



Delta

POLICING OUR PORTS

A REPORT TO THE CITY OF DELTA

Peter German & Associates Inc.
September 12, 2023

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ABBREVIATIONS & ACRONYMS

ACI.....	Advance Commercial Information
ACPA.....	Association of Canadian Port Authorities
AMP.....	Administrative Monetary Penalty
ATF.....	Bureau of Alcohol, Tobacco, Firearms and Explosives (U.S.)
BCMEA.....	British Columbia Marine Employers Association
CBP.....	U.S. Customs and Border Protection
CBSA.....	Canada Border Services Agency
CLEU.....	Combined Law Enforcement Unit
CMA.....	<i>Canada Marine Act</i>
CPC.....	Canada Ports Corporation
CPR.....	Canadian Pacific Railway
CSA.....	<i>Canada Shipping Act</i>
DEA.....	Drug Enforcement Administration (U.S.)
DFO.....	Fisheries and Oceans Canada
DPD.....	Delta Police Department
FBI.....	Federal Bureau of Investigation (U.S.)
FSOC.....	Federal Serious and Organized Crime (RCMP)
HSI.....	Homeland Security Investigations (U.S.)
ILWU.....	International Longshore and Warehouse Union
IMO.....	International Maritime Organization
INTERPORT.....	International Organization of Airport & Seaport Police
ISPS.....	<i>International Ship and Port Facility Security Code</i>

MFSP.....	Master Facility Security Plan
MTSCP.....	Marine Transportation Security Clearance Program
MVRD.....	Metro Vancouver Regional District
MVTP.....	Metro Vancouver Transit Police
NHB.....	National Harbours Board
NHBP.....	National Harbours Board Police
NPET.....	National Port Enforcement Team
OCABC.....	Organized Crime Agency of British Columbia
PCP.....	Ports Canada Police Department
PEO.....	Port Enforcement Officer
PIMSWIG.....	Pacific Integrated Marine Security Working Group
PMSP.....	Port Master Security Plan
POSPD.....	Port of Seattle Police Department
RCMP	Royal Canadian Mounted Police
TEU.....	Twenty-foot Equivalent Unit
TOC.....	Transnational Organized Crime
TSA.....	Transportation Security Administration (U.S.)
TWIC.....	Transportation Worker Security Card
UBCM.....	Union of BC Municipalities
USSS.....	United States Secret Service
VFPA.....	Vancouver Fraser Port Authority
VPD	Vancouver Police Department
WJFO.....	Waterfront Joint Forces Operation
YVR.....	Vancouver International Airport

EXECUTIVE SUMMARY

Background

The City of Delta, nestled in the heart of the Metro Vancouver region, is home to the largest container terminal in Canada – the Vancouver Fraser Port Authority’s Roberts Bank Terminal. This bustling terminal handles a staggering volume of over 3 million containers annually, which are both received and dispatched to destinations across the globe. With the planned expansion of container facilities at Roberts Bank Terminal 2, this number is poised to surge even further.

Recognition

George V. Harvie, Mayor of Delta, has been acutely aware of the profound impact that the existing Roberts Bank Terminal, and its anticipated expansion, have on the City of Delta and—more specifically—on the safety and security of the entire Metro Vancouver region. Since the disbandment of the Ports Canada Police in 1997, the responsibility for port security has been distributed among various entities, resulting in a complex web or potpourri of security oversight. This complex situation has relied on local municipal police, an assortment of task forces and working groups, as well as the federal RCMP. Notably, no dedicated police force exists that is solely committed to safeguarding the ports.

The Research Initiative

Recognizing the need for a comprehensive evaluation of the state of port policing, Mayor Harvie commissioned Peter German & Associates to conduct an extensive research study. Their mission: to delve into the history, current status, and future prospects of policing at the port.

The Magnitude of Today's Challenges

The findings of Peter German & Associates resonate with a sense of urgency. Today's challenges are far more profound than those of 1997, with national security and the inflow and outflow of illicit drugs and contraband topping the list. These findings underscore the pressing need for change, lest we allow a relentless flow of contraband into Canada by sea and, in parallel, enable the outbound trafficking of domestically manufactured drugs to foreign shores.

The Port Authority's Distinction

It is worth noting that the Vancouver Fraser Port Authority, the custodian of port operations, firmly distinguishes between policing and security. In their realm, security is fortified by robust measures such as fencing, electronic surveillance, and the deployment of security guards with little legislative authority. However, the reports from experts in the field accentuate a fundamental concern: the paramount issue is not limited to static security but encompasses the pervasive infiltration of organized crime and the unfettered movement of illegal commodities through the ports.

Summary of Findings

1. **Fragmented Security Responsibility:** The intricate landscape of port security in Canada reveals a disconcerting fragmentation of responsibilities. This fragmented approach raises pertinent questions about the efficacy and coherence of security measures.
2. **Organized Crime Infiltration:** A growing concern centers around the infiltration of Canadian ports by organized crime syndicates. These criminal entities are engaged in multifarious illicit activities, spanning drug trafficking and counterfeit goods trade. The ramifications of such infiltration are profoundly concerning, not only for port security but also for the broader community.
3. **Access Control Challenges:** The Marine Transportation Security Act governs port access, but concerns have been raised regarding the absence of robust security clearance processes for individuals working at the ports. This lack of stringent access control is a vulnerability that needs to be addressed.
4. **Reduction in Policing Resources:** A key concern illuminated in the report pertains to the absence of a dedicated, uniform, community-oriented port police plus the stark reduction in the federal capacity “to effectively conduct drug and other contraband investigations, and to respond to CBSA seizures.”
5. **Need for Uniformed Police Presence:** There is a strong argument for the presence of uniformed police officers within the port environment. These officers would play a crucial role in building relationships, gathering intelligence, and maintaining a visible security presence, all of which are essential for port security.

6. **Calls for Integrated Policing:** The report sounds a clarion call for an integrated federal response to bridge the existing gap in policing brought about by a steady decline in funding and staffing of federally-funded waterfront positions.

Key Takeaways:

1. **Dedicated Police Resources:** The pivotal takeaway revolves around the indispensable need for dedicated police resources within the port. This entails the establishment a bifurcated approach meaning both frontline and investigative teams. Several feasible and effective options are presented for achieving this imperative.
2. **Funding for the RCMP's Integrated Waterfront Joint Forces Operation:** A call to action underscores the necessity of providing fenced funding to the RCMP's Waterfront JFO, staffing it to its funding level, and focusing its mandate on the ports. This allocation of resources is imperative to bolster the federal ability to investigate organized crime.

Concluding Thoughts

In conclusion, this report paints a vivid tapestry of the complex and multifaceted challenges facing port policing in Metro Vancouver. It underscores that the security of these vital ports is not merely a local concern but an issue of national significance, touching the very fabric of Canada's economic prosperity and safety. The time is ripe for concerted and strategic action to fortify our ports, protect our communities, and preserve the integrity of our nation's security.

CONSULTANTS

Peter German was a member of the Royal Canadian Mounted Police for 31 years, serving in various capacities across Canada, including as the Operations Officer at Richmond Detachment, Lower Mainland Operations Officer, Lower Mainland District Commander, and Deputy Commissioner for Western and Northern Canada. He also served as Regional Deputy Commissioner (Pacific) for Correctional Service Canada. Dr. German is a lawyer and member of the British Columbia and Ontario Bars, with graduate degrees in public policy and law. A long-time resident of Richmond and Delta, B.C., Dr. German sits on non-profit boards and was a police board member. During his career, he has received numerous medals and awards, including King's Counsel, and Officer of the Order of Merit of the Police Forces. He is the Principal of Peter German & Associates Inc., as well as President of the International Center for Criminal Law Reform, located at the University of British Columbia.

Doug LePard was a member of the Vancouver Police Department for 35 years, serving in numerous roles before retiring as a Deputy Chief, then served for several years as the Chief of the Metro Vancouver Transit Police. He is now an independent consultant providing services in the criminal justice sector. He is a member of two tribunals: the Mental Health Review Board and the BC Review Board and is on the Boards of BC Emergency Health Services and the Canadian Institute for the Administration of Justice. He holds a B.A. in Criminology and an M.A. in Criminal Justice. He has authored or co-authored numerous articles, textbook chapters, and major reports on a variety of policing issues. His awards include the Queen Elizabeth II Diamond Jubilee Medal, the Governor General's Academic Medal, the Lieutenant Governor's Merit Award, and the Gold Medal of the International Society for the Reform of Criminal Law. He is an Officer of the Order of Merit of the Police Forces.

ACKNOWLEDGEMENTS

This report would not have been possible, were it not for the passionate support of both the Mayor of Delta, George Harvie, and its Chief Constable, Neil Dubord. Both individuals assisted greatly by making initial contact with individuals and generally, opening doors that might otherwise have remain closed. Mayor Harvie also led a delegation of Delta and Metro Vancouver Regional District (MVRD) officials on a very productive visit to the Port of Seattle.

We wish to acknowledge the co-operation of all persons who were contacted and agreed to provide their insights during the research of this report. Some requested anonymity and that has been respected.

We are particularly grateful to the members of U.S. law enforcement and U.S. port authorities, who were gracious with their time and candid with their experiences regarding policing.

This report is a composite of research, interviews, and site visits. We have attempted to collate the results in a fair and objective manner.

MANDATE AND INTRODUCTION

The issue of port policing is not new, garnering headlines with the elimination of a dedicated port police force in 1997 and resurfacing regularly in Parliamentary reports, academic writing, and government reports.¹ It has been of great concern to many individuals in British Columbia, simply because the province is home to Canada's largest commercial and container port, in Greater Vancouver, and its third largest port, in Prince Rupert.²

The port facilities in Delta, Surrey, Vancouver and elsewhere in the Lower Mainland are part of the Port of Vancouver.³ Nearly three million containers are processed yearly in the port, a number which is expected to increase dramatically with the expansion of the container facilities at Roberts Bank in Delta.⁴

The Roberts Bank Terminal 2 project involves the construction and operation of a three-berth marine container terminal, a widened causeway to accommodate additional road and rail infrastructure, and an expanded tug basin. The project will increase capacity by an additional 2.4 million containers annually. It will also increase marine shipping activity within the project area and within the 12 nautical mile limit of Canada's territorial sea.⁵ The expansion has received approval from the federal government, subject to numerous conditions.⁶

¹ In this report, we refer to the word, 'port' to mean 'seaport', however we use the word 'seaport' where confusion may arise with reference to an 'airport'. In the marine context, a port is a government owned facility that provides access for commercial operations (<https://open.canada.ca/data/en/dataset/5f3c273a-7a0d-4b5f-8059-b34cc3f116c7>).

² Dolphin Team, "The 5 Largest Major Ports in Canada, Feb. 4, 2021, accessed at <https://dolphindelivery.ca/the-5-largest-major-ports-in-canada/>.

³ In this report, we use the terms, Port of Vancouver, Vancouver / Delta, and Greater Vancouver interchangeably.

⁴ The container facilities in the Port of Vancouver include Canterm, Deltaport, DP World, and Vanterm. There are also transloading facilities and container storage and maintenance facilities (<https://www.portvancouver.com/cargo-terminals/container/>). Containers are measured in TEUs, or "twenty-foot equivalent units", a proxy used throughout the supply chain to determine storage capacity.

⁵ Impact Assessment Agency of Canada, "Federal Review Panel Report for the Roberts Bank Terminal 2 Project" (Ottawa, Mar. 27, 2020) at p. I, accessed at <https://iaac-aeic.gc.ca/050/documents/p80054/134506E.pdf>.

⁶ Impact Assessment Agency of Canada, "Government of Canada Approves Key Roberts Bank Terminal 2 Project in British Columbia, subject to strict conditions to protect the local environment" (Ottawa, Apr. 20, 2023), accessed at

The anticipated expansion of Roberts Bank’s capacity has renewed concern by political leaders at both the provincial and municipal levels over the state of port policing, leading to this examination.

In 2019, the provincial government released a second report on money laundering, entitled *Dirty Money – Part 2*.⁷ It referenced the disbandment of the Ports Canada Police, observing that the move created a “serious gap in our law enforcement umbrella”. The report highlighted the stark difference between policing resources in Greater Vancouver’s ports from those in Seattle, where the Port of Seattle Police Department (POSPD) had approximately 150 resources dedicated to policing Sea-Tac Airport and the Port of Seattle.⁸

The reduction in port policing resources and the concerns raised in *Dirty Money – Part 2* were noted in a 2019 Union of BC Municipalities (UBCM) resolution, sponsored by the City of Delta. It observed that, “this loss of police resources has weakened the security of Canada’s ports and allowed organized crime elements to proliferate”.⁹ The resolution called on the provincial government to, “re-establish dedicated resources to police ports and waterfronts”. In response, the province noted that port policing was a federal responsibility, “notably the RCMP - Federal, Serious and Organized Crime FSOC and the Canada Border Services Agency”.¹⁰

The purpose of this report is to examine the issues surrounding port policing and, tangentially, port security in Delta and elsewhere in British Columbia. The current situation is founded on a long history of starts and stops, initiatives, and failed solutions. This report concludes with options for consideration by government, aimed at improving the present situation.

