to be exercised in conformance with policies set by HQ related to IMET and to the Force more generally.**
- **The Program Leader at HQ is the consistent, credible senior face of the program, internally and externally.**
- **The IMET Branch at HQ is responsible for supporting the Program Leader in his/her oversight, national coordination and constructive challenge role, for**

**exercising some of that responsibility on behalf of the Program Leader, for policy development with Division input, and for a national communication strategy. The Branch must have additional operations capability to perform this role. The Director of the Branch works closely with the Program Leader day-to-day, and also acts for the Program Leader as specifically delegated. The Branch monitors operations in various ways and is involved in constructive challenge through various specified processes such as review and approval of operational plans, and updates. The branch has specified coordination functions domestically and internationally. It oversees quick start operations.**

- **IMET units, Divisions the IMET branch at HQ and other HQ staff have the responsibility to keep each other informed in a timely way so that each can meet their respective responsibilities. Specific accountabilities for regular reporting to HQ on operations, generally consistent with reporting policies on other major financial crime cases, are laid out and followed.**
- **A process to resolve disagreements between Divisions and HQ over resource issues and to have Division input into policy development.**
- **Both Divisions and HQ have defined roles in HR processes such as goal setting, evaluation, career planning, and staffing. Responsibility for implementation of HR policies moves to Divisions, though there is joint HQ and divisional participation in some matters such as both Divisions and HQ having to agree on Officer level appointments to the Program (OICs and team leaders). HQ has beefed-up dedicated HR capability so it can contribute a national perspective to Division HR processes. National coordination of training continues.**
- **Setting results-based expectations for all those with IMET accountabilities and assessing results.**

An Annex details the proposed accountabilities and responsibilities and outlines how certain functions should be assigned to the various groups. These and the principles should be reflected in internal IMET policy documents as soon as possible.

The roles, responsibilities and expectations should be communicated fully and clearly to all in the Program, more generally in the Force, and to outside partners.

#### Senior Expert Assistance to the Program Leader

To help oversight by the Program leader, the RCMP should regularly appoint a senior experienced private-sector expert.

As the Cory-Pilkington Report pointed out, some of these investigations can involve difficult judgements of investigative approach, legal strategy, and focus. That can also be true of decisions on whether to start an investigation or not. Their most important recommendation was a Senior Investigative Review Officer in each IMET locale, with legal training to drive investigations. I believe that this is better added to the oversight function at HQ, and not be

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part of the day-to-day RCMP chain of command. This person might possess recognised senior enforcement, litigation, capital markets, prosecutorial, or related expertise. This position need not be full time. Such a person could also assist in dealing with partners and with selected policy issues that may arise from time to time. Working along side such a person could benefit Program staff.

### Changed Behaviours Required

Some attitudes and behaviours must change at both Divisions and HQ. There is a very meaningful role for both. This is not a framework where the Force can pick and choose some elements not others. The concept of day-to-day Division control of operations balanced by strong effective HQ oversight and intervention, when necessary, is a package. Divisions need to exercise effective day-to-day oversight. They need to take their responsibility for resourcing IMET seriously and integrating it into Division HR processes. HQ needs to exercise proactive oversight, challenge and intervention to deal with operational problems before they become big problems. HQ needs to move away from wanting to control everything to focussing on what matters for results and for national coordination. Units and Divisions need to understand that it is their responsibility to keep both Divisions and HQ informed on operations and actual or potential contact with partners in a timely way. HQ has to debrief on issues it is dealing with in a timely way. Failing to keep each other informed is not acceptable.

The Force also needs to take account, in staffing, of the capabilities and competencies that IMET officers, CROPS officers and the Program Leader need to possess to be able to operate effectively and constructively in this framework. While many told me they wanted just one boss and a clear straight-line reporting structure, I do not believe that is achievable. I do think this can provide a lot more clarity.

All involved also need to work within the framework to resolve differences constructively. The D/Comm who 'owns' the accountability framework on behalf of the Commissioner should ensure it is being followed in practise.

Having a framework like this is, in my view, consistent with the Government-wide Management Accountability Framework that the Force will be assessed against at some point.

There are risks that the RCMP cannot run this accountability structure with their current culture and organisation. Realistically, the more that OICs and Divisions do to oversee IMET units and get results, the less Headquarters will have to intervene in day-to-day matters. The converse is also true.

### Better Performance Reporting

To support the accountability framework, the RCMP should put in place better internal performance reporting that includes summary information on status of operations and on progress on specific HR and management priorities.

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This need not be onerous new reports, since the number of investigations is likely to be small. In-depth reviews of particular investigations that may need attention should occur at senior levels. Certain basic information such as elapsed time in stages of investigations or review by Crown, progress against operational plan milestones, or key HR statistics by Division, have to be tracked and reported accurately.

The balanced scorecard reporting that the Program does has to be changed to link to Program goals such as speedier results and to elements of the reformulation plan.

Some of this should also be added to the RMAF Accountability Framework Document and to the public reporting on the Program to stakeholders and to Parliament (in the Force's Report on Plans and Priorities and Departmental Performance Report).

The IMET reformulation plan also considered creating a national coordinated intake function. That is being considered by the FPT Working Group, so I will only note here that having it would help performance information.

### **Chapter 3: Achieving Timely Results**

#### **I. Making Investigations Go Faster**

Much of the criticism of the Program rightly revolves around the lack of tangible reportable results in terms of charges laid and convictions.

Without at least some charges and convictions, the goal of promoting confidence in Canada's capital market cannot be met. In making that statement I make no presumption on the size of the criminal enforcement gap in Canada. I only believe that it is not close to zero.

Credibility comes from results. Attracting and retaining people for investigations and prosecutions would be easier if there were more results.

The expectation gap is due to both unrealistic expectations and under-performance. Both need to be focussed on.

I believe there is no single or primary reason why criminal investigation results have been slower than desired, or below reasonable expectations.

One cannot emphasise enough that the legal environment in Canada differs in fundamental ways from that in the most common comparator countries, the U.S. and the U.K. Critics of IMET have taken too little cognisance of this. The U.S., through the grand jury process allows investigators to compel testimony from witnesses who are not themselves suspects, The Serious Fraud Office in the U.K. has similar powers. Canada does not. This makes a huge difference in the ease of gathering evidence and thus the speed of investigations.

I also believe that the U.S. has been more aggressive than Canada in using tools that do exist in both countries. Partly it is attitude. For example, in 2003, the U.S. developed a revised policy and process for criminal prosecution of corporations and other business organisations implicated in major capital markets fraud, together with settlement agreements and deferred prosecution agreements to promote cooperation and change of behaviour. That had a major impact in speeding up investigations. There is nothing in Canadian law to preclude this and I have recommended that it be pursued, with PPSC taking the lead in developing such a policy in Canada.

The lack of results cannot be fully explained by legislative differences. There are opportunities for speeding up investigations. Better focus of investigations from the beginning and throughout, better management, constructive challenge and oversight, better IM/IT and Technical Crime support for investigations, better use of expertise from within and outside the RCMP and PPSC will all contribute to more timely results.

In cases that I reviewed, one or another of these factors added at least several months here and several months there. In some cases, one or more added over a year, in the opinion of some. A combination can add up to serious delays.

### Things That Would Help

I want to highlight several things that would help:

- Ensuring focus of investigations from the start and throughout the investigation is a must. That starts with leadership and improved operational plans that better detail the alleged crime, the main suspects, what evidence will be required and how it is to be obtained and the short-term and medium-term timelines. It is better to focus on charging a few key perpetrators with a few offences, reasonably quickly, than going after everyone involved, and ending up with an unmanageable investigation that drags on and may never be finished. Many internally and externally believe that at least some IMET investigations have suffered from lack of adequate focus.
- Regular detailed review of progress against plan, and updating of next steps and timelines to control direction, pace and focus, and zealously guard against scope creep. Effective oversight is essential.
- Additional IM/IT support to investigations is also crucial. I am aware of several cases where, for example, many witness or suspect interviews, or important documents, had not been transcribed or entered into the electronic major case management system in a timely way. That can hamper investigations, and provision of briefs to Crowns and electronic file discovery to the defence cannot happen until this is done.
- I am also aware of cases where Tech Crimes support (e.g. to help search computer servers or other communications devices) was not available in a timely way. I am told this is a Force-wide problem. It needs solution. In the meantime IMET should be prepared to seek outside help quickly to speed up results. Some of the additional budget funding for IMET should be devoted to hiring additional tech crimes resources committed to IMET. These need not be regular RCMP members.
- Regular HQ oversight over quick start investigations to ensure appropriate pace and direction. Forming new quick start operations will also be more difficult since IMET resources are no longer controlled centrally. HQ and divisions need to develop a plan as to how this will be done in future.

### Short Term Review and Focus

There are or will soon be new Officers in Charge at three of the four IMET units. I have recommended appointment of an A/Comm as Program Leader and an accountability framework confirming the existing day-to-day control over operations and strengthening the HQ constructive challenge function.

**10. In the near future the Program Leader, CROPS officers or their senior representative, and OIC's, supported by the HQ Branch, should review in detail with the investigative teams, PPS advisors, the PPS coordinator all of the 12 current Project Status investigations with a view to:**



- **Confirming the next steps and expected time frames;**
- **Reviewing the focus of the investigation and confirming it or adjusting it as necessary.**
- **Identifying any blockages, including for IM/IT or Tech crimes support, and resolving as many as possible, immediately; and,**
- **Prioritising investigations, and shifting resources between investigations, if necessary to deal with blockages and push for short term results (moving the investigation to charge stage) in existing files. Also, if an investigation is not likely to be successful it should be dropped.**
- **Discussing whether any action is likely necessary vis a vis prosecutorial resources.**
- **Ensuring that information sharing with partners is appropriate and working well.**

**The IMET Program should follow up this initial review with a more rigorous regular review and constructive challenge process.**

OICs and team leaders should be regularly reviewing investigations in depth, updating the plan and dealing with shortfalls from the previous period. They should set as rapid a pace as possible.

The Program Leader, once appointed, should, together with the IMET Branch, set up a periodic in-depth selective review process as part of exercising the constructive challenge and oversight role. This need not apply equally to every investigation, it should be risk-based. It should not just duplicate or replace the OIC process and would normally be less frequent. Some in-depth review is essential for oversight to assure itself that things are not off-track and share best practise from other units. Based on that review, more detailed intervention might be necessary to drill down to provide feedback and determine what intervention, if any, to take. Assistance to an investigation may be needed. It may be necessary to provide extra resources, make use of the beefed-up operations capability at HQ or a professional standards group.