The methodology employed in this report included the review of a wide array of hard copy and online documents, many of which are listed in the footnotes, open-source research of various

<https://www.canada.ca/en/impact-assessment-agency/news/2023/04/government-of-canada-approves-key-roberts-bank-terminal-2-project-in-british-columbia-subject-to-strict-conditions-to-protect-the-local-environment.html> .

⁷ Peter German & Associates Inc., *Dirty Money – Part 2: Turning the Tide - An Independent Review of Money Laundering in B.C. Real Estate, Luxury Vehicle Sales & Horse Racing* (Province of B.C., 2019), accessed at <https://icclr.org/publications/dirty-money-report-part-2/> .

⁸ *Ibid* at pp. 170-175.

⁹ Resolutions to be Considered at the 2019 UBCM Convention (Resolution B90 – Port Policing), accessed at <https://www.ubcm.ca/convention-resolutions/resolutions/resolutions-database/port-policing>.

¹⁰ *Ibid*.

kinds, and interviews with stakeholders and persons familiar with the ports due to their past or present employment.

This report was completed in a brief period of approximately two months, with the result that there is considerable opportunity for additional interviews, greater in-depth analysis, and assessment of options. We strongly recommend a feasibility study of preferred options and funding.

Attached to this report are appendices containing the Terms of Reference for this report and the entities contacted.

PROLOGUE - KILLER DRUGS

Illegal drugs produced domestically or imported from another country are killing Canadians at an unprecedented rate. In fact, more people died from drug overdoses in British Columbia during the years of the Covid-19 pandemic, than died from the virus.¹¹ The dead represented all ages, all sexes, all neighbourhoods, and all classes of society.

Government's response to illegal drugs has evolved over time, from one which emphasized an enforcement solution, involving police investigations and prosecutions, to one which emphasizes medical and psychological support, including access to soft and hard drugs and drug substitutes.

At present, there is an amalgam of drugs on the market, including those supplied or authorized for distribution by government and those supplied by organized crime. Just as the legalization of cannabis has led to competition between legal and illegal producers and sellers, so too has the hard drug market. Unfortunately, organized crime continues to provide more potent and toxic drugs and drug ingredients, which have laid waste to so many.

A byproduct of the transition from an enforcement to a medical response has been a change in the role of police on our streets. Municipal police are increasingly acting as community safety officers, working with mental health professionals and others, as opposed to arresting and prosecuting persons in possession or trafficking in drugs. The RCMP eliminated its commodity-

¹¹ Dr. Patricia Daly, Chief Medical Officer at Vancouver Coastal Health advised Vancouver City Council that the overdose crisis killed 3,000 people in B.C. between January 2020 and July 2021, compared to 1,800 who died from COVID-19 in the same period (Nathan Griffiths, "Opioid deaths in B.C. far outpaced those from COVID-19" (*Vancouver Sun*, Oct. 22, 2021), accessed at <https://vancouver.sun.com/news/opioid-deaths-in-b-c-far-outpaced-those-from-covid-19>).

based units in 2013, including its drug squad. It now targets organized crime groups as opposed to commodities and does so based on intelligence analysis. It is severely constrained, however, by a lack of funding and human resources. The police response to the changing view regarding drug use is also reflected in the priorities of the federal and provincial prosecution services.¹²

The upshot of the foregoing reorientation magnifies the importance of preventing illegal drugs from reaching consumers. This includes domestically produced drugs, but increasingly, drugs produced in other countries and transported to Canada by Transnational Organized Crime (TOC) groups, working in partnership with home grown Canadian organized crime. Our borders present the first and last opportunity to interdict the flow of illegal drugs and other commodities from entering or leaving our country.

PORTS ARE HIGH RISK PLACES

If there was ever any doubt that ports are at high risk of organized criminal activity, the 1954 Hollywood classic, *On the Waterfront*, starring Marlon Brando as Terry Molloy, disabused North Americans of that notion. The movie shone a light on corruption within the port environment and among union bosses.¹³ Few in America doubted that art was imitating life. But what of Canada, and Greater Vancouver?

Prior to the advent of containers, theft of cargo was the primary criminal activity on Vancouver's waterfront. Exposed shipments, insecure terminals, and an unregulated workforce contributed to the loss of cargo. The advent of containers, or 'sea cans', reduced the opportunity for theft however gave rise to an entirely new crime type, the import and export of illegal commodities concealed within those containers.¹⁴ The problem is global in nature, exacerbated by the low

¹² *Supra*, *Dirty Money – Part 2*, at pp. 306-310.

¹³ Horizon Pictures, "On the Waterfront", July 28, 1954 (<https://www.imdb.com/title/tt0047296/>). The movie reference is found in Chris Madsen, "Pacific Gateway: State Surveillance and Interdiction of Criminal Activity on Vancouver's Waterfront", *Salus Journal*, Vol. 6, No. 1 (2018), pp. 26-43 at 26, accessed at https://salusjournal.com/wp-content/uploads/2018/03/Madsen_Salus_Journal_Volume_6_Number_1_2018_pp_26-43.pdf.

¹⁴ Recognizing the risk posed by containers, the United Nations Office on Drugs and Crime has operated a Container Control Programme for many years. Its mission "is to build capacity in countries seeking to improve risk management, supply chain security, and trade facilitation in

percentage of containers that are searched. There is also constant pressure to move containers to their destination, due to the prevalence of a 'just in time' supply chain. As container ships increase in size and capacity, so too have seizures in the U.S. and Europe.¹⁵

Various Asian and South American countries produce large quantities of illicit commodities, most notably drugs, but also firearms, and counterfeit products for the North American market. Producers and shippers of these illegal products learned early on to exploit the use of containers as part of the illegal supply chain.¹⁶ Although most of our attention in this report is on the import of illicit drugs, the export of drugs and other commodities cannot be ignored. In *Dirty Money – Part 2*, considerable attention was devoted to the export of stolen vehicles in containers and in the grey market of vehicles, purchased in British Columbia through intermediaries using dubious funds, and then exported to Asia.¹⁷

Containers are the lifeblood of the Vancouver, Delta, and Prince Rupert ports. The recent strike of longshoremen highlighted how dependant the entire Canadian economy is on the efficient movement of containers from ports to their intended destination. It has been estimated that ports in Canada are responsible for annual imports and exports worth more than \$250 billion.¹⁸ Port security is, therefore, crucial to both national security and economic stability.

seaports, airports and land border crossings in order to prevent the cross-border movement of illicit goods" (<https://www.unodc.org/unodc/en/ccp/index.html>).

¹⁵ Costas Paris, "Global Shipping Faces Troubling New Smuggling Questions" (*Wall Street Journal*, Jan. 6, 2002), accessed at <https://www.wsj.com/articles/global-shipping-faces-troubling-new-smuggling-questions-11578330634>.

¹⁶ Tailgating is a term used to describe the secreting of illegal cargo within containers that carry predominantly legal cargo. "Rip loads" is a term to describe removing the seal on a container or removing cargo. The intermodal supply chain can include cargo owners, shipping lines, marine terminals, off-dock facilities, railroads, and trucking companies.

¹⁷ Generally, where there is a disproportionate recovery rate of luxury vehicles, it is safe to assume that they have left the jurisdiction and most of those have likely left via containers. Because vehicles are not controlled, prohibited, or regulated goods under the *Customs Act*, it is only when CBSA suspects a vehicle is stolen and being exported, that it will detain the vehicle and advise the RCMP.

¹⁸ Transport Canada, "What we heard report: Ports modernization review" (Aug. 10, 2022), accessed at (<https://tc.canada.ca/en/corporate-services/consultations/what-we-heard-report-ports-modernization-review>).

THE GOVERNANCE OF CANADA'S PORTS

Greater Vancouver's waterfront includes not only the port facilities in Vancouver but also in Delta and along the banks of Burrard Inlet and the Fraser River. In addition to containers, lumber and other bulk commodities are shipped from terminals. As far back as 1905, Vancouver's potential was recognized in a Board of Trade submission to the Royal Commission on Transportation:¹⁹

“The geographical position and magnificent extent of the land-locked harbour of Vancouver, ice-free at all seasons and, with capacity and anchorage to accommodate vessels of the largest tonnage afloat, undoubtedly establish it as, for all time, Canada's gateway on the Pacific.”

Vancouver has a geographic advantage due to its location directly north of the United States and being the nearest North American port of call to some Asian cities. Roberts Bank in Delta is strategically located on reclaimed land and rests on the 49th parallel. The port can be a lucrative stop in a service string. Much like a bus schedule, large shipping companies operate their fleets on a schedule which seeks the optimal sequencing of port visits. In an ideal world, they would never travel empty. Vancouver has a reputation for loading more return cargo to Asia than other ports on the western seaboard of North America. Much of this cargo is heavy; agricultural produce and the like, which increases volume.

Another distinct advantage enjoyed by Vancouver is the nature of rail traffic in Canada, which operates east-west, while rail traffic in the United States predominantly operates north-south and zigzags across that country.

¹⁹ “Report of the Royal Commission on Transportation”, Dec. 11, 1905, at p. 42, as included in “Supplement to the Report of the Minister of Public Works, 1905”, *Sessional Paper No. 19a* (Ottawa: King's Printer, 1906), accessed at <https://archive.org/details/reportofroyalcom00cana/page/34/mode/2up>.

Canada's Constitution assigns responsibility for ports to the federal government.²⁰ That is just the foundation, however. Governance of Canada's ports has a complex history and presently operates under a decentralized model.

The 1905 Royal Commission recommended the establishment of a system of national ports.²¹ At that time, Vancouver's waterfront was almost wholly owned by the Canadian Pacific Railway (CPR). Wresting the property away from the CPR was the first task. The *Vancouver Harbour Commissioners Act* of 1913 established the Vancouver Harbour Commission.²² A national ports survey conducted by Sir Alexander Gibb in 1932²³ served as the groundwork for the establishment in 1936 of the National Harbours Board (NHB).²⁴ The public harbours at Halifax, Saint John, Chicoutimi, Quebec City, Trois Rivières, Montreal, and Vancouver were dissolved, and their property vested in the new board. It administered the ports and was accountable to the Minister of Transport. Provision was made for the possibility of "other harbours and works and property" being transferred to NHB.²⁵

The *National Harbours Board Act* authorized the Board to employ officers and agents for various enforcement purposes and gave them the power to use reasonable force to prevent by-law offences.²⁶

In 1983, NHB was replaced by Canada Ports Corporation (CPC). Most of NHB's responsibilities were not assumed by the new organization. Instead, they were transferred to local port corporations or harbour commissions. Vancouver Port Corporation was created on July 1, 1983.²⁷ CPC's primary responsibility was to ensure that national transportation objectives were met. It also had the ability to employ police constables under the *Canada Ports Corporation Act*, to

²⁰ *Constitution Act*, 1867 (Canada), s. 91(2) – Trade and Commerce; s. 91(10) – Navigation and Shipping; s. 91(12) – Sea Coast and Inland Fisheries; and s. 91(13) – Ferries between a Province and any British or Foreign Country.

²¹ *Supra*, "Report of the Royal Commission on Transportation", at p. 34.

²² S.C. 1913, c. 54.

²³ Sir Alexander Gibb, *National Ports Survey, 1931-32* (Ottawa: King's Printer, 1932).

²⁴ *The National Harbours Board Act*, S.C. 1936, c. 42.

²⁵ *Ibid.* at s. 6,

²⁶ *Ibid.* at s. 14.

²⁷ Canada Gazette, Part 1, Vol. 117, No. 40 at p. 8739.

enforce “the laws of Canada or a province when related to the protection of port property and persons” at the port or for 25 miles from a port.²⁸

In December 1995, the federal Minister of Transport proposed a new national marine policy which called for the elimination of Canada Ports Corporation, the replacement of port authorities (including the Vancouver Port Corporation) with local port authorities, and the disbandment of the Ports Canada Police. This raised significant concerns for B.C.’s provincial government as well as for municipalities.

The changes took place in 1997 and 1998. *The Canada Ports Corporation Act* was repealed and replaced by the *Canada Marine Act* (CMA).²⁹ The preamble to the new *Act* provides that it was intended to make, “the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports”. The Vancouver Port Corporation was continued as the Vancouver Port Authority.³⁰

Although the legislation made the new port authorities responsible for port security, it did not provide them with enforcement authority. This disconnect between responsibility and authority created a serious problem.³¹ Under the *Act*, port authorities were intended to contribute to the “competitiveness, growth and prosperity of the Canadian economy.”³² Over time, this was expanded to include various other requirements, not the least being national security. Downloading additional responsibilities on port authorities, such as enhanced port security and enforcement, made it necessary to raise fees to client shipping lines. The Association of Canadian Port Authorities (ACPA) lobbied the federal government in the hope of obtaining financial support for the additional economic and management costs attributed to security.³³

In 2007, as part of the Asia-Pacific Gateway initiative, Transport Canada announced its intention to combine the three port authorities in Metro Vancouver – the Fraser River Port Authority, the North Fraser Port Authority, and the Vancouver Port Authority – into the Vancouver Fraser Port

²⁸ *The Canada Ports Corporation Act (An Act respecting the Canada Ports Corporation)* S.C. 1980-81-82, c. 121, proclaimed on Feb. 24, 1983. The geographic or spatial limitation on jurisdiction mirrors the jurisdiction of Canada’s railway police, who are authorized to exercise their powers within a certain number of kilometers from their respective railway lines.

²⁹ *Canada Marine Act*, S.C. 1998, c. 10, s. 197. Royal Assent, June 11, 1998.

³⁰ *Ibid.* at section 12.

³¹ ACPA, “Strengthening Security in Canadian Port Authorities” (Ottawa: Feb. 2015), at p. 2.

³² *Ibid.*

³³ *Ibid.*, generally.

Authority (VFPA). The effective date of the amalgamation was January 1, 2008. Currently, VFPA includes 29 terminals within seven municipalities; Burnaby, Delta, North Vancouver, Port Moody, Richmond, Surrey, and Vancouver. The VFPA now operates under its marketing name, the Port of Vancouver, but its legal name continues to be the Vancouver Fraser Port Authority.³⁴

The VFPA manages federally owned industrial land through leases to private terminal operators. The operators are responsible for building and maintaining facilities, observing environmental and marine safety standards, and general site security.³⁵ The ‘clients’ of port authorities are the terminals where ships dock to load and unload cargo. Port authorities actively compete for business. An example is the longstanding rivalry between the ports of Seattle and Vancouver, for both container and cruise traffic. As with any commercial operation, keeping costs down, thereby reducing the fees charged to shipping companies, help make a port attractive.

The need to balance security and safety measures while ensuring the competitiveness and efficiency of Canadian ports creates a paradox for port authorities. As noted by Professor Kevin Quigley of Dalhousie University:³⁶

“Security culture,...is much less open and less trusting; information is often shared with those in the know,...and often on a need-to-know basis. Much of it is cloaked in secrecy. Port staff do not understand where safety and security lie in the list of priorities. This dynamic discourages staff from slowing down the flow of cargo in the name of safety or security.”

In the aftermath of 911, the International Maritime Organization (IMO) adopted the *International Ship and Port Facility Security Code* (ISPS) to guide ports, ships, and their national governments when preparing security plans and programs. Parliament passed the *Maritime Transportation Security Act* and its regulations,³⁷ which placed a new overlay of security responsibilities on ports,

³⁴ Courthouse Libraries B.C., “Vancouver Fraser Port Authority” (Sept. 7, 2022), accessed at <https://www.courthouselibrary.ca/how-we-can-help/our-legal-knowledge-base/vancouver-fraser-port-authority>

³⁵ Port of Vancouver, “About us”, accessed at <https://www.portvancouver.com/about-us/>.

³⁶ Quigley Kevin F. and Bryan Mills, “‘Set Adrift’: Fatalism as Organizational Culture at Canadian Seaports,” *Journal of Homeland Security and Emergency Management*, De Gruyter, vol. 13(1), pages 191-218, April 2016.

³⁷ S.C. 1994, c. 40 and the *Marine Transportation Security Regulations*, SOR/2004-144, registered May 21, 2004.

giving port authorities responsibility for safety, order, and the port environment, subject to approval from Transport Canada's Maritime Safety and Security Group.

VFPA must provide a Port Master Plan for both cruise ship and container operations. A risk assessment, intended to prevent terrorism or attacks on critical infrastructure, is also required.³⁸ This responsibility cascades down to tenants of the port authority. Every tenant that hosts a foreign vessel must create a five-year security plan, which is reviewed and authorized by Transport Canada.

THE STRUCTURE OF CANADA'S POLICE

Canada's Constitution assigns responsibility for Canada's criminal law to the federal Parliament.³⁹ The administration of justice, however, is a provincial responsibility.⁴⁰ It is interpreted to include policing the criminal law and provincial statute offences, the operation of provincial courts, and related criminal justice services.

This constitutional apportionment of responsibility has resulted in a policing framework which includes the RCMP acting, for most purposes, as Canada's federal police, and each province having a standalone or contracted provincial police. Within British Columbia, policing falls within the remit of the Minister of Public Safety and Solicitor General.

Each province delegates responsibility for local policing to municipalities, which then either create a standalone police force or contract for the services of another municipal police force or the provincial police service. Municipal chiefs of police are hired and report to municipal police boards. Funding for the police comes from municipal councils but is routed through the police boards. Delta, New Westminster, Port Moody, and Vancouver fit within this model. Burnaby, Prince Rupert, and Surrey represent RCMP municipal contracts.

In addition to public policing, there is a history in Canada of private police with the same or similar authority to that of municipal police officers. The railway police are an example at the federal level.

³⁸ VFPA, "Port Policing Memo", Aug. 21, 2023.

³⁹ *Constitution Act, 1982*, s. 91(27).

⁴⁰ *Constitution Act, 1982*, s. 92(14).

Canadian National, Canadian Pacific, and BNSF railways all have police forces, in which officers take an oath of office before a superior court judge and can exercise the same powers as other police officers within 500 metres of property owned, possessed, or administered by the railway. All three railway forces operate within British Columbia. In Greater Vancouver, the Metro Vancouver Transit Police, Canada's only dedicated transit police force, is funded by the transit authority and reports to a police board. The uniform RCMP contingent at Vancouver International Airport is funded by the airport authority.

POLICING OUR BORDERS

Importation of illegal commodities can occur in one of three ways: across the land border from the United States, by way of airline passengers and cargo, or via Canada's seaports. Effective enforcement of all three avenues is critical to interdicting the flow of fentanyl, methamphetamine, heroin, cocaine, and so many other drugs that find their way onto the streets of our cities and into the homes of Canadians.

The Canada Border Services Agency (CBSA), is a law enforcement body, charged with preventing illegal smuggling and migration across Canada's air, land, and sea borders.⁴¹ Its officers cannot be everywhere and, like most government bodies, CBSA must apportion its resources according to need. Except for 'border jumpers' who enter illegally, CBSA checks every passenger arriving in Canada by land, sea, or air.

CBSA is not a police force. Its officers are peace officers with powers which are specific to the many statutes that they are mandated to enforce.⁴² Its U.S. equivalent is part of the U.S. Customs and Border Protection agency (CBP). Anyone who travels between Canada and the U.S. has met officers of both the CBSA and CBP.

Since 2003, CBP also includes the U.S. Border Patrol, recognizable for their green uniforms and Stetson hats, which patrols the Canadian and Mexican borders between entry points. They are a

⁴¹ In this report, reference is made throughout to the acronym, CBSA, despite the agency being formed in 2003 through an amalgamation of Canada Customs and other entities.

⁴² Police officers include RCMP officers, who take an oath upon engagement, and provincial and municipal officers who are granted the status of constable under provincial legislation.

large federal force, supported by sophisticated electronic warning devices, and air and ground support. Canada has no equivalent agency.

Responsibility for policing between border entry points in Canada falls to the RCMP, which provides the service through units spread across Canada. The irregular migrant entries in recent years along the Quebec and other provincial borders highlighted this role. In British Columbia, although the border is a federal responsibility, most first response policing is provided by RCMP officers on municipal contract or municipal police.⁴³ The amount of routine border patrol is limited.

Our airports house a large contingent of CBSA officers who vet every person entering Canada by air. They also oversee international cargo and mail shipments. Policing of Vancouver International Airport (YVR) is the responsibility of airport authorities. The airport is situated within the City of Richmond, itself policed on contract by the RCMP. The RCMP detachment includes a separate unit contracted to the airport authority.

Our seaports also house significant numbers of CBSA officers, who have the daunting task of interdicting contraband entering and leaving Canada's container and cruise ports, the largest being in Vancouver / Delta. CBSA employs various technologies, as well as physical searches. No police force is dedicated to working in the ports. That is the focus of this report.

POLICING OUR PORTS

In both Canada and the United States, ports have been intrinsically linked to the development of civilian police. The first organized and community funded, full-time police force in the United States, was formed in 1838 in Boston. There, merchants persuaded the government to create a paid police force which would ensure the safety of port infrastructure and the safe movement of cargo into and out of the Port of Boston.

It was likely not lost on Boston's politicians that ports can be volatile places. It was a mere 50 years earlier that a cantankerous group of citizens tossed a cargo of tea into Boston Harbour,

⁴³ In British Columbia, the only municipal police force which has jurisdiction abutting the international land border, is the Abbotsford Police Department.

helping spark a revolt, which became a war for independence, and ultimately, gave birth to a new country.⁴⁴ Ports are important places.

The ports of Halifax and Montreal were particularly vulnerable to port crime until police constables were hired, or forces were formed, prior to Confederation.⁴⁵ These were essentially private police forces paid out of port revenues rather than government appropriations. Speaking to a hearing on security in the Port of New York / New Jersey, the Director General of Police and Security for Canada's National Harbours Board, Donald N. Cassidy, stated, "that as long as the protection of cargo remained with private security agencies the high standards required in cargo protection would not be reached." He added, "that one of the recommendations made to his board last year by its staff was the replacement of private security agencies and their guards and watchmen in Canadian ports with members of a National Harbours Board security force."⁴⁶

Both New York and the Canadian government appear to have listened. The Port Authority of New York & New Jersey now has the largest dedicated seaport / airport police force in the U.S.⁴⁷ and in Canada, the separately administered security and police forces at each port were consolidated in 1968, into one national organization, the National Harbours Board Police (NHBP). Cassidy became its first chief.

NATIONAL HARBOURS BOARD POLICE / PORTS CANADA POLICE

With headquarters in Ottawa, and detachments in St. John's, Halifax, Saint John, Montreal, Quebec; Churchill, and Vancouver, the NHBP was a national force. Smaller ports were served by the nearest NHBP detachment.⁴⁸

⁴⁴ Olivia B. Waxman, "How the U.S. Got Its Police Force" (*Time Magazine*, May 29, 2017), accessed at <https://time.com/4779112/police-history-origins/>.

⁴⁵ By example, the Halifax Police Department was formed on Oct. 28, 1864, although a system of constables had operated in an unofficial manner since the first days of European settlement in 1749. Each ship arriving in Halifax would appoint one member of the crew to act as a constable, responsible for the actions of the crew and passengers.

⁴⁶ "Waterfront Panel Warns of Tighter Security Needs" (*NY Times*, Apr. 19, 1970) at p. 86, accessed at <https://www.nytimes.com/1970/04/19/archives/waterfront-panel-warns-of-tighter-security-needs.html>.

⁴⁷ See <https://www.panynj.gov/police/en/index.html>.

⁴⁸ T. Lazenby, "National Harbours Board Police now one of the world's most innovative forces – Canada", *Canadian Police Chief*, Vol. 68, No. 3 (Summer 1979) at pp. 39-42.

Responsibilities were delegated to it, “under the laws of Canada, the Attorneys General of the provinces in which it operates and the policies of the National Harbours Board with respect to the protection of assets.”⁴⁹ The NHBP was organized akin to a municipal police department. Members of the force had all the powers, authority, protection, and privileges of police officers under the *Criminal Code*. They also supervised security guards hired in the port. The force was paid out of port revenues rather than government appropriations. Functions of the force included investigation, intelligence, crime prevention, physical security, national security, and emergency planning. Liaison was maintained with both Canadian and foreign police forces.⁵⁰

Members of the NHBP either transferred in from another police force or trained at a police academy. In Vancouver, the NHBP had a superintendent and over 30 officers, including an inspector, sergeants, corporals, and constables. Officers were second to CLEU and there was an investigative unit. In the early days, many arrests were made from people pilfering cargo, later with the advent of containers, there were employee thefts as cargo was unloaded from containers. With the automation of container movement, those thefts decreased and increasing reliance was placed on intelligence regarding suspect shipments.. The police tracked containers, built suspect profiles, and located stolen vehicles. There was a joint RCMP, VPD and NHBP drug squad on the waterfront. Members of the NHBP walked the terminals and container sheds and visited every incoming ship, speaking to the captain and examining crew manifests. The port police ensured a physical presence within the port, checking people and containers. Its officers understood the environment, what to look for and areas of greater risk to theft and other crime.