## **II. Reasonable Expectations for Results**

The IMET mandate states that investigations will be conducted “in a timely manner”. The Program needs to set internal expectations of results, not as promises but as a management tool to communicate expectations internally, and identify when things may need more senior level focus and attention. These should not be viewed as published performance measures nor as fixed limits. There will be in many investigations reasons to depart. What is important is that program personnel and senior people be aware of departures, challenge them, and use them to help to identify and reduce bottlenecks.

**11. I recommend that the IMET Program set internal, informal reasonable expectations for the various stages of IMET cases, and use these benchmarks for identifying issues that may need to be dealt with to expedite investigations.**

They should not be imposed by senior executive management, but developed by involvement of those in the Program and those directly overseeing it in Divisions and HQ. They should be shared with the Executive Council. In an Annex I suggest elements as a starting point for internal discussion. Reasonable expectations have to involve discussion with provincial and federal prosecution offices as they are part of the formal or informal charge approval, as well as prosecution process. These expectations should not be fixed limits but should help ensure pace and focus and force discussion of whether things are on track, whether intervention is necessary, or whether for reasons specific to individual investigations a different time frame is reasonable.

**III. The Federal and Provincial Prosecution Role in Achieving Timely Results**

Prosecution agencies affect timing of getting to charge stage of investigations because of their role in formal charge approval, or pre-charge review (in the case of prosecution itself, results to me mean timely adjudication of cases). I address the issue of expectations for conviction below.

Four IMET major investigations are now at the stage of initial review/approval with either PPSC (as prosecutor) or with Provincial Crown offices. I am aware of timeliness and resource issues with federal and provincial Crown's in the pre-charge approval/review process. This can slow down getting to charges being laid. Because of lack of depth normal staff turnover can lead to delays. Provincial prosecutors, in some cases, have indicated to the IMET units that it will be months after the investigative information is turned over to them before they can start review for formal or informal charge approval.

There are also situations where more resources on the prosecution team will clearly be required, but there is lack of clarity about how that will be achieved. That can slow down review of court briefs and disclosure material. In some cases prosecution offices, when presented with briefs for charge review/approval are raising multiple questions that appear should have been raised much earlier.

To me these are indications of lack of sufficient resources for timely prosecution of these cases federally and in several provincial jurisdictions. There may be issues of expertise in some jurisdictions. PPSC does not have the depth of expertise it would like and IMET investigations are subject to key person risk in prosecution. In a few situations budget requests related to potential prosecutions in provinces have been turned down or deferred. In some cases, while resources are available, compensation is not sufficiently competitive to retain sufficient expertise. The RCMP believe based on informal discussions that, if they were to ramp up to investigate more cases, in some provinces there would be lack of prosecution resources.

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The Program will benefit if the prosecution teams are the best possible and if all the partners (RCMP, PPSC, Provincial Crown) cooperate to get the best resources in a timely way.

**12. PPSC and Provincial Crown offices and ministries should review whether they have an adequate capability to prosecute capital market fraud cases and have a plan for enhanced capability, where necessary.**

PPSC should consider having succession plans for IMET advisors and prosecutors and development plans for IMET advisors. PPSC should consider making it possible for IMET advisors to gain prosecution experience, perhaps as part of IMET prosecution teams in other locales. There also is need for PPSC to review whether targeted action to retain key people is required.

**13. I recommend aggressively pursuing use of federal funding and resources from the reserve and/or contingency funds, and making available personnel, to augment federal and provincial prosecution teams, without paying for regular provincial prosecution costs. In situations where there is a short-term lack of personnel, federal and provincial prosecution agencies should not hesitate to engage outside experts as ad hoc counsel to achieve results, even if there is additional cost.**

This includes the possibility of contracting or secondments with well-recognised, private sector, experienced capital markets litigators (as potential advisors or ad hoc team members) to enhance the teams. I believe this was the policy intention of setting up the prosecution reserve fund. There is also PPSC budget for IMET prosecutors that could be considered for this purpose. The Executive Council should review the criteria for accessing the prosecution reserve fund, and adjusting them as necessary in light of this recommendation. It should also quickly finish reviewing existing situations to see if further assistance to imminent potential provincial prosecutions is justified.

**14. I recommend a process be agreed between PPSC, the relevant Provincial Crown Offices and the RCMP to eliminate delays in the handover of investigations to prosecution and to identify and act on opportunities for appropriate coordination and joint resourcing of the prosecution stage of IMET files. The process should take account of province-by-province differences in approach to prosecution. The general elements of the process could be agreed by Federal-provincial-territorial heads of prosecution and then tailored as necessary province by province, as IMETS investigations come to fruition.**

The process should kick-in as the investigation is getting close to wrapping up and the file is moving toward charge approval and prosecution. The process could involve reviewing: time frames for charge review/approval; formal or informal prosecution plans; potential prosecution challenges; the best estimates available at that time of resources needed for prosecution and the likely timeframes; the possibilities for federal/provincial cooperation in prosecution; the desirability of using outside counsel to advise the team; funding; and, the ongoing investigative support needed. The exact nature of the process should vary province by province to fit practice.

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In addition, PPSC advisors to IMET should make sure they have a clear point of contact in Provincial Crown Offices so issues arising during investigations can be raised and dealt with effectively.

There is insufficient experience of the prosecution stage to set reasonable expectations for that part of the process at this time. Once there is more experience, consideration should be given to setting management expectations for the prosecution stage of the process.

I have considered the position of many that there should not be an expectation of successful prosecution meaning convictions. I agree that performance should not be based on assessing rates of conviction. That view is based on the understandable position that the role of prosecution is to present the case fairly so that justice can be done, regardless of the actual outcome. Judicial pronouncements exist on the role of the prosecutor. But these need not prevent clearer expectations of results in managing the program.

Specific targets for convictions (as exists in the U.K.) are unhelpful and might have unintended unfair consequences. Nor should one expect convictions for every charge or every investigation. However, I seriously doubt that policy-makers, the public at large, or the heads of the investigating bodies and prosecution bodies would be happy, and consider their job well done, if, for example, no charges accepted to be laid over a period of several years ever resulted in a conviction. That would undermine credibility. That should surely lead to a serious reappraisal of the effectiveness of the investigating, charge approval, prosecutorial and trial process.

#### Other Aspects of Improved Results

While I believe the short-term focus ought to be on bringing existing investigations to conclusion, there is one other matter that could help results in the medium term.

**15. I recommend that the RCMP review the use of a wider range of pro-active police techniques to ensure that all possible avenues of investigation are being used in appropriate situations.**

A number of program participants and outside observers made this point, and I agree. U.S. enforcement organisations have moved in this direction. A full suite of enforcement measures involves both 'before-the-fact' enforcement, in a variety of forms and 'after-the-fact' enforcement through investigations of major frauds. But the right resources, controls, and operational oversight have to be in place.

## **Chapter 4: Priorities for Enhanced Funding**

The IMET program needs additional funding, as set out in the 2007 federal budget. However, certain other preconditions need to be in place. Priority for funding should be to alleviating existing bottlenecks and improve the existing system, not put in place new initiatives.

The priority and accountability issues with the program need to be solved first, pursuant to the recommendations in this Report. The short term detailed review of existing investigations needs to occur to see if there are additional resource issues. The RCMP needs to adjust the HR model for the teams, determine what reasonable staff vacancy they can target and decide how targeted staff retention measures, outlined below, will work. These can all be addressed expeditiously. Some of them are key inputs into the funding implementation plan.

### **16. I recommend that priority for additional funding be given to:**

- **Additional IM and document processing resources (permanent and surge capacity) to support the electronic case management system and the system for scanning and transcribing documents and interviews.**
- **Additional technical crime resources available on a dedicated basis as needed for IMET.**
- **Additional operations capacity in HQ so they can exercise an effective and timely challenge and oversight function**
- **Additional HQ communication and HR resource to assist in developing and implementing the HR and communication strategy outlined below.**
- **Additional HR costs for investigation teams identified as a result of the detailed review, additional expertise needed for teams on contract or secondment into the RCMP.**
- **HR costs for the targeted HR retention measures suggested below.**
- **Additional costs to support effective timely prosecutions including ad hoc counsel, if the reserve fund or other PPSC funds not used for federal prosecution are not adequate.**

The medium-term funding plan also needs to address additional issues raised in this Report.

### **Taking On More Smaller Less-Complex Cases**

The new mandate for IMETS implies taking on more cases that are regional, not national, in scope. They may be smaller and less complex. There are already examples of IMET being referred cases they should take on but not having adequate resources. But IMET is already

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doing some non-major cases. In discussions with some I also got the sense that the existence of IMET has led other parts of the RCMP in certain Divisions, to reduce efforts on capital markets fraud. This is very hard to document. Partly this may be because IMET was staffed with scarce resources from Commercial Crime sections. I have also recommended that IMET consider doing more, appropriate, proactive operations. Consideration is occurring of building a better intake capacity as part of the FPT process for capital markets cases. This might put more demand on IMET resources.

In addition, IMET has limited capacity for Project status investigations. Resources on investigations will have to be available during the prosecution stage, which could be lengthy, thus limiting the possibility to accept new major cases. There are IM/IT capacity constraints at current caseload, such as for the electronic Major Case Management system. Medium-term planning is not evident.

**17. Pursuant to the reformulated Mandate, I recommend that the RCMP, Public Prosecution Service of Canada and the federal government who funds the Program, should develop a simple more-formal implementation plan re desired and achievable caseload, including more capacity to investigate and prosecute more, smaller, less-complex, investigations.**

This may well require more financial and operational resources. Accepting more investigations should not become a priority until the accountability structure and improved management practises I recommend are in place and working, and until other short-term funding priorities are dealt with to enhance results under existing investigations. It should then proceed in stages.

Planning needs to start now, so as to help prioritise the use of additional resources in the medium term. IMET and the Divisions they Report to, together with Commercial Crime in each Division should develop a plan, for sign off at HQ by the Program Leader, and D/Comm in charge, on the desired capacity and what is an achievable path to get there. The plan should take account of approximate ongoing demands for existing cases, possible numbers of smaller cases, freeing up resources by dealing with cases more quickly than now, lessons learned from IMET start-up on resources needed, including support and IM/IT resources required.

The plan should also consider the possibility that some (but not all) teams should be able to handle more than one case at a time. This is probably not possible for teams dealing with the larger cases as currently, but has obvious benefits for a team dealing with a smaller or medium-size case.

I believe that in addition to helping fill the 'enforcement gap', accepting more smaller cases would have significant advantages for the Program. The U.S. Corporate Fraud Task Force and the Serious Fraud Office in the U.K. deal with smaller, as well as mega-cases. Having success in smaller cases would add to the credibility of IMETS and to the credibility of capital markets enforcement. Having the possibility of capital markets cases which might otherwise be dealt with by Commercial Crime, be dealt with by IMETS could take advantage

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of IMET expertise and could lessen perceived barriers between the groups. It could also be an excellent training ground for IMETS investigators and prosecutors.