On Cassidy’s initiative, the International Organization of Airport & Seaport Police (INTERPORT) was established in 1969 as a specialized security association to support port police authorities globally. INTERPORT continues to be a robust organization within the international policing fabric, providing a forum for the discussion of measures to detect and prevent criminal activity in airports and seaports.⁵¹

In 1983, the National Harbours Board was replaced by Canada Ports Corporation. There was a corresponding devolution of many functions to local authorities. The NHBP was renamed, Ports

⁴⁹ *Ibid.* at p. 40.

⁵⁰ *Ibid.*, generally.

⁵¹ See <https://interportpolice.org/> . Director General Cassidy became the first Board President, in 1970-71.

Canada Police (PCP). The police force continued to police Canada's ports after its re-branding, and, was a productive force, with a physical presence on the waterfront and making numerous arrests and contraband seizures.

Unlike a public police force, however, the authority of Ports Canada Police was limited to protecting persons and property on or under the administration of Canada Ports Corporation, or a local port.⁵² The restriction on its territorial jurisdiction surfaced in a B.C. Supreme Court chambers application. Officers were found to have exceeded their authority by arresting an individual on port property for an outstanding *Criminal Code* arrest warrant, respecting an offence committed elsewhere. Describing the officers' jurisdiction as "highly localized and circumscribed", the chambers judge noted that if they had "possessed the more plenary jurisdiction of a regular peace officer such as a member of the Vancouver City Police then their activities would have been appropriate and justified."⁵³

Despite the jurisdictional restraint, the police continued in their duties. In 1992, during his review of protective services within Canada's ports, Judge René J. Marin expressed the belief that Vancouver's port continued to need a professional port police force.⁵⁴ However, that was not to be. In December 1995, the Minister of Transport proposed a new national marine policy, which called for the elimination of Canada Ports Corporation and the replacement of the Vancouver Port Corporation with a local authority. The Minister also proposed disbanding Ports Canada Police.

1996 VANCOUVER CITY COUNCIL OPPOSITION

In February 1996, Vancouver's city manager submitted a policy report to City Council outlining concerns that policing of Vancouver's port was already inadequate due to a lack of policing resources, and that if the Vancouver Police Department (VPD) was to assume the policing duties

⁵² *Canada Ports Corporation Act*, S.C. 1980-81-82-83, c. 121 at s. 5(1).

⁵³ *Collinson v. Canada Ports Corporation, Vancouver Port Corporation and Three Unknown Ports Canada Police Constables*, SCBC (in Chambers), April 27, 1990, file C871659 (Vancouver Registry). This case was not appealed. The simple fix, which we now see with the Metro Vancouver Transit Police, is to cross-designate federal officers as provincial police constables, giving them police powers throughout the province (see <https://transitpolice.ca/about-us/jurisdiction-mandate-and-authority/>).

⁵⁴ René J. Marin, "External Review of the Protective Services of Ports Canada" (1992). Marin completed several reports on police-related issues for the federal government, including on the RCMP and Canada Post.

formerly performed by the ports police, federal funding would be required. The report's recommendation to Council was to:⁵⁵

“urge the Solicitor General of Canada to acknowledge the historical position that substantive federal policing interests including illegal immigration, drug importation and gun importation are inherent in the operations of the Port of Vancouver, the third busiest port on the continent, and further acknowledge the Federal Government's constitutional obligation to provide for the safety and security of the people of Canada by ensuring adequate policing in this gateway of the nation.”

In support of the recommendation, the policy paper included the following:

“Ports, by their nature, generate policing issues that fall under federal responsibility, such as organised crime, immigration, illicit drug, alcohol and arms trade, customs, national security, maritime terrorism, peacetime emergency planning, and enforcement of laws such as the new Maritime Security Act. Due to limited resources, these responsibilities are not being adequately met under present circumstances.”

The report described four tiers of policing in ports - security services, municipal police services, extraordinary local police services due to the “unique nature” of port operations, and federal policing. It argued that, in view of the port being a national gateway and the consequent “policing problems it generates”, funding should come from the federal government, possibly from the land rent paid by the port authority.

Noting that the level of policing undertaken in Vancouver by Ports Canada Police had “in some ways been inadequate, due to limited resources”, the paper recommended that the VPD continue to offer regular municipal police services to the port should PCP be disbanded, however “police services that were previously undertaken by the Ports Canada Police force, or services / service levels that are required but not at present being provided should not be funded by Vancouver taxpayers. This is a federal responsibility.”

⁵⁵ Vancouver City Council, “The New National Marine Policy and the Port of Vancouver”, Policy Report, Feb. 19. 1996, accessed at https://council.vancouver.ca/previous_years/960227/p4.htm.

1996 PROVINCE OF B.C. OPPOSITION

In March 1996, B.C.'s Attorney General, Ujjal Dosanjh, issued a media release, calling on the federal government to reverse its decision to disband the PCP, arguing that the move would imperil public safety. The Ministry's press release summarized his concerns:⁵⁶

"Despite a serious threat to public safety, the Vancouver Port Corporation intends to disband its Ports Canada Police detachment by June 1, Attorney General Ujjal Dosanjh said today following a tour of the Vancouver waterfront.

"Federal Transport Minister David Anderson says he'll ensure that the port continues to have the level of policing that exists now. The Vancouver Port Corporation claims it knows nothing about such assurances," said Dosanjh.

"Mr. Anderson must show he means what he says and reverse the decision to withdraw police from Canada's busiest port. The safety of much more than just the port will be compromised if this issue is not resolved immediately".

"I have seen firsthand how dangerous this decision is for the safety of British Columbians. Investigations by B.C.'s Co-ordinated Law Enforcement Unit and other police agencies underscore the danger. The decision also makes a mockery of the federal government's gun control legislation, a central feature of which is controlling illegal gunrunning through ports."

Dosanjh said public safety and security must not be subordinated to the economic interests of the ports. "Ports are vital to B.C.'s economy, as is a strong, dedicated police force which must be maintained".

⁵⁶ Ministry of the Attorney General, "Province Opposes Decision to Disband Ports Police", Mar. 22, 1996, accessed at <https://archive.news.gov.bc.ca/releases/archive/pre2001/1996/9603mar/15port.asp>. See also, "Dosanjh criticizes plans to disband port police", *Globe and Mail*, March 1996, accessed at <https://www.theglobeandmail.com/news/british-columbia/bc-flashback-port-force-disbanding-air-india-acquittal/article1322102/>.

"I have written again to the minister of transport telling him that a serious assessment of the policing needs of the port must be undertaken in consultation with the province and affected municipalities. The federal government's alternative that British Columbia taxpayers pay the tab is simply unacceptable."

In the last 10 years, police have seized \$1.25 billion worth of illegal drugs on the Vancouver waterfront. And in the first three months of this year, they have recovered close to \$2 million worth of luxury cars being smuggled out of the country.

The Ports Canada Police detachment at the Port of Vancouver includes 29 officers, seven civilian staff and eight seasonal employees. They are responsible for policing about 275 kilometres of coastline, including the Port of Vancouver, North Vancouver, the bulk terminal at Port Moody, Roberts Bank, waters adjacent to Vancouver International Airport and waters surrounding the ferry terminal at Tsawwassen and Boundary Bay, extending to the U.S. border."

1997 DISBANDMENT

The pleas were to no avail. Ports Canada Police was disbanded in July 1997, prior to the *Canada Marine Act* coming into force. There has never been a public airing of the reasons for the disbandment. Accusations of mandate creep into areas not originally contemplated, such as investigating corruption, excessive bureaucracy, and a lack of solid results, have all been provided as reasons.⁵⁷ There is no indication that the decision resulted from an objective analysis into the PCP's administration and operations.

With its disbandment, policing of port property became the responsibility of the police force of jurisdiction. For Greater Vancouver, this meant a multitude of different municipal police forces and the RCMP.

⁵⁷ Curiously, this mimics the questions that still resonate with respect to the abolition of the B.C. Provincial Police in 1950.

POLICING OUR PORTS – POST-1997

NATIONAL PORT ENFORCEMENT TEAMS

With the demise of the Ports Canada Police, the federal government funded the RCMP's establishment of National Port Enforcement Teams (NPET) at Vancouver, Montreal, and Halifax. Initially, the RCMP received funding for six positions in Vancouver. The Vancouver Fraser Port Authority agreed to contribute funding to supplement the federal resources.

WATERFRONT JOINT FORCES OPERATION

The Vancouver NPET established a Waterfront Joint Forces Operation (WJFO), comprised of RCMP, VPD, Delta Police Department (DPD), and CBSA. Its primary mandate was the investigation of criminal activity and intelligence collection, working alongside VFPA, law enforcement, intelligence, and regulatory bodies.

Also in 1997, the federal government agreed to provide the City of Vancouver with approximately \$4 million, in declining sums over seven years, to fund additional police officers to work in a combined unit with the NPET, through an agreement with B.C.'s Minister of Public Safety and Solicitor General.⁵⁸ With this funding, 15 officers were added to the VPD to create a Waterfront Team, combining patrol officers with the existing Marine Unit.⁵⁹ The province also funded an analyst position at the Combined Law Enforcement Unit (CLEU).

The WJFO appears to have functioned well and was supported both financially and with the appropriate resources. It worked closely with CBSA respecting controlled deliveries of drugs. Long term undercover operations were also mounted to determine the extent of organized crime's

⁵⁸ "City of Vancouver Submission to the *Canada Marine Act* Review Panel", Oct. 30, 2002, accessed at <https://council.vancouver.ca/20030116/csb2.htm>.

⁵⁹ City of Vancouver Administrative Report, Apr. 9, 2002, accessed at <https://council.vancouver.ca/020409/RR1c.htm>.

influence within the ports. Over time, however, members of the WJFO were pulled away on other duties, money became scarce, and resources became scarcer. More of that later.

2001 SENATE COMMITTEE

On May 31, 2001, a standing committee of the Senate was authorized to conduct an introductory survey of the major security and defence issues facing Canada.⁶⁰ Its work acquired greater urgency after the events of September 11, 2001. Chaired by Senator Colin Kenny, the committee received testimony in Vancouver during November 2001, with respect to the port.⁶¹

The Committee summarized the evidence of Brian Bramah, Regional Director, Security and Emergency Preparedness, Transport Canada and Chris Badger, Vice-President of Operations, Vancouver Port Authority, including the following from Mr. Badger:

“The Port Authority has relatively little responsibility for security in the Port. It operates a system of closed circuit television cameras which monitor the various parts of the Port 24 hours a day, 7 days a week. It has acquired a mobile scanner that can produce an image of the contents of a 40 foot container in about 40 seconds, hence it is possible in theory to screen 100% of the containers moving through the Port. The Port Authority also pays \$250,000 a year for increased security patrols around the perimeters of the Port.”

Their answers to questions were summarized in the official record, as follows:

“The cruise lines are responsible for screening all the passengers and baggage boarding their vessels.

The Port Authority has established a small intelligence unit to co-ordinate the work of the 8 municipal police forces with jurisdiction over Port territory. There is general satisfaction

⁶⁰ Senate of Canada, Standing Senate Committee on Defence and Security, First Report, June 7, 2001.

⁶¹ Senate of Canada, “Report of Fact-Finding Visit: 19-22 November 2001 Vancouver, Victoria and Winnipeg” (<https://sencanada.ca/en/Content/SEN/Committee/371/defe/fact/rep19nov01-e>). The agenda indicates that other persons were present from the stakeholders and may have contributed to the responses (see <https://sencanada.ca/en/content/sen/committee/371/defe/fact/fact19nov01-e>).

with the status quo which is considered an improvement over the Port Police because there are more officers on patrol and because they have a mandate beyond Port property.

The Port Authority claims not to have any knowledge about the activities of organized crime in the Port. (Customs officials report tactics of intimidation as they inspect containers and say that the Hell's Angels is the dominant criminal influence within the Port.) This is the responsibility of the provincial Organized Crime Agency.

The Port Authority subjects its employees to security screening, but it hires only 121 of the 27,000 persons working on Port property. Companies which lease Port property are free to screen or not screen as they choose. In conjunction with the private companies the Port Authority is trying to develop an identification card system common to all port employees.