It could also provide more opportunities for career advancement within the Program and in related areas. Key person risk in the RCMP and PPSC would be reduced. A more junior IMET investigator who might not be ready to become team leader on a mega-case could be put in charge of one or more smaller cases as a next step in his or her career, without having to leave the program. A high-potential person from the RCMP divisions with excellent investigative and case management skills (and at least some fraud/financial experience) could move to IMET and take on a smaller case. Civilian members who are expanding their skills could also move up from smaller to larger cases. Prosecutors with limited capital markets experience could also benefit.

#### Next Steps to Develop an Implementation Plan

An annex lists areas for potential additional funding that will be addressed in developing the plan. I believe that these are legitimate, in concept. The FPT Working Group may also recommend things that have cost implications for IMET.

#### **18. I recommend that the PPSC account for its use of resources originally allocated to it under the Program, on a regular basis, as does the RCMP.**

It has prepared an initial approximate accounting for me. PPSC is putting in place better processes to track financial aspects of their participation in IMET. It is understandable that the PPSC has not used all available resources. There have not been many prosecutions to date and many will be lead by provinces. The accounting shows that amounts spent on IMET were about half that originally budgeted, and the difference was spent on other PPSC activities. I believe that this difference should be regarded as available for IMET reformulation initiatives within the PPSC or elsewhere.

Some enhancement initiatives could also be eligible for funding from unused monies in the contingency and reserve funds. The RCMP IMET budget is also lapsing funds, mostly because of staff vacancies.

It should be possible to pull together the implementation plan, based on Recommendations in this Report and further analysis, by calendar year-end. The RCMP and PPSC should involve key players at HQ and in Divisions in developing the plan, as a way of increasing cooperation and buy-in.

## Chapter 5: HR Matters

### I. The Situation

IMET Critics and many of the external reports have focussed on expertise, adequacy of personnel and HR practises as limiting IMET success. The RCMP itself, and partner departments had identified attraction and retention of expertise as a serious challenge.

Senior staff of the Prosecution Service have also noted PPSC's need to develop expertise in cases of this nature, which is made more difficult because there are not very many prosecutions. Some have wondered if certain provinces that may choose to undertake prosecutions have the depth of expertise needed.

The Program in the RCMP is operating with a vacancy rate of 21% as of September 30, 2007. If one considers only the RM investigative positions and the CM and PS positions that support them, the vacancy rate is 25% (i.e. excluding other activities that were added to IMET responsibilities). This is well above what well-managed public and private sector professional organisations would target.

Few persons have been promoted within the program.

Of the 71 RMs that have held IMET positions, 24 have left the program since its inception in 2003. Of those, some 8 had less than 20 years service, so the reasons are not all pension-related. Over half this turnover was to other RCMP sections.

All the Officers in Charge of IMET units (OICs) that started the Program have left (within four years) and in three locations the program will be on its third OIC soon.

It is difficult to determine how much this experience differs from the RCMP as a whole. Senior RCMP HR and operational personnel were not surprised at the vacancy rate in comparison to at least some other areas.

Can these realities reasonably be expected to change? Some may, but slowly, as the Force comes to grip with its broader HR challenges and as the recruitment situation more generally improves. So, I conclude that natural improvement in these metrics is likely to be modest in the short term.

The Program has done innovative things, including its use of competencies. As well, it appears to have been generally rigorous in doing performance appraisals and learning and development plans for most people.

The Program developed competencies for investigators that focussed on a mix of policing skills and capital markets or related competencies. Investigators, regardless if they were constables or corporals, who qualified for IMET, were appointed with acting sergeant pay. As a result, career progression for some individuals has been more rapid than would normally be the case. This was part of creating a unit that could commence operations rapidly and could attract the 'best of the best'.



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Initially the program, understandably, focussed on start-up HR staffing and issues. There was tremendous desire to have operations start before the teams were fully in place. Some of the initial strategies, such as the Acting Sergeant pay system were clearly understood to be less than ideal. For example, they can hinder some individuals having a career path inside and outside the IMET program.

Training appears to be well managed and well coordinated. Having a Program HR person at HQ could help make sure that national and Division input into training plans and priorities are meshed. Divisions could be given de-minimus amounts to spend on low-cost items without case-by-case pre-approval, provided they account for total training money spent. The IMET training budget is, rightly, significant. It was under-spent in 2006/07, due mostly to vacancies. Willingness to support, in whole or in part, learning and development (even if it is expensive) can be a significant factor in attracting and retaining staff.

HR issues have also been a material part of frictions in the Program and between the Program and Division management. There are tensions in some locales between regular members (RM), civilian members (CM) and public servants (PS), because of their real or perceived status. Divisions have sought to transfer/reassign IMET members to what they considered were more important priorities, often with little notice and no obvious back-up plan, even when the competing priority could have been identified well in advance. This is more prevalent in the contract policing provinces.

There have been a number of performance problems in the hand-picked people for the Program. Some of this will occur in any organisation but appears to have been more than was optimal for achieving the results expected. In some cases it appears these situations were allowed to go on for some time.

In at least two locations, senior people running the units at start-up were also in charge of specific major project status investigations. This had understandable impacts on oversight and focus. It should not be repeated.

IMET developed competencies for investigators and also for team leaders and Officers in Charge of IMET units. Those for team leaders and OICs were not used but were replaced by the force-wide Officer level competencies for Inspectors and Superintendents. While there are many similarities, there are key differences. The force-wide competencies do not include team leadership, nor results-focus.

There appears to have been less HR resources devoted to IT/IM support in the original organisation structure than was needed. This includes day-to-day help to staff, support of electronic major case management systems, document processing including entry into the data base systems, and transcription of witness statements. In some locales, staff believe that Division support has been inadequate. Technical Crimes support is also an issue. Some of this is a force-wide issue. Some believe that new initiatives that the Force took on over the years have been funded on the basis that they could use already-existing Tech Crimes and IM/IT support. In total, this capacity became stretched. At some point the pressure on these support resources has to be addressed more generally. IMET has had difficulty quickly

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seeking outside solutions. That has negatively affected IMET performance. For timely results, IMET cannot wait for the Force-wide solution.

### Constraints

HR policies and practises within the RCMP are going to constrain the flexibility that is available to a program like IMET. Progress on the HR challenges more generally in the RCMP can only help a program like IMET.

The most important of these include RCMP pension policy, policies that promote frequent rotation of staff, the rank system of pay, and the promotion and performance evaluation system. The reality is, for example, that once a RM reaches a certain number of years of service there is a considerable financial penalty for staying on in the Force. Again, since only police officers can generally be investigators, there is a challenge in providing career opportunities for Civilian members (CMs) of the RCMP who are committed to the work of IMET, but do not want to become police officers.

### Recent Studies re HR issues

The IMET Reformulation Plan, approved by RCMP Deputies and by the Executive Council, in concept, early in 2007, called for development of a “retention pay program” and “expertise retention strategy”. Pursuant to that, Deloitte was contracted to provide advice on a plan.

The Deloitte Report makes a number of recommendations related to HR issues. They were directed by the RCMP not to be constrained by the RCMP HR framework. Some of their recommendations are quick hits, others are more fundamental. The more fundamental involve altering the classification of jobs in the IMET program, reviewing existing incumbents against those new jobs, doing a pay comparison study to benchmark IMET jobs against other comparators (expecting a roughly 10-12% pay rise as a results), putting in place a performance pay system for all IMET members (not just for Officers as is now done Force-wide) and a discretionary retention pay pool, among others. In many ways these were deliberately developed ‘tabula rasa’ without considering the impact on the RCMP more widely, or its capability to administer them.

I generally agree with Deloitte’s observations and assessment of the current state of HR practises.

## **II. Considerations**

IMETS clearly faces HR challenges, as does the RCMP, (and to some extent the Prosecution service), as a whole. High vacancy rate, significant turnover of staff (not all for pension-related reasons), few promotions in the program, and few opportunities for civilian members are all issues. Many of these can have tangible effects on results. For example, with that high turnover rate of Officers in Charge of IMET units, how can one expect sustained leadership to drive focus and results?

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In my judgement, the most pressing HR issues, at least in some locations, are not challenges of attraction and retention. Lack of job satisfaction due to the issues of leadership, accountability, management and results can be more important.

Solving the other matters raised in this Report—clearer accountability and less frictions between HQ and Divisions, better results focus, dealing with roadblocks—will help to create an environment that will make people want to come to IMET and stay there.

The key person risk and lack of stability inherent in the existing situation translates into unacceptable delays in achieving results. Key person risk also seems to exist in the PPSC legal advisors assigned to the program.

Because of this, the Program ought to do a better job of identifying back-up plans for key positions. It should also consider building in a limited degree of redundancy for the next few years.

In my experience, achieving sustainable success in attracting and retaining talent, and having the right teams to do the job, requires focus and ongoing effort in a consistent and sustained way. This is beyond what the program has been able to do, to date. HR policies and practises have to follow from operational and business strategies, not the reverse. In my experience no one measure, by itself, is likely to be sufficient to deal with the HR issues that have been identified. Putting in place and implementing such an HR strategy requires time and devotion by senior Program and Division management, with adequate support and senior RCMP involvement.

Some of the initial expectations were unrealistic or not well enough defined to be actionable. For example, in a program of 140 FTE, it is not realistic to think that there can be career possibilities for the vast majority of people only within the Program. Some degree of movement in and out of the Program for career development and promotion is essential. And moreover, such movement is desirable to broaden skills, to gain experiences, to attract talent, and to ensure that the Program is not an orphan within the RCMP. Some should be able to have a career in IMET if they wish, but managers have to be realistic. But movement should be better planned, not ad hoc in response to unnecessarily-last-minute demands.

The Force has, understandably, had difficulty dealing with all of this. It has particularly had difficulty dealing with pay differentiation for IMETS.

The RCMP had a challenge from the beginning. It needed to create a relatively-small police unit that required high-quality major case management police skills, and other basic investigation skills, coupled with high-quality expertise in various other disciplines. But it had to do this without alienating so much of the rest of the organisation to cause isolation and lack of cooperation and legitimate feelings of unfairness. That is no easy task, particularly in an organisation like the RCMP, with its push-pull of policing mandates and its institutional history and culture. Issues with HR management more generally, that have been documented elsewhere, probably didn't help. In dealing with this at the beginning and today, decision makers have to judge where the limit is to new approaches, capacity for change management, and what is sufficiently acceptable to be achievable and durable.

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I have tried to make similar judgements. Often critics have not appeared to understand this, and have offered simplistic solutions.

For example, there is no doubt that pay and promotion and bonus possibilities for IMET members are less than elsewhere. Most, if not all public sector organisations have challenges in attracting and retaining talent. On the other hand, unless an organisation is capable of justifying and accepting special pay for one unit, there will be difficulties.

### **III. Recommendations re HR Matters**

What follows is a package of measures designed to help.

#### **Adjusting HR Vision**

**19. I recommend that the Program Leader, HQ staff, and CROPS seek consensus on and updated HR vision and define in more detail what it means in practise. This ought to result in a revised set of policies and expectations for what mix of resources and competencies teams should have, which should be used by investigators and OIC's in planning specific investigations.**

As part of this, OICs, team leaders, and RMs should look for opportunities to involve CMs and public servants more in order to promote the team concept.

There is significant disagreement among various people inside the Force about the HR vision. Some see a program like IMET as deliberately creating a unit of “the best of the best”. This view also looks to IMET members being a team of expert investigators each having a range of skills and expertise including in capital markets, law, forensic accounting or related matters. External critics who doubt that the RCMP has relevant expertise are implicitly thinking of this HR vision. Others emphasise that the RCMP's forte is policing and that policing skills—interviewing, focussing and driving a complex investigation, preparing search warrants and prosecution briefs, testifying-- are very important to a program like IMET. For them, necessary specialist expertise in capital markets, accounting, and so on can be acquired from partners, when necessary.

When it undertakes these investigations, the Program is playing in the big leagues. I think the vision should be to have truly integrated, committed teams, lead by results-oriented individuals from inside or outside the force who know how to manage such integrated teams, with the right mix on the team of policing and subject matter expertise internally to get the job done, and willingness to go outside the Force to supplement the teams with the best specialist expertise available. That will be the most conducive to getting results. Teams cannot achieve results with only regular policing skills, they need capital markets and other expertise as well. As well they must have senior leadership, as they deal with senior people and organisations under investigation. So I believe that the original decision to have Inspectors in charge in the RCMP, at least of many investigations, was the right one and should be implemented.

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For this purpose, 'Integrated' ought to mean integrated between the RCMP and PPSC, integrated with the rest of Division and the Force, integrated with partners, and integrated with outside expertise and partners necessary to get the job done.

On the prosecution side the equivalent vision is willingness by the PPSC and provincial crowns to work together to pool expertise as much as possible, coupled with willingness to go outside, as necessary, to seek assistance from recognised persons who could assist (not lead) the team.

Both investigators and prosecutors have to recognise that this will require willingness to pay for expertise. The other side will generally not stint.

### Better HR Management

Better HR management will help attraction and retention.

The program has to focus on HR management in an organised and coordinated way. OICs, the IMEB Director, Divisions and HQ have to focus quickly on dealing with the HR challenges of the IMET units in their respective locales, with appropriate support from divisional and HQ HR. Going forward, Divisions and HQ need to be on top of the HR situation in their respective locations and dealing with issues that arise proactively.

**20. The new position of Program Leader, supported by a dedicated HQ resource for IMET, should also develop an HR plan, that is updated annually, linked to the challenges of the business and prioritised, linked to Division HR plans, and with as much shared contribution of HQ and Divisions as possible. Following the plan will require persistent and organised actions to manage HR issues. Progress on the plan should be reviewed in Divisions semi-annually.**

**The HR plan should explicitly recognise the RCMP HR environment and react accordingly in resourcing the program. In particular it should:**

- a. Set targets for resource levels, for expected vacancy and, if what is thought achievable would unduly affect investigations, the program should plan how to react.**
- b. Recognise that a high proportion of the program should be much more proactive in identifying successors and proactively moving a few into positions in IMET where they could benefit from experience and more seamlessly transition into leadership roles.**
- c. Identify program-wide training priorities.**
- d. Assess positions at risk for departures and succession plans.**
- e. Track morale (e.g. through staff surveys), identify measures to improve it, as necessary.**

- f. **Have separate sections dealing with Civilian member and Public Servant issues, based on input from these groups.**

**21. Implementation of HR policies should be linked more closely to Divisions, without losing a national focus, in order to take advantage of other resources available in divisions and to promote career development and movement back and forth between IMET and other Financial Crime programs. In particular:**

- a. **OIC's CROPS and Division HR would explicitly be responsible to ensure that IMET program has sufficient human resources, with the training and tools required, (including IM/IT resources) to effectively investigate capital markets crime in a timely way.**

Certain locales are more short staffed than others and need attention. By having more support resources and IM/IT resources of various kinds, investigators and CMs will be freed up to do more of the jobs they were supposed to.

- b. **Decisions on staffing for IMET below the Officer level would be the responsibility of OIC/Division HR. Both Divisions and HQ should sit on assessment boards.**

I have made comments above about the need to ensure that successful candidates have the right competencies to achieve results in the IMETS integrated environment.

- c. **Decisions on staffing Officer positions (team leaders and OIC's) should need agreement of both HQ and Divisions. There should be interviews of the short list of candidates to ensure appointees have appropriate fit, including understanding and acceptance of the integrated team concept that is key to IMET success, appropriate results focus and functional experience.**

HR has advised it is not averse to adding an IMET-specific interview to the normal Officer appointment process.

- d. **Special attention should be given to active management of career development for IMET members and for people in Divisions who might benefit from a tour of duty in IMET.**

- e. **IMET OIC's should participate in Division performance and career development review committees (that exist to regularly review staff in the Division's financial crime programs). Where these do not exist, they should be created. Where goal setting and evaluation is not complete, it should be improved and tightened up to align with program goals. The IMET HQ HR person should also be an observer in each Division's process, so as to better link to program-wide career development and make links between Divisions.**

- g. **IMET Transfer opportunities should be advertised within Divisions and nationally to make sure that qualified candidates from across the country have the chance to be considered. The new IMET HQ HR person should**

work with Division HR staff to ensure that a reasonable number of persons are able to transfer from within the Division into IMET including into the HQ branch. The HR plan should help Divisions and the program leader assess annually that the transfer policy is working in practise.

- h. The Program Leader and Divisions should develop a contingency plan as to how Quick Start operations are to be staffed. This will require more advance planning and negotiation than previously as human resources are now controlled in Divisions.

HQ should be clear in its expectations and HR policies that Divisions are expected to follow including:

- i. Ensure that IMET program has sufficient human resources, with the training and tools required, (including IM/IT resources) to effectively investigate capital markets crime in a timely way.
- j. OICs planning and having in place the right team to manage each investigation, with the expectation that will include a mix of RM's and CM's, adequate support, secondees from Securities Commissions or other bodies, timely access to other internal RCMP expertise, and outside expertise (on contract or otherwise).
- k. Willingness of the program to contract or second recognised high-quality expertise necessary for investigations, including forensic, IT, technical crime, securities fraud, regulatory enforcement, at a senior level if necessary, even if it is expensive, in order to expedite investigations and ensure the program can effectively challenge expertise available to those who are under investigation.
- l. Using the IMET competencies.
- m. Continuing to meet the 90% rule for individual IMET members working on IMET duties. Having adequate pre-planning and back-up before key members are transferred out of the units to other duties that were foreseeable well in advance.
- n. Willingness to use special training opportunities, with appropriate commitments by staff to return to IMET, as a career development and retention tool.

Divisions should be subject to HQ oversight in HR matters to ensure they are following policies and expectations.

HQ should have its own HR resource to: support HQ in developing the HR plan and strategy, provide a national input into Division HR processes, help HQ Program management with HR matters affecting IMET at HQ, and assist in managing and developing the current national training plan. Movement

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**between Divisions and HQ should be encouraged to break down the stereotypes they have about each other.**

HR is supportive of having this kind of a partner in the program, who would focus on strategic, planning and overall process issues, not on day-to-day HR transactions.

#### Civilian Members

Additional attention should be given in the HR plan and career management policies to developing career development possibilities for civilian members (CMs). They are more limited because of the nature of the Force. However, I believe more could be done. CMs should be asked for their input and it should be taken into account. CMs positions have had lower turnover, which is a benefit, but that should not be taken for granted.

For example, having some more 'market expert' positions in the Program at various classification levels is something that CMs might aspire to, (but would also be available to secondees). Classifying these positions at appropriate levels is not only about the number of people they supervise, it is also about the experience they can bring to getting results. These positions may not be needed at all levels in all locales, depending on other expertise available. In that sense these are probably better looked at as senior expert positions, rather than just 'market' experts.

The Program is putting in place learning and development plans for individual CMs next year, which I support. The Program should be willing to look at different types of training paths for CMs, outside of the normal RM path or understudy program. For example, a CM with IT technical expertise should be able to train with the Tech Crime Unit, obtain necessary certification and work in the Program under Tech Crimes supervision. Cross training of CM's might permit them to perform more than one of the CM roles. A junior CM ought to be able to benefit from training in securities or accounting/auditing matters, including obtaining a designation, be eligible for a secondment to a securities commission (or a market participant) or a private sector firm or other federal department, on the understanding that they return to the Program (perhaps in a more senior capacity) for a specified period.

In addition, I see no reason why high-potential CMs should not be eligible for at least some of the training courses normally targeted at investigators. Alternatively, parts of the most relevant RM courses could be re-packaged into a version for CMs. That could also make them better able to understand what investigators need from CMs in terms of support. By exposure, it might also help more of them decide they want to become RMs. Once more of this is in place, the Program should consider a CM development program like the internship program.

#### Public Servants

The program employs a number of people classified as public servants, mostly in administrative and support roles. In several locales they raised a number of issues with me that need to be addressed. Most seem reasonable and doable, but some are the result of culture issues in the Force. Dealing with some other issues I have raised, such as adequate



support for IM/IT would help. That would reduce the extent of turning to PS admin staff on short notice to fill in.

Locale managers, team leaders and team members need to recognise the contribution of public servants and look for ways to include them. The Program should find a way to identify irritants they face and deal with as many of them as possible.

#### Employee Surveys

**22. The program should do annual, simple, on-line, employee surveys to measure morale and employees' reaction to HR initiatives. This will also assist senior management to gauge progress and adjust. HR should also do exit interviews of those leaving the program.**

#### Pay and Incentives

The new classification system, new pay ranges, and performance pay system recommended by Deloitte could be beneficial in retention and attraction of talent. However, they require a good base of HR practises be in place to be workable. I do not believe the necessary base is in place in the RCMP at this time. Also, such initiatives require considerable management time and effort, and they can be costly. If they are applied to only part of the RCMP there are very difficult questions that would have to be resolved and managed. Most important would be the scope of the special treatment and how that is justified, so that the organisation more generally believes it is fair and necessary.