The British Columbia Marine Employers Association hires and trains dock workers, but workers are dispatched to their assignments through a hiring hall.”

The Senate Committee also heard from Deputy Chief John Unger of VPD and RCMP Inspector Doug Kiloh. The official summary of their evidence included the following:

“They discussed with the Committee the public interest in policing private property and the problems that arose. There is an agreement with the Attorney-General of British Columbia to cover police activities on Port property, but compensation for the policing is a sore point with local municipalities.

A large number of municipalities are involved in policing Port property, not to mention the involvement of provincial and federal police forces, departments and agencies, and private security companies. Consequently, there is seldom a clear division of responsibility. Nevertheless, the police officers were satisfied that policing was co-operative and effective.... An Intelligence Analyst from the British Columbia Organized Crime Unit noted that all the elements of traditional organized crime were involved in the Port, as well as the more modern Asian Triads, Russian Gangsters, and Narco-Terrorists, etc.

The range of criminal activity was much the same as in the Port of Montreal. Motorcycle gangs are very active and visible, linking criminal activities

in the eastern and western ports. The various elements of organized crime tended to have specialities, but they all participated in the import/export of illegal drugs as the most common and lucrative activity. In addition, Asian and Russian gangs exported stolen luxury cars; the Russian gangs were also active among chandlers; and Mexican and Columbian gangs were involved in narco-terrorism.”

In response to questions, VPD confirmed that it still patrols the port. Determination of responsibility for incidents in the port is handled on an ad hoc basis. The emphasis on commercial interests and expediting port traffic can detract from the needs of security, which can be expensive and time-consuming. No agreement could be reached on the ideal model for port policing, although there was a belief that Canadian ports must be brought up to the level of security that exists at major airports; including the following:

- employees must be security screened and access denied to those with relevant criminal records or known criminal associations;
- movement on, into and out of Port property must be controlled; and
- there must be central reporting of theft of containers and their contents.

In its final report, issued in February 2002, the Senate Committee made numerous recommendations, including,⁶² the creation and funding of a co-ordinating body to support integration and liaison among the various law enforcement units that work at the port. The report commented on the many municipal police forces and RCMP units which had port policing responsibilities in B.C. Police stakeholders, including the VPD and RCMP, “opposed formation of a single authority to police all the Ports of Canada believing that it would lack flexibility”.⁶³ The police representatives noted that, unlike Ports Canada Police, municipal and RCMP officers have a “mandate beyond Port property”. This was a reference to the limited powers of the Ports Canada Police described in the *Collinson* decision.

The Senate Committee commented that witnesses supported a co-operative, multi-agency policing model, however the Committee choose not to offer its opinion, other than to state that the “federal and provincial expenditures on controlling organized crime were inadequate and

⁶² Senate of Canada, “Canadian Security and Military Preparedness”, Report of the Standing Committee on National Security and Defence, 1st Session, 37th Parliament, Feb. 2002 (<https://sencanada.ca/Content/SEN/Committee/371/defe/rep/rep05feb02-e.pdf>).

⁶³ *Ibid.*, at p. 45.

completely disproportionate to the proceeds of crime.” The Committee called for an inquiry into port security.⁶⁴

Five years later, in 2007, Senator Kenny and his committee continued to express concern about the state of port policing. He linked the disbandment of Ports Canada Police to “the growing boldness of organized crime groups, like the Hells Angels.” In a March 2007 op ed, published in a New Brunswick paper, an obviously frustrated Senator Kenny wrote:⁶⁵

“All the Committee is asking is that the government take reasonable measures to upgrade security at Canadian ports, which several witnesses have told us are inundated with organized crime. We would not be asking that the government take reasonable measures if we thought they were already taking them.

Why is the presence of organized crime at our ports a factor in this discussion? Because criminals like security holes – they wouldn’t be able to siphon money from the system if such holes didn’t exist. And security holes that create opportunities for criminals also provide opportunities for terrorists....

I agree with the comments made last week by Pat Riley, president of Local 273 of the International Longshoremen’s Association [that] “more enforcement and tighter security measures” are needed to combat organized crime at ports,....

There are other problems with port security. Inadequate policing. Non-existent waterside surveillance. Inadequate background checks on port workers. Lack of scrutiny of people entering restricted areas....

The Committee’s last report on Canada’s Ports was issued in 2003. It recommended that the government of the day initiate a public inquiry under the Inquiries Act into security at Canada’s ports. No such inquiry was ever initiated.

⁶⁴ *Ibid.*, at p. 47.

⁶⁵ Colin Kenny, “Security at Canada’s Ports: What Makes Sense?” (*Telegraph-Journal*, Saint John, Mar. 28, 2007), accessed at <https://colinkenny.ca/fr/Security-at-Canadas-Ports-What-Makes-Sense.html>.

We don't see ship owners, port authorities or unions pushing for such an inquiry. One wonders why. Is it that as long as all parties are making good money at our ports, they will shrug off crime as the cost of doing business?

Canada's ports need a shift in culture, away from various fiefdoms acting in their own interests toward owners, shippers, unions and shipping companies acting in the Canadian public's interest."

2007 / 08 TODDINGTON / MOULTON REPORT

In 2007, the RCMP contracted Toddington International Inc., "to assess the current situation in respect of the policing of the maritime environment and the ports of British Columbia and provide possible solutions." The report's focus was on the entire B.C. coast and was written at a time when the RCMP was advocating the use of internal and external integration as a delivery model to leverage the resources of multiple policing units and agencies to deal with a wide variety of policing responsibilities.

The study noted that, "stakeholders were unanimous as to the existence of an enormous gap between needs for ports and maritime policing and the means to fulfill them." The lead author, Earl Moulton, concluded that the key to success was the establishment of "integrated marine units". The report advocated a seven-point action plan, including community and industry support, a tri-partite government funding model, a unified governance structure, real time intelligence and information sharing, integrated service delivery, shared skills and standards, and an optimal level of resources.

The report assumed the need for maritime policing but did not dwell on relative roles and responsibilities, or governance and funding. Alternate service delivery models were not considered, and no analysis was conducted of a port police model. Despite a detailed action plan, including sample memorandums of understanding, the report's recommendations were not implemented.

2011 PRESIDIA SECURITY REPORT

In 2011, Public Safety Canada commissioned a report into the vulnerability of ports to organized crime. The report, based upon a literature review and interviews, was summarized in an Organized Crime Research Brief released by the Ministry.⁶⁶

The report described the vulnerabilities and risks presented at Canada's major ports. Despite numerous successful seizures, "Canada's largest marine ports remain vulnerable to the smuggling of inbound precursor chemicals, illegal drugs and counterfeit goods." Noting that historically some of the largest smuggling cases involved corruption at ports, the report described the following:

"OC activity in the largest commercial marine ports included: (1) increased precursor chemical shipments for domestic synthetic drug production; (2) export of domestically-manufactured synthetic drugs to marine ports abroad; and (3) large-scale import of counterfeit consumer products, particularly cigarettes. The authors observe that these trends are linked to three inter-related factors: (1) most precursor chemicals and counterfeit goods are frequently shipped from China, (2) the Port of Vancouver is the principal marine gateway into Canada, and (3) inbound (precursor chemicals) and outbound (synthetic drugs) smuggling is largely controlled by Chinese criminal networks.

The authors concluded that Canada's three largest commercial marine ports located in Halifax, Montreal and Vancouver are the most vulnerable to both inbound and outbound smuggling due to the sheer volume of container traffic processed annually. This volume of traffic reduces the likelihood of contraband being inspected, detected and seized. These marine ports were also identified as significant conduits for smuggling since established and sophisticated OC groups are based in the host cities of Montreal and Vancouver.

⁶⁶ Presidia Security Consulting Inc., 'A Study of the Vulnerability of Marine Port Operations to Organized Crime' (Ottawa, Public Safety Canada, 2011), as summarized in "Marine Ports and Organized Crime", Organized Crime Research Brief no. 25 (Ottawa: Public Safety Canada, nd), accessed at <https://www.publicsafety.gc.ca/cnt/rsracs/pblctns/rqgzd-crm-brf-25/index-en.aspx>.

Factors such as the high volume of traffic, reduced likelihood of inspection, existing storage protocols within container terminals permitting storage of domestic and international containers (as well as empty containers) in the same compound, contribute to the vulnerability of the marine ports to OC groups. Moreover, the challenging physical layout and spatial characteristics of these marine ports add to the difficulty of providing adequate security and law enforcement.”

Although the authors commented favourably on the merits of intelligence-led targeting, the use of technology to detect illegal cargoes, manual searching, and co-operation among agencies, they concluded that the expanded use of these measures was “constrained by the availability of sufficient resources” and “that current law enforcement resources continue to be insufficient relative to the scope of smuggling taking place.”

2015 END OF VFPA FUNDING

Despite the ongoing concerns respecting port policing and the inadequacy of the current state of play, in 2015, the Vancouver Fraser Port Authority ended its partial funding of the WJFO. The impact of that defunding decision continues to the present. The explanations given over time for this move have included that:

- no other Canadian port paid for such a service;
- port policing was outside its business model;
- it is accountable to its tenants;
- it became clear that the RCMP and CBSA had primary responsibility;
- the funding was transitional;
- the WJFO was only able to provide limited information to support VFPA security responsibilities due to privacy and other legal concerns;
- VFPA could not request nor direct police involvement in preference to any other member of the public;
- it did not satisfy a cost-benefit analysis; and

- it had developed effective relationships with the various police forces of jurisdiction, which contributed to an increase in operational support to VFPA.⁶⁷

The funding was apparently redirected to expand VFPA's security department and security systems, in "a multi-layered approach to its security program."⁶⁸ As a result of the claw back by VFPA, the WJFO was reduced from 13 to 9 officers with the elimination of the VPD and DPD positions and two RCMP positions.⁶⁹

The irony of retracting and choosing to restrict its mandate to security left the port authority in the anomalous position that it no longer had anyone who could carry out criminal or regulatory enforcement in the port. Although much ado was made of a program of Port Enforcement Officers (PEO), it soon became apparent that their ability to enforce regulations was severely constrained by a conflict between the *Canada Marine Act* and the federal *Contraventions Act*.⁷⁰

2015 / 2018 ACPA WHITE PAPER

The Association of Canadian Port Authorities issued a White Paper in 2015, in which it recommended that the federal government do the following:⁷¹

- review and rectify the disconnect between the port security requirements of the Canada Marine Act and the Contraventions Act;
- clarify the role of port authorities in providing waterside security;
- establish authorities for port authority security enforcement; and
- ensure appropriate information sharing among marine partners.

⁶⁷ VFPA, "Port Policing Memo", Aug. 21, 2023. One academic writes that, "[A]t times, the WJFO appeared more taxed by public and Aboriginal protests... than organized crime" (Chris Madsen, "Pacific Gateway: State Surveillance and Interdiction of Criminal Activity on Vancouver's Waterfront", *supra* at p. 31).

⁶⁸ VFPA, "Port Policing Memo", Aug. 21, 2023. Presumably the port authority knew at the outset of funding that it did not have the authority to direct police involvement.

⁶⁹ Jon Azpiri, "Port Metro Vancouver cuts funding to police unit" (*Global News*, Dec. 8, 2015), accessed at <https://globalnews.ca/news/2389470/port-metro-vancouver-cuts-funding-to-police-unit/>.

⁷⁰ S.C. 1992, c. 47.

⁷¹ ACPA, "Strengthening Security at Canadian Port Authorities", *supra* at pp. 2-3.

In its paper ACPA pointed to the fact that port security had changed forever since the 9/11 attacks in the U.S., and that shipping lines, port authorities, and governments were now cognizant of the “inherent vulnerabilities of the marine sector.” This included the broad jurisdiction of some ports, over bridges, highways, rail yards, underwater pipelines, overhead electrical wires, and even airports.

ACPA reiterated its recommendations in another review, released at the end of 2018.⁷²

2018 TRANSPORT CANADA REVIEW

In March 2018, Transport Canada announced its Port Modernization Review, including the issue of port security. In response to a call for submissions, both the Vancouver Police Department and the Ontario Provincial Police responded. VPD’s enthusiasm for port policing appears to have waned from 17 years earlier when it appeared before Senator Kenny’s Committee. With respect to a police presence in the ports, VPD observed:⁷³

“Historically, the Port Police would patrol all areas of the Port. The security at the Port has evolved with heightened physical barriers and private security. As a result, little proactive police patrols occur on the secure side of the Port.

The cruise ship terminal, which is accessible to the public, also presents security challenges due to the volume of passenger traffic. The VPD responds to calls for service in this area, however, do [not] assume a security function.”