I do not believe that a strong enough justification exists for across-the-board special treatment for IMET. The Force could not now manage the inevitable tensions in my judgement. It would be a challenge in any organisation. The challenge is larger for the RCMP given the institutional functioning and culture of the Force. That culture requires an extremely strong justification of what is perceived to be 'special' treatment. More importantly, nor is there sufficient consensus, including at very senior levels in the Force, to stand behind such an initiative at this time.

**23. The IMET Program should, therefore, not adopt a new separate pay scale, performance pay system or classification system at this time.**

However, my view is that the Force will have a continued challenge of mixing specialist expertise with policing expertise. Being more open to secondments can help. But, having more flexibility in pay, including pay for performance, or pay or additional classification for certain expertise (which can include demonstrated specialised policing expertise), would seem to me to be desirable. Good governance and oversight of how such flexibility works in practise is essential for integrity, fairness, and cost control. So is building as much internal consensus as possible on the need for such flexibility and how it will operate. It would need to go beyond IMET alone.

As the Force considers HR strategy more generally it should consider the place for and scope of such measures.

Short Term Measures re Compensation

I do not think the IMET Program can do nothing in the short term.

In other areas of the RCMP the Treasury Board has authorised the Force to use a very limited number of Full Time Equivalent Positions Exempt From Classification (FTEEC). The assignments vary in term. Promotion on FTEEC assignment is possible with various conditions. These positions pay at the rank of the member without classification of the duties performed on the assignment. I have consulted RCMP HR on this matter and on using this concept in IMET.

**24. In the short term the Program should be prepared to use HR tools for IMETS that the RCMP has used in other contexts to deal with selected issues of attraction and retention of expertise. In particular, it should consider using FTEEC positions in limited ways and limited numbers in the Program to deal on a targeted basis with career progression and retention issues. Treasury Board should be willing to approve additional FTEEC positions for the Force, if necessary.**

There may be other targetted techniques that should also be considered. The Program will need to develop transparent criteria for when that flexibility will apply, so it doesn't become an across-the-board measure. Divisions and HQ have to both be involved, and hopefully reach consensus, on how this should be designed. It will also need a sound process involving both HQ and Divisions for implementing use of this flexibility, with decisions made at the level of Program leader and CROPS on individual cases to ensure consistency and reasonableness. It will be better to start small in clearly justifiable situations, and gain experience.

The Acting Sergeant Issue

The Program recognises that the original decision to classify and pay all investigator positions as Sergeants, even if filled temporarily by corporals and constables, has caused tensions. It was desirable and understandable as a start-up measure. Currently or longer term, it can inhibit ability to attract to IMET constables and corporals with good anti-fraud policing skills that a team might need, but without the full set of IMET competencies.

On the other hand, I do not believe that IMET can be successful without also having a critical mass of investigators with the range of skills that the program has identified. I am also conscious that the scope and degree of success of other measures I recommend to deal with HR issues have not been fully determined and assessed. Nor has the impact of changing or dropping the acting Sergeant policy. This assessment should be done, with the assistance of HR, as a priority. But it has to be considered as part of a package of measures to address HR issues following the Recommendations in this Report. In particular, depending on the extent of use, FTEEC positions could address many of the same issues as the acting sergeant policy. As well, I have recommended a process to reach consensus on the desired make-up of teams going forward. That will likely suggest having at least some high-quality corporals and constables who might not be eligible for acting sergeant. I believe this would make sense.

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This is a policy issue. I do not recommend changes to the acting sergeant policy immediately. Eliminating it without addressing the real issues of staffing and HR more generally could well backfire. But I don't rule out changes either. Nor is it necessarily all or nothing—IMET might consider retaining the sergeant policy for those with the full package of competencies but also employ some corporals and constables, if duties can be adequately distinguished.

As part of the package of other measures in the HR plan to respond to this Report the Program Leader, with HR support, and formal input from Divisions, should bring forward an assessment of options for dealing with the Acting Sergeant pay issue to the D/Comm, SEC and Commissioner. I am available to assist in that process.

#### Impact of Other HR Policies

The Program, with the help of the newly appointed HQ HR person and Divisional HR, should examine if there are aspects of selected RCMP HR policies that, inadvertently, stand in the way of attracting and retaining people. It should also make sure that IMET is part of relevant Force-wide HR initiatives. For example, the Program ought to be part of the 'Retention of Expertise' initiative in the RCMP.

Again, I have been told that the promotion criteria re management experience can be applied in a way that penalises someone who has managed a complex file with multiple internal and external relationships, relative to a person whose has managed a larger number of staff. This may be an issue broader than IMET in the commercial crime program. If so, it should be rectified. As well, there may be limitations on persons, because they are not RMs (including secondees with investigative, prosecution or regulatory enforcement backgrounds) from attending certain courses that might benefit them in their role in IMET. There should be a process for expeditiously reviewing possible individual exceptions to such policies at senior levels and deciding on them quickly.

As well, the measure being considered Force-wide to have a target of RMs rotating jobs every five years is unlikely to help a program like IMET. Exceptions may be possible as part of the retention of expertise program, and should be considered for IMET.

#### Officer Turnover

I am also concerned about rapid turnover of Officers for the reasons noted above.

**25. I recommend that the RCMP consider creating the possibility of paying retention pay to IMET Commissioned Officers. It would be available only to those who have already been with the Program for, say three years, who have had high performance ratings, and who commit to staying in their position for, say an additional two or three years, and where there is a demonstrated need for continuity because, for example, investigations are coming into crucial stages. Decisions would be made by consensus by the Program Leader and Division COs.**

This might help reduce turnover going forward.

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Other Measures in Deloitte Report

I support and/or echo in my recommendations a number of measures in the Deloitte Report. I specifically support or echo Deloitte recommendations to: re-examine the skill mix and competency model of investigative teams (I don't believe each team needs five sergeants with fully interchangeable skills)—in part to broaden the pool of potential recruits; conduct a formal staff survey of career interests and intentions; experiment using a higher proportion of civilians in some teams; place stronger emphasis on job content in recruitment to appeal more to knowledge-intensive professionals; better HR planning generally; extending learning and development plans based on the staff survey; better succession planning; creating a national skills data base for IMET; and, a more-formalised system of non-monetary compensation. I am not aware that any of these require measures that go against fundamental RCMP HR policies.

Much of this has to be integrated with Divisions day-to-day activities and have their input and decision. But it also needs national coordination and appropriate policies. A dedicated HR resource at IMET branch will help in that regard. My proposed accountability framework is also designed to facilitate a Divisional and a national component to talent management.

In the short term, better working conditions through other changes in this Report, more active HR management, better career development opportunities through measures outlined above, and limited use of pay flexibility should help attraction and retention. It will also start building a better base for other possible HR, pay, and benefits improvements in future. But this will not be a panacea. A year from now, the Force, through the IMET and Divisional HR plans, should evaluate experience and see if further measures are required.

## **Chapter 6: Other Matters**

### **I. Relations with Securities Commissions.**

Most I spoke to reported generally good working relations with IMET. However, there can be tensions. The interests of regulators and police do not always coincide when they are both investigating an issue. There are other issues that can make for tensions, such as the legal constraints on information sharing, and what those mean in practise. Personal relationships and trust are hugely important to success.

The existence of multiple securities regulators can make achieving consensus on issues difficult and time consuming. For example, it took considerable time to sort out the approach to sharing of information between regulators and the police in Canada and between Canadian authorities and their international partners. It is not fully resolved. Canada did not have a uniform position vis a vis its international partners. Again, different provincial regulators have different interpretations of court decisions which has hampered setting up joint securities intelligence units with the RCMP in some provinces. It is difficult for IMET to develop a national approach to issues such as information sharing, because there can be differences in the views of the partners, province to province.

My review suggests that, more timely senior focus on resolving strategic or national coordination issues could occur. This is a role for the Program Leader supported by the Branch. The revamped Executive Council ought to monitor progress on such issues and make them part of regular discussions with the Canadian Securities Administrators (CSA).

In some provinces, there are moves for IMET to undertake more joint investigations with provincial police and some Commissions want closer information sharing. In others, local police are not interested. There are positive developments in certain provinces.

The federal government has put significant resources and effort into IMET. IMET is regularly sharing its issues and enhancement plan with provincial partners in the CSA. Chairs of Securities Commissions and Directors of Enforcement I met sometimes indicated that they also have certain similar issues and challenges to IMET. It would be useful for them to share these experiences with IMET and its federal partners, perhaps through the meetings with the CSA, so each can benefit from others' experience.

**26. I recommend enhancing relations between IMET and Securities Commissions. In particular I recommend that:**

- **All provinces with IMET units find ways to participate in the joint securities intelligence units. I also recommend that, at least annually, there be a get-together of the four JSIUs and the HQ coordinator to share experiences and trends. More frequent sharing of experiences could occur by conference call, organised by the national coordinator.**

- **The Executive Council ensure that relevant national coordination issues with Securities Commissions are dealt with and receive focus, either bilaterally or in the regular meetings with the CSA.**
- **OICs, CROPs officers, and the Program Leader regularly review how relations are working in practise with Directors of Enforcement and Chairs of Securities Commissions in the relevant provinces. As much as possible, regulatory and criminal investigations, if they have to be conducted in parallel, should be conducted in ways that do not impede the other process. If there are opportunities for parallel work or additional information sharing, that does not taint either investigation, they should be pursued, perhaps as a pilot.**
- **The CSA be asked to share its experiences on enhancing provincial securities enforcement with IMET leadership on a regular basis.**

## **II. Enhancing RCMP/PPSC Cooperation**

**27. I recommend that the RCMP and the PPSC find opportunities to enhance their cooperation in the program, starting with finalisation of their long-overdue MOU, co-locating the PPSC IMET coordinator position in the RCMP, and regularly monitor how cooperation is working in practise.**

This should start immediately by finalising of the long-overdue MOU on the role of PPSC/Justice advisors in the program and communicating expectations to all involved. I understand that this is now almost completed.

However, an MOU is no substitute for staff of both organisations making the integrated concept work in practise. There are also going to be situations of disagreement. The key is to keep them healthy. As someone said to me “there is no ‘I’ in integrated”. So, the RCMP and PPSC managers of the IMET program should satisfy themselves, on an ongoing basis, that the relationship is working well in each locale.

It is essential that RCMP investigators make legal advisors a real part of the team. It is essential that PPSC make clear that legal advisors are not there to run the investigation. If there are issues from time to time, they should be dealt with expeditiously, and elevated as necessary. Some regional variation in practise is acceptable. In staffing positions in the units and at HQ, the RCMP and PPSC should give attention to successful candidates understanding and being able to manage and operate with the integrated concept. This has not always occurred in past.