When asked whether “Local Police Best Equipped to Deal with Ports?”, the VPD stated:

“Proactive policing of the Vancouver Ports not an enforcement priority with the city police. Therefore, enforcement of issues at the Vancouver Ports is deferred to

⁷² ACPA, “Ports Modernization Review” (Ottawa, Dec. 3, 2018) at p. 29, accessed at https://acpa-aapc.ca/wp-content/uploads/2021/01/ACPA_Ports_Modernization_Review_Submission_EN.pdf.

⁷³ Vancouver Police Department, “Transport Canada’s Post Modernization Review: Vancouver Police Department’s Response to CACP” (2018) at p.1, accessed at <https://wm-so.q1b.shawcable.net/service/home/~/?auth=co&loc=en&id=479042&part=3>.

federal authorities such as the Canada Border Service Agency (CBSA) and RCMP drug and organized crime enforcement.

Jurisdictionally, the port area crosses different districts, and there is not overall ownership of it. For example, there is no geographic delineation with statistics related to the port. The transit system in the Lower Mainland had similar jurisdictional issues; this was resolved with the creation of a dedicated police agency responsible for all transit systems (Metro Vancouver Transit Police).”

On the issue of co-ordination, VPD wrote:

“There ought to be consideration of an integrated or coordinated marine policing unit for the Port area as information exchanges between law enforcement agencies and stakeholders is not adequate.

Between, CBSA, RCMP, Waterfront JFO, VPD, and Fisheries and Oceans Canada (DFO), it is difficult to determine who is doing what. Even within the RCMP, there are five separate units/sections that are responsible for investigation and enforcement, with no coordination between each of those units.”

Transport Canada’s final report did not mince words when it described how organized crime, “to facilitate their smuggling activities... are involved in the corruption of port workers and have embedded members and associates within port facilities by way of legitimate employment.” The report “warned that organized crime groups are “certain” to continue smuggling large amounts of drugs and illegal goods through British Columbia ports because of widespread corruption and massive profits. The internal report warned that 27 members of organized crime groups, associates or people with serious criminal records were members of the longshoreman’s union at the time.”⁷⁴

⁷⁴ Jen St. Denis, “Revive port police to fight organized crime on the waterfront, Delta chief says” (*Star Vancouver*, Sept. 11, 2019) accessed at <https://www.thestar.com/vancouver/2019/09/11revive-port-police-to-fight-organized-crime-on-the-waterfront-delta-chief-says.html>.

CONCERNS OF THE CITY OF DELTA

The Delta Police Department has jurisdiction for municipal policing of Delta and its port, as well as the highways and rail lines leading to and from the port. Between 2009 and 2018, DPD responded to 754 calls for service, or on average, 75 calls per year, at or near the Roberts Bank container port. The calls included emergencies, general assistance, traffic offences, property damage, and suspicious vehicles or persons.

DPD includes the port in its emergency planning strategy, meets with port management at least once a year, and includes them in emergency exercises. Delta Police are not resourced to conduct any proactive policing or sophisticated organized crime investigations within the port. Furthermore, access to the port proper is restricted and DPD officers must request permission to enter.

2019 BCMA RESOLUTION

In 2019, Delta sponsored a resolution on port policing at the annual UBCM conference. The resolution, agreed upon by those in attendance, observed that the “loss of police resources has weakened the security of Canada’s ports and allowed organized crime elements to proliferate”.⁷⁵ The resolution called on the provincial government to, “re-establish dedicated resources to police ports and waterfronts”. In reply, the province noted that port policing is a federal responsibility, “notably the RCMP - Federal, Serious and Organized Crime FSOC and the Canada Border Services Agency”.⁷⁶

Since the 2019 resolution, both Mayor Harvie and Chief Constable Dubord have continued to express their concerns over the state of policing at B.C.’s ports. In a September 2019 media interview, Chief Dubord noted that after VFPA removed its funding contribution, the WJFO team

⁷⁵ Resolutions to be Considered at the 2019 UBCM Convention (Resolution B90 – Port Policing), *supra*.

⁷⁶ *Ibid*.

dropped from 13 positions to 9, and eventually, to zero. This left the responsibility for ports policing to various integrated teams, that also had numerous other responsibilities.⁷⁷

2020 FEDERAL REVIEW PANEL

In March 2020, the Federal Review Panel for the Roberts Bank Terminal 2 Project released its report on the viability of expanding the container port facility. Deep within the 613-page report is a discussion of the impact on policing. The Review Panel recognized the lacunae in policing since the disbandment of Ports Canada Police, which it believed would be further aggravated by an expansion. In its words:⁷⁸

“The Panel is also aware of the concerns regarding the potential for increased crime rates with the Project and the need for adequate police and security services. Based on the revenues and expenditures presented by the City of Delta, the Panel notes that protective services constitute the city’s main expenditure and it is apparent that the City of Delta, to some extent, relied on the Port Authority to fund the integrated police team. The Panel finds that the estimated \$4.6 million in annual property taxes in addition to fees and payments in lieu is a significant beneficial economic effect for Delta. However, the Panel realizes that the effects of the Project on Delta’s community safety and security would only be mitigated if actual improvements were made to the city’s policing services. For this reason, the Panel is of the view that the Port Authority should resume its annual integrated police team funding.”

At the conclusion of its four-year impact study, the Review Panel took great care to make 71 recommendations, including the following:⁷⁹

Recommendation 48

⁷⁷ Jen St. Denis, “Revive port police to fight organized crime on the waterfront, Delta chief says”, *supra*.

⁷⁸ Impact Assessment Agency of Canada, “Federal Review Panel Report for the Roberts Bank Terminal 2 Project”, *supra* at pp. 340-341.

⁷⁹ Impact Assessment Agency of Canada, “Federal Review Panel Report for the Roberts Bank Terminal 2 Project”, *supra* at pp. 341-342.

“The Proponent [VFPA], in consultation with the Delta Police Department, the Royal Canadian Mounted Police and the Canada Border Services Agency be required to:

- Examine the creation and implementation of a multi-jurisdictional port policing authority to prevent and control crime incidence at Roberts Bank terminals. The task force would eventually transition to the Roberts Bank Terminal 2 port operator security entity; and
- Negotiate an agreement with the City of Delta to allocate sufficient funds to implement an integrated police team commensurate with the requirements of the Project.”

RECENT DEVELOPMENTS

The failure of the existing port governance regime to enforce regulatory offences, effectively neutered the role of port enforcement officers. In the hope of mitigating this issue, Transport Canada recently promulgated regulations allowing for *Canada Marine Act* Enforcement Officers, with the ability to impose Administrative Monetary Penalties (AMP).⁸⁰ The Enforcement Officers will not be police officers or peace officers. Transport Canada and the port authorities are currently developing the program.

During parliamentary consideration of Supplementary Estimates for ports and railways in December 2022, Transport Canada indicated an intention to strengthen the oversight of railway police in Canada, noting that they, “are often the first line of defence against safety and security issues that affect our railway system.”⁸¹ No mention was made of the vulnerability of ports or the absence of policing in ports.

⁸⁰ See <https://www.canada.ca/en/transport-canada/news/2023/07/minister-of-transport-introduces-new-regulations-for-enhanced-safety-and-enforcement-in-canadas-marine-transportation-system.html> . The AMP regime is not necessarily a panacea, witness the issues faced by FinTRAC, Canada’s financial intelligence unit’s, recent experience (see Peter M. German, “Proceeds of Crime and Money Laundering” (Toronto: Thomson Reuters, 2022) at pp. 22-147-152.2.

⁸¹ “TRAN Appearance”, 2022-2023 Supplementary Estimates (B), Dec. 5, 2022., accessed at <https://tc.canada.ca/en/binder/10-railway-policing>.

On the horizon is Bill C-33, having passed First Reading in the House of Commons.⁸² The government bill intends to amend various pieces of legislation to strengthen the port system and railway safety. The amendments are intended to enhance the efficiency and resilience of Canada's supply chains, and optimize traffic management at ports. Policing is not mentioned in the legislation, nor is there reference to the impact on policing of the measures intended to create a more efficient supply chain.

POLICING OUR PORTS - TODAY

THE THREAT

It is important to understand the threat environment in which we live. Vancouver is no longer the backwater that it was just a few decades ago. As a byproduct of globalization, the 1986 world exposition, the 2010 Olympics, and the rabid pace of change, which is prevalent in all walks of life, Vancouver has become a world city.

Though not large in terms of population, Vancouver's pivotal location beside the United States, facing Asia, and closer to Britain by air than it is to Canada's Atlantic seaboard, gives it strategic gravitas. Being home to a plethora of banks, casinos, communications, and encryption companies, and possessing a multi-ethnic and multi-lingual workforce, Vancouver is open for business. It is also open to transnational organized crime, having provided a staging point for Asian, South American, Mexican, and home-grown syndicates and cartels. The absence of effective investigative processes; cumbersome, lengthy, and failed criminal prosecutions; and a compassionate sentencing regime, mean that there is literally no downside for persons who engage in organized criminality.

Recently, ports scored very high in British Columbia's provincial threat assessment with respect to the potential for infiltration and corruption. According to police intelligence, transnational organized crime groups are active within our ports. They use ports to export illicit commodities

⁸² "Strengthening the Port System and Railway Safety in Canada Act, Bill C-33, 44th Parliament, 1st Session, accessed at <https://www.parl.ca/legisinfo/en/bill/44-1/c-33>.

and take advantage of the low level of scrutiny of outgoing containers, which is even less than the scrutiny of incoming containers.

TOC groups will not hesitate to attempt to corrupt those who control hiring and dispatch. In addition, commercial truckers are accessing ports, including restricted areas, without criminal record checks. Illicit drugs and precursors destined for clandestine Canadian labs arrive in the port, and the product of such labs leaves in containers for Australia, Japan and elsewhere in Asia.

In February 2020, CBSA seized 106 kilos of methamphetamine at Deltaport, concealed within a shipment of cement blocks that originated in Mexico. It had an estimated value of \$13.5 million. The seizure resulted from a tip received from CBSA's National Targeting Centre. The case was referred to the RCMP's FSOC, which spent weeks tracking the suspects responsible, eventually laying charges against four individuals.⁸³

A recent, record-breaking seizure of outbound methamphetamine underscores the severity of the problem. Canada is clearly a source and a transshipment stop for vast quantities of drugs.⁸⁴ CBSA officers made four seizures, amounting to 6,330 kilograms of liquid and crystal methamphetamine, contained in 419 canola oil jugs, destined for export to Australia. With a street value of a staggering \$1.5 billion, it was described as the CBSA's "single largest methamphetamine seizure" by its regional director.

Greater Vancouver has a hierarchy of organized crime groups, from those engaged in transnational import and export, to others that work the streets, selling drugs and other contraband. Of great concern is the reality that Canada, once a source country for marijuana, nicknamed "B.C. Bud", is now producing deadly drugs for export. Approximately 20 'super labs' have been dismantled in recent years within Greater Vancouver.

⁸³ Kim Bolan, "More than 100 kilos of meth seized at B.C. container terminal (*Vancouver Sun*, April 7, 2020), accessed at <https://vancouver.sun.com/news/local-news/more-than-100-kilos-of-meth-seized-at-b-c-container-terminal>.

⁸⁴ Elizabeth McSheffrey, "Record amount of methamphetamine found in canola oil jugs bound from B.C. to Australia accessed" (*Global News*, June 14, 2023), accessed at <https://globalnews.ca/news/9768269/drug-bust-canola-oil-jugs-bc-australia-cbsa/>. See also Simon Little and Grace Ke, "Delta's mayor wants dedicated police force patrolling Metro Vancouver ports" (*Global News*, June 20, 2023), accessed at <https://globalnews.ca/news/9782381/delta-calls-for-dedicated-port-police/>.

The Mexican cartels discovered Vancouver a few years ago and are increasingly making inroads. Australia is a lucrative market for Mexican drugs, worth up to five times what the drugs sell for on our streets. There is now a direct rail route from Vancouver to Mexico with the merger of CPR and Kansas City Southern railway, becoming CPKC, “the first and only transnational rail network in North America”.⁸⁵

The location of the ports in Greater Vancouver is also important. They are not contiguous, one with the other. Instead, they are scattered among multiple municipal jurisdictions and operated by a decentralized federal agency. But it is more than geography. A senior officer at FSOC advised us that their biggest challenge is that the port is its “own community, just like at the airport, and close knit.” A police presence is easily detected. The officer added, “we know there is a level of corruption. And the sophistication of the large criminal groups is high. They will open a legit company, run products through the port legally for several years, then transition to illegal import when they are off the radar.”

Mitigating the threats in the port is not easy. FSOC advise having to resort to confidential informants and data and pattern analysis. Just obtaining information from CBSA and Transport Canada is difficult due to legal requirements. Formal requests or a production order are required, noting that agencies are very wary of breaching privacy legislation.

A senior RCMP officer was candid in his assessment that, “we really need help to make sure we can keep the foot on the gas and with the expansion of Delta Port there needs to be more of a robust investigative capacity for ports policing.”

In the face of this risk environment, it is helpful to know what is being done to counter the threat.

CBSA

The Canada Border Services Agency describes its role quite simply – dealing with the international aspect of what enters and leaves Canada. It does not engage in domestic investigations and its border services officers, although they are peace officers and members of

⁸⁵ See <https://www.cpkcr.com/en/about-cpkc>.

law enforcement, are not provincial constables or police. When they locate a shipment of illegal drugs, the case is turned over to the RCMP, for whatever action it deems necessary, such as a controlled delivery.⁸⁶ For any policing issues in and about the port, CBSA will typically contact the municipal police force of jurisdiction.

The Metro Vancouver District of CBSA has dockside operations at the various container and cruise terminals. Of interest to this review is the container examination process, which can be described as both simple and complex. It is simple by virtue of all containers being scanned for radiation when they arrive in the port, and only a small fraction undergoing more detailed imaging or searching. The complexity revolves around deciding which containers to image and search.

This determination begins in the foreign port where the container originates. A shipper is required to provide what is referred to as Advance Commercial Information (ACI), including electronic data on origin, source, and content of its cargo at least 24 hours prior to a ship's departure. This ACI is reviewed by CBSA's computer systems using an algorithm, to determine if there are concerns. Although it is possible to prevent a shipment from leaving a foreign port, that is a rare occurrence. Virtually all containers do leave and arrive in Canada, where search decisions must be made by the CBSA officers working in the port.

Upon arrival in Canada, all containers are scanned for radiation. Intelligence, analytics, and the work of border service officers to detect anomalies, will determine if a container receives further scrutiny. This could involve medium or large-scale imaging, which provides an X-ray view of contents in a container. The final step would be a physical search by border services officers, including the possible use of canines, at one of the container examination facilities.

Search facilities are found in various locations, including Roberts Bank itself and Burnaby. CBSA does not disclose the percentage of containers that are imaged, or opened and searched but it is believed that less than two percent are imaged and less than one per cent are physically searched. Containers which arrive in the port and are shipped by rail or truck to the U.S., undergo additional scrutiny at the U.S. border.

⁸⁶ A controlled delivery is one in which police conduct surveillance of the contraband to its ultimate destination, then seize the contraband and arrest the recipient. These investigations can be extremely time consuming and resource intensive, requiring evidence that the suspect had knowledge of the illegal contents of the item shipped.

Although outgoing containers are expected to receive the same degree of rigour as incoming containers, those familiar with the ports were clear that this is not the practice, or practicable. Appendix “C” is flow chart of CBSA’s container examination process.

VFPA SECURITY PROGRAMS

Contracted private security firms perform basic security and control access. The port performs water and land patrols, staffs a 24-hour, service operations centre, with real-time feeds from video cameras and transponders on trucks, issues port access passes, and co-operates with government and private industry. It also operates a drone for surveillance.

The VFPA is required to develop a Port Master Security Plan (PMSP) for the container and cruise ports, while each terminal operator that receives foreign vessels is required to develop a Marine Facility Security Plan (MFSP). The VFPA has a Port Security Officer, and each terminal has a Marine Facility Security Officer and an alternate. All plans must be approved by Transport Canada.

The VFPA prides itself on having spent millions of dollars securing port lands, including secure access gates, port security boats and on security personnel. All of this is, of course, necessary but does not deal with the issue of what takes place within the port. Access gates keep out the unwanted, but 30,000 access cards ensure that everyone with a job can enter.

RCMP FSOC

Unit 4 of the RCMP’s Federal and Serious Organized Crime section is responsible for federal border operations. It targets border-related criminality, including organized crime, illegal migrants, suspicious vessels and cargo, and the import and export of illicit commodities at and between ports of entry – air, land, and sea. Other federal units provide support, depending on the nature of the offence. It works as an integrated and intelligence-focussed unit, engaged on cases related to national security, organized crime, controlled substances, corruption, and other investigative priorities.

As part of FSOC-4, WJFO’s mandate is border security at the ports. It works in partnership with domestic and international law enforcement and other partners. Prior to Covid-19, WJFO had a

steady caseload, however resources were diverted to the land border during the pandemic, and the unit is now rebuilding. FSOC advise that the WJFO could have a team of 50 officers and that still would not be enough to deal with the casework.

Traditionally, the 'bread and butter' of WJFO work at the ports was controlled deliveries, which result from CBSA discoveries of contraband. These investigations are resource heavy, human, and technical, as the contraband often must be replaced with an innocent substance plus technical probes, and then followed by police surveillance teams to its destination. At that point, police may have to wait weeks or months for the item to be picked up and opened.

When the RCMP's commodity teams, including the drug section and border integrity section, were replaced in 2013 by organized crime teams, the RCMP lost the ability to respond nimbly to calls from CBSA. Now, they must first assess the viability of information, then determine if resources can be reassigned from ongoing organized crime investigations. Oftentimes, they cannot, turning significant discoveries into 'no case' seizures.

When active on port cases, the WJFO operates like a plainclothes drug unit, spending a lot of time on surveillance. Its targets have connections to the port, including importers and exporters, but the WJFO seldom works in the ports. The members also handle a lot of administrative details, such as processing the no-case seizures received from CBSA.

Being the only FSOC unit that is not located at the RCMP's provincial headquarters in Surrey, the WJFO members get pulled away for numerous duties, including working on cases at the airport. After the removal of VFPA-funded positions, one former WJFO member advised that they seldom had more than five persons working.

We were advised by the RCMP that WJFO resources are "shared fluidly" between the airport and the seaport, noting that the resources at the seaport or airport, "can change dynamically based on operational requirements". That is consistent with the foregoing. At present, on paper, the unit is commanded by a staff sergeant, with a total of 9 RCMP members, 2 secondments from NRPD, one analyst and administrative staff. The number of positions that are staffed is less. Without quibbling over numbers, it is safe to assume that the WJFO strength is in the single digits, and less when engaged on airport duties.

The WJFO is not ring-fenced, meaning that it is funded out of the broader RCMP federal budget and is one of many units competing for dollars. Staffing of positions is dependant first, on there being funding and second, on there being human resources to fill those funded positions. There is currently no supplemental government or private sector funding for port policing.

FSOC advised that the majority of WJFO projects files involving Greater Vancouver ports relate to the importation of illicit drugs. Since 2021, the RCMP dealt with several seaport files, including:

- an outbound marine shipment of 75 kg of cocaine;
- assisting CBSA with precursor chemicals in a container;
- an investigation into possible drug importation / exportation by individuals linked to organized crime; and
- a foreign stowaway on a marine vessel of national security concern.
- seizures of 170 kgs and 100 kgs of opium concealed within inbound containers; and
- the importation of 108 kgs of methamphetamine within cement blocks, in a container.

The RCMP advise that it is well known that chemical precursors and illicit drugs are secreted and imported in a broad range of legitimate cargo, including foodstuffs.

MUNICIPAL POLICE

Currently the VFPA's jurisdiction over ports in Greater Vancouver finds it working with numerous police forces. These include:

- Burnaby RCMP
- Delta PD
- New Westminster PD
- North Vancouver RCMP
- Port Moody RCMP
- Surrey RCMP
- Vancouver PD
- West Vancouver PD
- CFSEU
- RCMP (multiple federal units)

- BNSF Police Service
- CN Police Service
- CP Police Service
- Metro Vancouver Transit Police

In addition, various integrated units have responsibility over aspects of the port, including the integrated homicide, collision, and forensics teams. This does not include the enforcement responsibilities of CBSA, and Transport Canada..

Attached as Appendix “D” are the 5 Year Crime Statistics for Greater Vancouver ports.

PIMSWG

The Pacific Integrated Marine Security Working Group (PIMSWG) is currently the only inter-agency meeting of port and transport officials and law enforcement, other than ad hoc meetings regarding a particular case. Numerous agencies attend PIMSWG meetings, including VFPA (chair), Transport Canada, RCMP, CBSA, DPD and VPD. PIMSWG meetings generally occur on a quarterly basis, however none has yet been held in 2023.

The VFPA has stated that “it coordinates security efforts with more than two dozen police and regulatory agencies with mandates covering the port.”⁸⁷ In fact, PIMSWG meetings are more in the nature of general networking. They are not focused on files or targeted enforcement initiatives. The VFPA itself has separately pointed to the weakness of these meetings being the inability of the port and law enforcement to share information. It is hard to co-ordinate operations when you cannot discuss operations.

In 2019, VFPA hosted a Port of Vancouver Law Enforcement Forum which included a host of agencies with a “shared objective for a strong security posture” at the port. Discussion surrounded awareness of mandates, information sharing, training, policy and legislation, and resourcing.

⁸⁷ Simon Little and Grace Ke, “Delta’s mayor wants dedicated police force patrolling Metro Vancouver ports”, *supra*.

The reference to ‘security’, both at PIMSWG and the Community Forum, once again conflates security and policing. Why VFPA finds it necessary to co-ordinate a working group of regulators and law enforcement, as well as a law enforcement forum, despite avowing that it has no responsibility for law enforcement, is not easy to reconcile. One explanation is that no police agency has taken the initiative. Or, that it really is semantics to suggest that security does not include policing.

WORKING IN OUR PORTS

ORGANIZED CRIME

A 2015 *Vancouver Sun* investigative report by reporter, Kim Bolan, served as a throwback to Marlon Brando on the Waterfront.⁸⁸ The public asked, and open radio shows discussed how it was possible that members of an outlaw motorcycle gang could be working in the ports of Greater Vancouver?

The Hells Angels occupy a curious place in the social fabric of British Columbia. Declared an organized crime group many years ago by CFSEU-BC⁸⁹ and actively tracked by a dedicated police unit, the courts in British Columbia have yet to find that they or any of their puppet clubs are criminal organizations under the *Criminal Code* definition. Not so in Ontario where the Superior Court found in 2005, that the Hells Angels was a criminal organization at the time specified in the indictment.⁹⁰

The Hells Angels would serve as an outstanding Harvard Business School case. Their business model operates in a decentralized manner. Members typically do not sit around the clubhouse conference table, plotting nefarious activities. Instead, members operate as individual entrepreneurs, aligning their activities with members of subservient or puppet clubs. Oftentimes those activities are illegal, and examples are legion.

⁸⁸ Kim Bolan, “Organized crime and the port: part one of my series”, *Vancouver Sun*, May 8, 2015.

⁸⁹ CFSEU-BC, “Gangs Operating in BC in 2011”, accessed at <https://www.cfseu.bc.ca/gangs-in-b-c/>. The page is no longer available.

⁹⁰ *R. v. Lindsay*, 2005 CanLII 24240 (ONSC), approved 2009 ONCA 532, leave to appeal to the SCC dismissed.

Greater Vancouver is reputedly home to more chapters of the Hells Angels than any other metropolitan area in the world. Despite a few high-profile prosecutions, they have been relatively untouched by law enforcement in B.C. The result has been the gradual 'maturing' and diversification of the organization. Members typically do not wear their colours except on annual runs or special occasions. Over time, the public has become desensitized to their presence, in part due to their involvement in community activities, such as toy runs.

It is instructive to turn the clock back to the entry of the Hells Angels to Vancouver and British Columbia. In July 1983, the Montreal Hells Angels opened three chapters in B.C. by patching over the Satan's Angels, giving them "a foothold in another part of the country and a better network for criminal activities, especially those involving drugs." In December 1983, an East End chapter was opened in Vancouver.⁹¹ In June 1987, the Haney chapter was opened.⁹²

Interestingly, Vancouver's port played a pivotal role. In 2022, private communications of William Miller, a member of the North Toronto chapter of the Hells Angels were intercepted by police and entered into evidence in Ontario Superior Court.⁹³ Included was the following:⁹⁴

"In a December 7, 2002 conversation, Miller "said the Outlaws [another motorcycle gang] grabbed border crossings, but the Hells Angels grabbed ocean ports. He talked about "it" coming in to docks controlled by others, and said it was like a grocery store being surrounded and unable to sell to anybody else, so it can only go one place. In Staff Sergeant Lemieux's [expert] opinion, the HAMC established itself in port areas in Canada, including Montreal, Vancouver and Halifax. It uses the ports to import drugs."

Although the dominance of the Hells Angels over certain illicit markets continues, South Asian and Asian organized crime is increasingly involved in container shipments of drugs, as well as the trucking industry which delivers the containers to the buyer. The latter tend to be quite sophisticated, including the use of front companies.