Other recommendations about joint participation in regular management meetings should also help communication and cooperation and identifying potential problems before they become serious. The RCMP and PPSC should also communicate better so they have a more coordinated approach to dealing with provincial Crown offices on material, sensitive or strategic issues.

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The RCMP and PPSC at senior levels should regularly review how the relationship is working in practise and deal with issues that cannot be resolved by staff, more quickly than has been the case to date. That will rebuild trust.

As part of this closer cooperation, the IMET coordinator position at PPSC headquarters should be co-located with IMET Branch to improve day-to-day communication and coordination. PPSC legal advisors and IMET investigators are integrated in the four locales, but not at HQ.

### **III. Other Enhanced Management Practises in the RCMP and PPSC**

Many of the other recommendations in this Report will improve management practises.

#### **28. There are a number of other management practises that I recommend.**

- Communicate the expectation from the Commissioner to all program managers (including CROPS and Branch) down to at least the OIC level, that senior RCMP management at least at the Program Leader and/or D/Comm level expects to be aware of, and involved in decision making in any strategic matters that affect basic program direction, program reputation, or that could materially alter program operations or the likelihood of program success. Staff should not be communicating externally positions on strategic issues that have not been approved by senior executives.
- Develop a single, complete, up-to-date list of projects, tasks and issues related to the program with appropriate tasking (that reflects program accountability), timelines and monitoring. It should include a cataloguing of internal issues that can delay investigations. The list should be agreed with and shared with all concerned—Branch, Divisions, and senior HQ management.
- Have effective program management meetings monthly, or more frequently. They should be chaired by the Branch but with participation of OICs, Justice legal advisors, PPSC IMET Coordinator and CROPs representative(s).
- Enhance monthly reporting to senior staff, based on the project list and management meetings.
- Finalise policies and job descriptions. Enhance efforts to staff vacant positions for Inspectors and market analysts.
- Put in place a regular process for managers, divisions, the Branch and the Program Leader to conduct ‘town hall’ meetings with staff. Use other ways to regularly communicate information to all staff.

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- Ensure that HQ IMET staff proactively expand and maintain up-to-date international contacts. Ensure that HQ and other IMET units provide advance notification to each other of international meetings and communications (particularly with new contacts or new issues or issues that might affect other locales) so they can be coordinated.

In addition, there are a number of management enhancements that I recommend occur in the Public Prosecution Service.

- Communicate from the Director to senior PPSC staff, the IMET coordinator, and to all PPSC advisors, that he or she expects to be aware of, and involved in decision making as necessary, in any strategic matters that affect PPSC's role in program direction, that could affect program reputation, or that could materially alter program operations or the likelihood of program success.
- The PPSC Deputy Director should run monthly meetings with the IMET coordinator and advisors in IMET locales. There should be simple minutes, action items and follow-up. I gather this has recently started, in part due to my earlier observations.
- PPSC should either participate in the RCMP action items list or develop a list of its own action items. It should be monitored regularly at senior levels. If there are separate RCMP and PPSC lists, they should be shared, and both reviewed at the management meetings referred to above.

#### **IV. Professional Standards, Quality Assurance, Audit and Evaluation**

Oversight by RCMP Divisions and HQ, and sound program management, means periodic quality assurance and audit in Divisions and at a Program level.

The program had a formative evaluation in 2005 conducted by the Consulting Services Division of Public Works and Government Services Canada. It was slated to have a full-scale evaluation by year-end 2007, for funding to continue. I had previously recommended to the Executive Council that the evaluation scheduled for year-end 2007 be deferred, and they agreed. Program resources and senior time are better spent on improvements. I understand the process has started to achieve agreement with Treasury Board on a two-year deferral, at current reference funding levels.

One of the RCMP Divisions has pioneered the use of professional standards reviews as a way of helping identify and fix actual or potential problems with investigations. One review was done of an IMET file in the Division. This is different than after-the-fact review by internal audit. Both are valuable.

I believe that RCMP internal audit has the capability to perform operational audits and evaluations of a program like IMET. Internal Audit is likely to be more versed than outside consultants in how to perform such audits of RCMP programs.



**29. I recommend that the Program Leader, together with HQ audit and evaluation staff, CROPS and OIC's, develop a program for quality assurance and evaluation that would include:**

- **A Division-based quality assurance process.**
- **Selective professional standards reviews to help ensure that investigations are on track. This could borrow the professional capability in the Division that pioneered the approach.**
- **Using RCMP internal audit to conduct program audits and evaluations instead of outside consultants and including IMET in the risk-based RCMP audit cycle.**

Ways should be found to include the operations of PPSC advisors and other partners, if possible, in any program-wide internal audit review. The risk based audit framework developed initially for the Program should be reviewed and adjusted in light of experience and this Report.

## **V. External and Internal Communications**

**30. Because of the expectation gap, the Program should develop a coordinated national communication strategy (internal and external), based on a more comprehensive analysis of the environment, adequately supported by a full-time communications person allocated to the Program in HQ.**

This strategy should be neither overly optimistic nor apologetic. It should recognise the results that have occurred, accept the need for improvement and indicate that improvements are underway. It should look to explain the constraints of the Canadian system without appearing to use that as an excuse.

The communications person should be involved in all media releases in order to ensure consistency of message and achieve desired national coverage. They should review existing IMET published communications material and recommend changes as necessary to better describe accurately and fairly what the program is doing in terms of results, challenges and progress in reformulation. They should consider other areas such as the JSIU's where some further communication is possible, generically, about their preventative work.

Internally, they should develop and implement simple processes for keeping IMET staff at all levels informed in a timely way about developments in the program and outside. This could involve more use of video conferences, electronic newsletters, debriefings, sharing of information across locales, distribution of material received at conferences, and so on. That also builds teamwork.

## **VI. Sensitising Key Actors to the Issues of Corporate Fraud**

I believe there is room for senior PPSC staff, supported by Finance, to approach the judicial community (through, for example the National Judicial Institute) about the serious impact of capital markets fraud, and to emphasise that it is not a victimless crime. This would have to

be done in a way and at a time that was not, nor was seen to be attempting to influence specific cases. This has been done recently in the case of counterfeiting.

These three Departments might also see if it would be appropriate to update the general material about the impact of capital markets fraud, as an aid to prosecutors.

## **VII. Executive Council, Its Mandate and Information**

The Executive Council should meet more frequently, at least until the enhancement plan has taken hold, to deal with a number of recommendations in this Report that concern it and to satisfy itself that strategic direction is being maintained.

I have reviewed the draft mandate of the Executive Council, and the information the Council receives. It is not possible for the Council to meet its mandate given the information it receives. The Council is designed for maintaining high-level strategic direction, not for program management. The Council has to review the information and processes it needs to meet the mandate. There are a few areas where the mandate appears to be too far into operational issues. An annex includes detailed suggestions.

### **31. I recommend that operations of the Executive Council be enhanced by:**

- **More frequent meetings while the enhancement plan is being put in place.**
- **Revising and finally adopting the draft mandate.**
- **Getting better information to meet its responsibilities.**
- **Putting in place effective ways to have more-regular, substantive communication about IMET and enforcement issues more generally with the chair of the CSA, and with the FPT heads of Prosecution.**

This would improve timely information sharing about the program enhancement, related federal-provincial initiatives and any emerging issues.

Federal Ministers interested in the IMET Program may wish to also have regular updates with their provincial colleagues on progress on enforcement in all jurisdictions, as part of established federal-provincial processes.

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### **Chapter 7: Conclusion**

Fighting capital markets fraud effectively is very important to Canada and to individual Canadians. I have been impressed in doing my review by the dedication and energy of the people involved in IMET. Theirs' is not an easy job. The achievements to date in getting IMET up and running are real. There is room for improvement but with leadership, focus and determination by all the organisations involved, I believe that a better job in achieving results can be done.

**Annex**  
**Areas for Potential Additional Funding**

Pursuant to this Report, these are a variety of areas for additional budget funding. As part of developing the implementation plan they will be scoped out, costed, and details, feasibility and timing of implementation specified, keeping in mind other priorities in enhancing IMET in the Report. Involvement of both Divisions and HQ in this will be important.

The 2007 federal budget made available up to an additional \$10 million a year, once an enhancement plan is in place. Other source of funds for some of these items will likely also be possible from the IMET contingency fund, the IMET reserve fund and re-directing original unused funding for federal prosecutors. It also needs to be recognised that IMET may continue to lapse funding in both the RCMP and PPSC due to under-staffing and other issues. This would be factored into the detailed plan.

- Additional program FTE's and contract dollars for IM/IT support, electronic major case management document processing and management, and transcription support.
- Additional Technical Crimes support to investigations through staff and/or contract assistance.
- Permanent funding within the IMET program and FTEs for the Joint Security Intelligence Units.
- Additional HR dollars due to creating FTEEC positions and other career development actions.
- Additional resources to assist in certain prosecutions or to hire ad hoc counsel in the short term, in consultation with provinces.
- Additional operations capability at IMET Branch to support the HQ oversight role.
- A communication coordinator at HQ.
- A senior HR person dedicated to IMET at HQ.
- Additional financial control administrative support staff in IMET locales.
- Additional PPSC resources to lead in developing prosecution approaches under current legislation.
- Setting up a coordinated intake function as outlined in reformulation plan depending on FPT Working Group Report and once implementation is fleshed out.
- Phased-in additional smaller, less complex investigation capacity, resulting from recent mandate reformulation or decision to increase smaller-case capacity. This will likely include addition of full-time RM and CM positions, with adequate support, in each IMET unit. This relates to the proposal in the Program reformulation plan to augment Quick start capability.

Annex  
**Possible Elements of a Results-Based Internal Monitoring Framework**  
**For Discussion**

- A high proportion of project status investigations put forward by the RCMP to Provincial or Federal Crown meet the charge standards.
- A high percent of investigations that are started should result in charges, on average. (Otherwise, original case selection or conduct of investigations is questionable). But it should be acceptable to drop investigations, the key is to not let investigations that should be dropped drag on.
- The gap between material major market events that clearly call for initial investigative assessment, and starting such assessment, should be minimised.
- The time between when an investigation is started and when a decision is made on whether it is an IMET Project Status investigation should be targeted to be no more than a specified time, say three months.
- For investigations that are project status, a reasonable project plan with a good sense of how to focus an investigation and identifying necessary team resources, and possible resource bottlenecks should be available for senior level review within a specified period, say 60 days. These plans should explicitly include the possibility of relying on previous reviews/investigations done by others. These plans should be reviewed by CROPS reviewers with input and constructive challenge from HQ (ideally concurrently). All such plans should include the outside expertise needed, an assessment of the availability and explicitly consider going outside the Force for help on a contract or secondment basis. Operational plans should indicate the expected timeline of tasks for the first six months. All such plans should also identify specific checkpoints for later reviews by OICs, which in any event should occur no less frequently than bi-monthly. Ongoing reviews should ensure that focus has not been diluted.
- Deciding on operational plans for investigations and conducting investigations are the responsibility of the RCMP. However, because of the team nature of IMET, the PPS legal advisors should be part of the preparation of operational plans and should indicate formally that they have been consulted and have no issues with the plan, if that is the case. If a PPS legal advisor has issues those should be elevated to be considered and dealt with by the OIC, CROPS, the PPS IMET coordinator, IMEB and ultimately the Program Leader, if necessary.
- Operational plans for project status investigations should be reviewed, constructively criticized and adjusted as necessary, and signed off by all required and the Program Leader in no more than (two) weeks from when they are finalized by the OIC. If sign-off from specialized units outside the program is required because of force-wide policies, they should be done in a specified time, say one month. That will require OIC's and team leaders to consult in advance with others in the program earlier, as

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the plan is developed. OIC's should consider having OIC's of other units comment as well, to gain from experience elsewhere in the program.

- Project status investigations should be separated into those of medium complexity and the occasional few of high complexity. For the medium complexity investigations, it should be expected that the time from operational plan approval to availability of material for formal review of charges by Crown should average no more than say 1.5-2 years. For the high-complexity investigations, the time from approval of the operational plan to availability of material for formal review by Crown should average say 2.5-3 years. At the preparation of the operational plan, the OIC should be able to indicate timeline expectations different than these, based on the specifics of the investigation known at that time. Elapsed time should be tracked and reported internally.
- Charge review and decision by Crowns should take no more than say 3 months following receipt of the Court Brief from the RCMP. That may require provincial Crown offices or PPSC to pull together prosecution teams earlier than now, and RCMP and Crowns to start the briefing process sooner.

Annex  
**Mandate of the Executive Council and Information It Receives**

The relevant parts of the existing (draft) Mandate of the Executive Council are as follows:

1. Monitor the ongoing implementation of the program, identify policy and/or operational weaknesses and gaps; formulate recommendations to address these weaknesses and gaps to enhance the overall effectiveness of the program.
2. Liaise with key stakeholders...with a view to building and maintaining cooperation among partners.
3. Ensure that the strategic orientation and performance of the the IMET program remains relevant, and recommend changes as necessary, including seeking appropriate authority from Cabinet or Treasury Board.
4. Evaluate and update case selection criteria on a regular basis to ensure that they remain responsive to changing capital market conditions.
5. Receive and review regularly produced summary reports from the Joint Consultative Groups...
6. Review, approve and provide direction, if necessary, concerning the conduct of evaluations of the IMETS program.
7. Review and ensure implementation of any policy development, including those resulting from the interim evaluation, other evaluations, or decisions by TBS.

I believe that in certain places this suggests too much hands-on involvement. I think it also misses a role in assessing and promoting cooperation and in making sure any changes in strategic or high level operational direction are consistent with the vision. I suggest the following:

1. Change the first bullet to the following: “Monitor the ongoing implementation of the program against high-level goals and objectives; identify gaps; formulate recommendations and plans, or ensure member organizations have plans and recommendations in place, to address these gaps.”
2. Add the following point to the first bullet: “Review any changes in broad direction or implementation design of the program that the Council, or any member organisation, believes is desirable, and satisfy itself that they will enhance program effectiveness.”
3. Add the following point: “Review and promote coordination among the federal partners to the IMET program, and identify and resolve coordination issues, or be satisfied that others are resolving any coordination issues.”

4. Add to the third bullet: “From time to time review the program goals and expected performance, so that the Council is satisfied that they are reasonable and relevant.”

Information Going to Executive Council

Given the mandate there are several information gaps. The Council is getting the quarterly RCMP information package on the program which focuses on financial and HR statistics. Summary operational information should also be included. Review of the information received from a strategic perspective appears not to be happening as a standing agenda item. The Council is getting nothing similar from PPSC on their resources and HR statistics. Nor is it updated regularly at a general level on any issues with provincial Crowns.

The Council appears not to be getting summary information on program operational performance and progress, nor information on national hot spots and trends, which it was supposed to get from the JMTs. It should. That could lead to a regular strategic discussion on Program performance, expectations, and remedial measures, if any. I have recommended that the Executive Council ought to have a discussion to build consensus about what acceptable Program expectations should be.

The Council appears not to be getting information on follow-up to evaluations. Assuming there is a reformulation plan developed, based on this Report and any relevant items in the FPT Report, the Executive Council ought to get high-level updates at each meeting on progress against plans.



**Details of Proposed Accountabilities and Proposed Allocation of Functions to Responsibility Centers**

Accountability/Responsibility/Authority/Function	Description	Comments
Nature of Framework	<b>Divisional Day-to day Operational Control. HQ Oversight, Coordination and Direction</b>	
<u>Roles</u>		
Commissioner	Commander, determines strategic priorities, sets performance contract for D/Comm Program overseer. Accountable to government.	
HQ Program Overseer, D/Commr	<p>One D/Comm to be assigned this role. Final authority over IMET Program. Responsible for General Oversight of Accountability Framework on behalf of Commissioner and intervening as necessary if not working satisfactorily. Approves Reformulation plan. Performs other duties under Accountability Framework.</p> <p>Ultimate Responsibility for Program and general oversight. Executive Council Representative.</p> <p>Sets program performance expectations, (including items in performance agreements re IMET for IMEB, CROPS, OICs, CO's, Program Leader) and evaluating outcomes. Setting RMAF, DPR, RPP frameworks and Balanced Scorecard objectives, based on advice from Program Leader.</p>	<p>Performance agreements for staff in Chain of command (e.g. OICs) will have Divisional goals re IMET, set by CROPS and goals re contribution to national Program set by Program Leader. Person responsible for setting goals, as per accountability framework,</p>

<p><b>Senior Officer IMET (Program Leader)</b></p>	<p>Final authority over IMET investigations. Person charged with driving program enhancement and reformulation. Decides changes in reformulation plan except if significant in which cases proposes changes to Program Overseer.</p> <p>Accountable for reformulation results in sustained action and strategic issues are dealt with expeditiously. Intervenes to deal with unresolved oversight issues of operations not meeting agreed expectations, or raising significant policy, priority or performance issues, or issues of necessary national or international coordination. Provides oversight, challenge, input and written direction to CROPS. Sets policy for IMET, with formal CROPS input. Director IMEB exercises certain of Program Leaders responsibilities</p>	<p>also assesses.</p> <p>Should be different than Program Overseer as will require significant time commitment in the short term.</p>
<p><b>CO</b></p>	<p>Divisional accountability on all matters, day-to-day operational control and direction.</p>	
<p><b>CROPS</b></p>	<p>Operational accountability for Division and for IMET investigations. Directs and controls day-to-day implementation of reformulation. Day-to-day monitoring, challenge and goal setting. Reviews and recommends operational plans. Ensure IMET program has sufficient, appropriately-skilled HR teams, with training</p>	

<p><b>OIC</b></p>	<p>and tools required to effectively investigate in a timely manner. Implements HR policies.</p> <p>Accountable for day-to-day investigations and operations. Day-to-day dealings with other agencies in Canada and internationally. Timely information sharing.</p>	
<p><b>IMEB</b></p> <p><u>Functions</u></p> <p><b>Operations Within IMET</b></p>	<p>Supports Program Leader including interventions and constructive challenge, policy development, national communications, participation in HR processes</p>	
<p>Day-to-day operational control (includes regular review of focus, progress and outcomes against plan and adjustments as necessary and day-to-day dealings with other agencies in Canada and internationally wrt investigations).</p>	<p>OIC reporting to CROPS and CO in Divisional chain of command.</p>	<p>Will be desirable to reinforce HQ requirements for regular information flow, based on existing FIO policy for major cases and limited additional material.</p>
<p>Deciding which investigations are accepted by IMET as project status.</p>	<p>Program Leader (HQ) on CROPS and IMEB recommendation</p>	
<p>Operational plan process for Project Status Investigations</p>	<p>Plans are developed by OIC, reviewed and recommended by CROPS and approved by IMEB/Program Leader.</p>	<p>All Plans should have formal stages to permit review and update. If IMEB and CROPS disagree on matter of strategic or national performance then Program Leader or Overseer has to issue direction.</p>

<p>Day-to-Day oversight and direction of operations.</p>	<p>OIC reporting to CROPS.</p>	
<p>Monitoring and Constructive Challenge of Operations</p>	<p>Day to day monitoring/challenge is done by CROPS. Periodic and in-depth monitoring done by IMEB and Program Leader. Designed to support constructive challenge, oversight and intervention as necessary.</p>	<p>IMEB will need to focus more on identifying oversight issues and driving timely resolution. It will need enhanced operations capability. Also its name will need to change from “Policy Centre” to say IMET Criminal Investigations HQ.</p>
<p>Oversight, intervention and directions if operations not meeting agreed expectations or raising material policy, priority or performance issues.</p>	<p>Program Leader, IMEB.  Overseer has to pay attention to how this is operating in practise.</p>	<p>Formal interventions should be through CROPS. The role of HQ oversight and challenge has to be <u>explicitly</u> recognized in Program description, job descriptions, performance contracts and evaluations.</p>
<p><b>Internal Information Sharing to Divisions and HQ</b></p>	<p>All have responsibilities. OIC's need to share info with IMEB, regular reporting requirements have to be re-emphasised by HQ and adhered to. Both HQ and Divisions (including senior staff) have to keep each other informed in a timely way on developments and dealings to better present a uniform position and avoid surprises.</p>	
<p><b>HR Matters</b></p>	<p>Policy is set by HQ with division consultation.</p>	<p>Staffing actions should be</p>

	OICs lead staffing action for NCOs with participation in staffing by HQ. Both HQ and Divisions have to agree to Officer appointments (OICs and team leaders). Both participate in evaluation committees.	advertised nationally and process of IMET-specific staffing interviews should be continued and extended to Officer staffing.
<b>Use of Division Resources by IMET</b>	CROPS to decide with accountability for priority and results. Input and Direction from Program Leader if CROPS decisions raise issue of Strategy, national/international coordination or material deviation from agreed performance. Overseer will need to be involved if Cross-Force priorities clash.	
<b>Use Of IMET Resources Outside IMET</b>	CROPS/CO decides subject to 90% rule on a per-FTE basis, enhanced priority for IMETS, and CROPS/CO performance commitment. Protocol on adequate pre-notification to IMEB/HQ/Program Leader to permit meaningful involvement. Input and Direction from Program Leader if CROPS decisions raise issue of Strategy, national/international coordination or material deviation from agreed performance. Overseer will need to be involved if Cross-Force priorities clash. CROPS expected to provide more forward planning and have back-up plan so IMET operations not disrupted unnecessarily.	
<b>Quick Start</b>		

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<p>Start Up</p> <p>Ongoing Quick Start Operations</p>	<p>Negotiated between HQ and Divisions at the level of Program Leader and Overseer, if necessary.</p> <p>OIC reporting to CROPS. IMEB and Program Leader oversight and constructive challenge intervention and direction as necessary.</p>	
<p><b>JCG/JSIU</b></p> <p><b>HR Matters</b></p> <p>Setting HR policy, including developing competency framework, setting expected skill mix and job classification for teams, training and development policy, career management policy, performance management policy.</p> <p>Developing and Updating annual HR Plan linked to IMET priorities, including L&amp;D plan.</p>	<p>OIC chairs. CROPS and IMEB participate.</p> <p>Program Leader, IMEB with formal CROPS input (some policies may need to be signed off higher up)</p> <p>Program leader with OIC, IMEB and CROPS input.</p>	<p>Policy has to, among other things: explicitly state expectations for significant CM as well as RM presence, including in senior roles; expect use of IMET competencies and staffing model; expect use of secondments; and, and expect to contract for recognised specialist expertise (even though may be expensive).</p> <p>IMEB has dedicated HR person to deal with strategy, ongoing career development,</p>

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		<p>liase between Branch and Divisions and assist management in meeting HR challenges.</p>
<p>Ensuring IMET program has sufficient appropriately skilled human resource teams, with training and tools required, to effectively investigate in a timely manner.</p> <p>Implementing HR policies including promotions, transfers, performance management.</p>	<p>OICs/CROPS/Divisional HR. Oversight from HQ.</p> <p>OIC/CROPS/Divisional HR/IMEB. Divisional HR would be expected to look for input from IMEB HR person. IMEB HR person brings national perspective and perspective of career development within IMET program in identifying candidates.</p> <p>Decisions on staffing below Officer level are responsibility of OIC/Division HR.</p> <p>OIC and Team Leader appointments need agreement of both Division and Branch.</p> <p>Joint sign-off from Divisions and HQ/IMEB on Performance Review Committee (Helps identify and keep track of career development)</p> <p>Should do Boards or interviews for Officer positions.</p>	<p>This is part of performance committment.</p> <p>In both models transfers are negotiated between IMET Program and Divisions. If cannot be resolved Program Leader/Overseer decides. With higher priority and better forward planning it is expected that fewer last-minute transfers will occur, and less D/Comm involvement will be needed. It is expected that both IMEB and Divisions have a back-up plan to staff behind essential transfers so IMET operations are not unduly disrupted.</p>
<p>Overseeing implementation of HR policies and intervention if not being followed or if exceptions not justified. Monitoring progress on HR plan</p>	<p>Division HR. Program Leader also makes assessment of adherence to policy based on IMEB assessment. Overseer/National HR as</p>	

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<p>against goals.</p> <p>Performance Review Committees</p> <p>Mentorship, Internship and Understudy Programs</p> <p><b>Legal and Prosecution Matters</b></p>	<p>needed, if a direction needs to be given to Divisions.</p> <p>Exceptions to policy need HQ/IMEB agreement.</p> <p>OICs have day-to-day role.</p> <p>Both HQ and Divisions participate</p> <p>IMEB, with Division input, perhaps through a Committee.</p>	<p>IMEB HR person would play a leading role here.</p>
<p>Ensuring adequate prosecution team in place.</p> <p>Dealing with national issues with relations with Crowns and PPS, including MOUs and setting expectations for prosecution teams and availability of federal support</p>	<p>CROPS is RCMP lead with support from IMEB (and PPS). IMEB monitoring and involvement if issues not dealt with satisfactorily, expeditiously or HQ/PPS negotiations or funding necessary.</p> <p>IMEB, Program leader, with formal OIC/CROPS input</p>	<p>IMEB should define policy and expectations in this area to include having a full team with appropriate mix of experienced and recognised Counsel adequately supported. May need to engage outside counsel to assist or provide advice.</p>
<p>Day-to day dealing with Provincial Crown/PPS including advice, and disclosure.</p>	<p>OIC/CROPS/PPS Advisor</p>	



<p>Management/coordination of PPS formal legal opinion process.</p> <p><b>Policy Framework</b></p>	<p>OIC initiates with mandatory IMEB involvement to respect RCMP policy that formal legal opinions have to be sought by HQ. Justice IMET coordinator should also be involved.</p>	<p>Informal advice goes directly between legal advisors and investigators. May want to have a method of sharing among locales to enhance information and consistency and reduce duplication.</p>
<p>IMET Policy Framework (within government and RCMP policies or agreed exceptions, and within agreed commitments made to Central Agencies in setting up IMET).</p>	<p>Program Leader, IMEB with formal input from Divisions.</p>	<p>HQ also responsible for RCMP participation in federal or fed/prov policy processes related to enforcement, with Division input. Major policy change will need D/Comm or SEC approval.</p>
<p><b>Program-Wide and Support Functions</b></p>		
<p>- International liaison.</p>	<p>IMEB responsible for leading international strategic issues and developing and maintaining a network of international contacts and agreements and arrangements for use by IMEB or Divisions in support of IMET goals. HQ responsible for consistency in international relations. OICs lead international requests for</p>	

<ul style="list-style-type: none"> <li>- Communications</li>   <li>- Public reporting re IMET and point of Contact and Information coordination with federal partners</li> <li>- Preparation of RMAF/balanced scorecard, Lead in dealing with external evaluation</li>   <li>- Quality assurance (financial and operational)</li> </ul>	<p>assistance with participation from Branch and Division.</p> <p>IMEB Develops and implements IMET national communication plans and communications activities and media relations. Divisional communications can lead on individual media releases provided HQ communications is involved for national aspects.</p> <p>HQ/IMEB</p> <p>IMEB with input from OIC's</p> <p>Divisions are responsible for division-based QA, RCMP Internal audit and evaluation responsibility for program level evaluation. Professional standards reviews can be ordered by Divisions or by Program Leader. Periodic detailed HQ review of specific investigations as part of HQ challenge/oversight role (HQ operational resources may be involved).</p>	
<p><b>Financial Planning and Control</b></p>		
<p>Budgeting and Financial Planning and Program financial accountability</p>	<p>Responsibilities and authorities as currently</p>	<p>Divisions should have capability to provide IMEB</p>

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Training	As currently. National coordination appears to work now. Use IMET HR person to free-up HQ operational resource and ensure link to Division HR.	with accurate timely information on program expenditures. HQ forecast can rely more on divisional forecast to reduce duplication. Provide Divisions pre-approval or block approval on de-minimus items, subject to reporting for overall financial planning
<b>Managing Relations with Provincial Regulatory Agencies</b>	OIC/CROPS for day to day. IMEB Program leader (and Overseer as necessary) are informed and involved as necessary for program, policy and major issue resolution and national consistency. Program Leader is consistent 'senior face' of program with senior provincial counterparts.	
<b>General Representation of Program</b>	Program Leader supported by IMEB (Overseer on occasion, such as for Exec Council)	Program leader is to be consistent senior face of the program.
<b>IM/IT</b>		
Setting IM/IT policy for IMET	Program Leader/IMEB with formal CROPS input.	Has to link to overall Force-wide policy development. Need national access and

<p>Ensuring IM/IT resources are available and supported for timely investigations.</p>	<p>CROPS</p>	<p>sharing. If support cannot be improved then Program will have to resource itself.</p>
<p><b>Strategic Review Committee--Reviews Policy Issues, Progress of Reformulation, and Operation of these Arrangements</b></p>	<p>Program Leader is Chair, CROPS, OIC, IMEB (add senior PPSC Rep. for some standing agenda items). Overseer to be informed after each meeting, or more frequently if necessary, of any issues he/she needs to deal with.</p>	<p>Needs to meet approximately monthly at start of reformulation process.</p>

Annex  
Acronyms and References

A/Comm Branch	An Assistant Commissioner in the RCMP.
CO	The IMET Branch located at RCMP headquarters.
Cory/Pilkington Report	Commanding Officer of an RCMP Division, legally delegated the Commissioner's power under the RCMP Act to investigate.
CM	A report commissioned by the IDA on Canada's security regulation
Commissioner	A civilian member of the RCMP, not a police officer.
CROPS	The Commissioner of the RCMP, who heads the organisation.
D/Comm	Criminal Operations Officers in Divisions.
Deloitte Report	A Deputy Commissioner in the RCMP.
Director PPSC	A Report on IMET Compensation and Retention Strategy delivered in April, 2007.
eMCM	The Director of the Public Prosecution Service, head of that organisation.
FTE	Electronic major case management computer system that is a repository of all information relevant to the case and the basis of briefs to Crown and information provided to the defence.
FTEEC	Full time equivalent. A measure of human resources.
FPT	Essentially one person working for a year.
HQ	FTE exempt from classification. A limited category of position in the RCMP created with Treasury Board approval to deal with attraction and retention issues in specific areas.
IDA	Federal/Provincial/Territorial Ministers Responsible for Justice Securities Fraud Enforcement Working Group.
IMETS	RCMP headquarters.
IM/IT	Investment Dealers Association of Canada.
JCG	Integrated market enforcement teams.
JSIU	Information management/information technology.
MCM	Joint Consultative Groups. There is one in each IMET locale composed of RCMP, PPSC, Securities Commissions, and other local IMET partners.
OIC	Joint Securities Intelligence Units. Units of police and securities commission enforcement staff in some IMET locales.
PPSC	Major case management. The management and control system for organising, planning and conducting a major investigation.
PS	Officer in charge of each of the four IMET locale units in Montreal, Toronto, Calgary and Vancouver.
	Public Prosecution Service of Canada, recently separated from the federal Department of Justice.
	A public servant employee appointed under the normal public servant rules and framework.

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PSC	Department of Public Security Canada, the federal department responsible for the RCMP.
RM	A Regular Member of the RCMP, who has trained to be a police officer, and has certain duties and authorities under the RCMP Act.
RMAF	Risk-based Management and Accountability framework. A Treasury-board requirement for a range of federal programs. Will identify risks and management plan and set the framework and general criteria for audit and evaluation.
SFO	The United Kingdom Serious Fraud Office, a department of the U.K. government.