⁹¹ *Ibid.* at paras. 663-664.

⁹² *Ibid.* at para. 673.

⁹³ *R. v. Lindsay*, 2005 CanLII 24240 (ONSC).

⁹⁴ *Ibid.* at paras. 439 and 660.

Considering organized crime's interest in our ports, the process for access to the port and for hiring of dock workers makes it relatively easy for organized crime to pursue its objectives.

ACCESS

Port access is governed by the *Marine Transportation Security Act*⁹⁵ and its *Regulations*.⁹⁶ The VFPA estimates that approximately 30,000 people have card access to Greater Vancouver ports, however only approximately 6,000 of those individuals occupy positions requiring a Marine Transportation Security Clearance (MTSCP).⁹⁷ During regular meetings with Transport Canada officials in Ottawa, port security officers have asked that all persons working in the port be security cleared.

In essence, people working in the port receive a pass that allows access through the electronic entry gates. No security clearance is required. These passes are administered by the VFPA. The MTSCP governs those workers employed in sensitive or restricted areas. The designation of these positions is made by terminal operators when drafting their security plans, which are then reviewed and approved by Transport Canada. Guiding factors include the physical location of a position and the information which an incumbent can access at work.

The clearance process is quite basic and requires renewal every five years. A criminal record is not an automatic bar to obtaining a clearance. Very few are refused, as low as 1 in 2010 and 21 in 2014.⁹⁸ Interestingly, the International Longshore and Warehouse Union mounted an unsuccessfully challenge to the clearance program, arguing that it was an unfair restriction on employment.⁹⁹

The clearance process in Canada differs markedly from that in the U.S., where all port employees must possess a Transportation Safety Authority (TSA) approved Transportation Worker Identity Card (TWIC).

⁹⁵ S.C. 1994, c. 40.

⁹⁶ *Marine Transportation Security Regulations* (SOR/2004-144).

⁹⁷ We were unable to obtain exact numbers from Transport Canada.

⁹⁸ Madsen, *supra* at p. 36.

⁹⁹ *Ibid.*

HIRING

A focus of Kim Bolan's 2015 articles was the presence of Hells Angels in the port. In 2018, in its submission to Transport Canada, the Vancouver Police Department stated:¹⁰⁰

"The largest issue from a gang crime prevention perspective is the hiring and retention of employees at the Vancouver Ports with documented history of criminality and/or association with organized crime.

The VPD, unlike the Royal Canadian Mounted Police is not indemnified when releasing information about enhanced security backgrounds for Government of Canada security checks. As a result, we are cautious on release of their information to the RCMP, where the person is not convicted of a criminal offense. This might contribute to less security as a result of not being able to freely disclose information during background checks."

Much has been made of the dispatch system in the ports, in which the British Columbia Maritime Employers Association (BCMEA) represents employers. They determine resource needs and then workers are dispatched by the union.

Madsen notes that Hells Angels work their way up from the dispatch boards until they are sponsored for full union membership.¹⁰¹ Some have won union elections. They have also been known to openly wear colours to regular and executive meetings, and to sponsor other family members and associates once in the union. The union has many multi-generational families that have worked the docks.¹⁰²

Madsen writes that criminal convictions for drugs and related offences are not a bar to union membership and jobs have been known to be waiting for associates upon release from

¹⁰⁰ Vancouver Police Department, "Transport Canada's Post Modernization Review", *supra* at p.2.

¹⁰¹ Madsen, *supra*, citing a confidential source.

¹⁰² *Ibid.*

incarceration.¹⁰³ The presence of individuals on the waterfront with criminal records is of great concern to law enforcement. In the final analysis, the issue is not about the Hells Angels. They are merely symptomatic of a system which provides unrestricted access to ports, without oversight by law enforcement.

WATERSIDE POLICING

Waterside security is critical to national and international maritime commerce. This is particularly so in the post-911 world. Overlapping mandates among agencies or the opposite, the absence of a mandate, can be a threat to public safety. Who is the lead? Is there information sharing? Are there sufficient human, financial, and technical resources? Is there a co-operative, tested approach to crisis management?

The waterways of Greater Vancouver have long presented challenges for waterside policing. The RCMP's West Coast Marine Section is situated in Nanaimo and is primarily focussed on northern and isolated communities, not the Lower Mainland. In most cases, waterside security in Greater Vancouver has rested with the police force of jurisdiction, whether it be a contract RCMP detachment or a municipal police department. As noted above, only VPD has a permanent marine unit. Waterside safety rests with the Canadian Coast Guard, supported by municipal police and others.

The Vancouver Fraser Port Authority has several patrol boats which operate daily in the harbour and approaches. They are well equipped and focussed on environmental spills, hazards to navigation, and other related tasks. They have no law enforcement or policing powers.

The Association of Canadian Port Authorities has been vocal in its concern that waterside security has been downloaded to the port authorities, without a concomitant infusion of funding and legislative changes respecting information sharing and enforcement. The ACPA expressed concern that port authorities are not equipped to undertake waterside security. Furthermore, local

¹⁰³ Kim Bolan, "Crime & the Waterfront: Longshoreman by day, smuggler by night", *Vancouver Sun*, May 13, 2015, accessed at <https://vancouver.sun.com/news/metro/crime-the-waterfront-longshoreman-by-day-smuggler-by-night>.

police of jurisdiction have resource limitations and can, at best, provide limited waterside security and enforcement.¹⁰⁴

ACPA argued that Transport Canada should consider assigning waterside security responsibilities to federal agencies that are capable and authorized to undertake the task. It noted that port authorities have no ability to direct the operations of RCMP, police forces of jurisdiction, the Coast Guard, or the military.¹⁰⁵ The following was provided by VPD to Transport Canada's 2018 review:¹⁰⁶

“Currently, there is a lack of 24-7 police or security presence waterside of the ports. Therefore, all commercial shipping, including the cruise ship industry are vulnerable from waterside threats. This includes terrorism, smuggling, narcotics trafficking and illegal immigration (ship jumping).

The Port of Vancouver manages the waters of the port on behalf of the Federal Government of Canada. The Canada Marine Act (CMA) gives the Port Authority the power to implement Regulations to run the Port effectively taking into account mainly safety, environment, and effect on community and efficiency. This power is outlined in Section 56(1) CMA.

Currently, the Port of Vancouver has two active patrol vessels in the harbour that normally work from 0600-1800 hrs daily. The crews of patrol vessels are responsible for ensuring deep sea vessels at anchor in English Bay and throughout Burrard Inlet, are complying with safety and pollution regulations and numerous other regulatory requirements of port facilities within the jurisdiction of the Port of Vancouver. The crews also respond to reports of pleasure craft creating safety issues or not complying with regulations such as human powered craft or PWC's in the harbour or vessels encroaching on commercial traffic.

¹⁰⁴ ACPA, “Strengthening Security in Canadian Port Authorities”, *supra* at p. 4.

¹⁰⁵ *Ibid.*

¹⁰⁶ Vancouver Police Department, “Transport Canada’s Post Modernization Review”, *supra* at p.1.

At this time, Port of Vancouver crews attempt to educate and direct the offending pleasure craft out of the area but if the pleasure craft operator refuses to stop or comply, the Port crews have no powers under the CMA or the Canada Shipping Act to intervene and must contact VPD Marine to assist.

The VPD Marine Unit does not have any authority to enforce the CMA. If necessary, VPD Marine will use subsequent sections of the Canada Shipping Act (CSA) to direct the pleasure craft accordingly or to take enforcement action. Since VPD has no enforcement authority under the CMA, proceeding with a Criminal Code Obstruction investigation is not an option.

Currently the Port of Vancouver has regulations under the CMA that are not enforceable by VPD. Such an issue would be pleasure craft approaching a cruise ship alongside Canada Place. The Port has a regulation that pleasure craft must remain 50 meters away from Canada Place. This is to provide safety to the cruise ships loading and unloading thousands of passengers and also to ensure no vessel enters underneath Canada Place for nefarious reasons. If a cruise ship is preparing to depart Canada Place, the CSA provides VPD with the powers under the Vessel Operation Restriction Regulations to direct a vessel away for navigational safety reasons.

Recently, the VPD underwent a review of the organization and as a result, the Marine Unit was downsized by 50%. This has subsequently reduced the operating hours of the Marine Unit and limited the ability of the VPD to provide an effective presence and response to activities within the Port.”

The fact that agencies work well together and encourage information sharing where possible, can never be more than a partial solution to a problem, let alone a crisis. It is a basic premise of emergency planning that one person or entity must always be in charge, even if leadership changes during the various stages of a crisis. In the marine context, this could be a fire department, ambulance service, CBSA, police, or a port authority.

In addition to the *ad hoc* nature of co-operative solutions, they tend to rise and fall with funding increases and decreases. When money is tight, government entities will invariably reduce or

eliminate spending on discretionary items and give precedence to what they consider to be their core duties and responsibilities.

THE U.S. EXPERIENCE

It is not uncommon for Canadians to cast a disparaging glance south of the 49th parallel at the plethora of agencies which constitute law enforcement in the United States. Much like Canada, there are three levels of government – federal, state (provincial), and municipal. Each level has multiple law enforcement agencies, many with overlapping mandates. What we often overlook is the level of co-operation which exists between these agencies and certain common denominators which all but guarantee strong collaboration.

To use the State of Washington as an example, all municipal police officers attend the same basic training academy, in Burien. Municipal police officers also share common benefits and easily move between forces to pursue personal and career interests. Specialized police units have common standards, which again allow for portability. State policing standards apply to all municipal forces, including audit requirements.

At the federal level, the so-called alphabet agencies - Alcohol, Tobacco, and Firearms (ATF), Drug Enforcement Agency (DEA), Federal Bureau of Investigation (FBI), Homeland Security Investigations (HSI), United States Secret Service (USSS), and many others have primary and secondary mandates. There is often overlap, however each agency has its investigative priorities. The overlap ensures that no area of criminality is left without an investigative agency. When, for example, an incident such as the hijackings of 911 causes an agency, in that case the FBI, to redirect its resources, others fill the gap.

Canada does not have the luxury of multiple, overlapping federal agencies. If the RCMP lacks resources, there is likely no other agency which can fill the gap. The result is an investigative deficit, finger pointing, and accusations. Another key issue, quite relevant to our current study, is the number of niche areas of crime which are left virtually unpoliced in Canada. For example, within the federal domain, the RCMP is expected to police dozens of federal statutes that do not have their own enforcement agency. To avoid having to rely on the RCMP and to foster specific

investigative knowledge and skills, many federal agencies and departments have developed their own investigative capacity. Three examples are bankruptcy, combines, and elections.

U.S. PORT POLICE

A phenomenon of U.S. law enforcement is the merger of airport and seaport police in standalone agencies, sometimes also including transit, university, or other specialized policing tasks.¹⁰⁷ The combination of airport and seaport police is long standing and is, in part, explained by both ports being the responsibility of state and local governments. Although there are strong federal regulatory requirements at airports and seaports, the state criminal law applies and aligned to it, is policing of the criminal law. Federal agencies contribute but obtain their authority from specific federal statutes. The models prevalent in the United States include the following:

- reliance on private security and the police force of jurisdiction;
- a marine division of the police force of jurisdiction;
- a dedicated seaport police force; and
- an integrated police force, including seaport and other specialist police, such as airports, transit, or university;¹⁰⁸

Examples of all four models can be found on the western seaboard of the U.S., respectively:

- Port of Oakland,
- Port of Long Beach,
- Port of Los Angeles, and
- Port of Seattle.

In the research for this report, we had the opportunity and privilege of visiting with the Seattle Port Authority and the Port of Seattle Police Department and speaking with the Long Beach Port

¹⁰⁷ Although time did not permit us to review port policing in countries other than Canada and the U.S., it is worth noting that dedicated ports police forces are found in port cities around the world.

¹⁰⁸ The largest department is the New York – New Jersey Port Authority Police Department, consisting of approximately 2,500 officers, with responsibility for the airports and seaports in its jurisdiction.

Authority and the Port Division of the Long Beach Police Department. Both seaports are competitors to Vancouver in container and cargo traffic.

The port officials interviewed in Seattle and Long Beach were unequivocal in support of their port police. Despite the cost involved, they were very satisfied with the value for money which their police provided.

PORT OF SEATTLE

The Port of Seattle Police Department is a full-service police agency with a complement of 103 sworn officers and 50 unsworn employees.¹⁰⁹ The sworn officers are all police academy graduates. A majority have prior experience with other police departments or the military. The minimum staffing level is between 13 and 15 for day shift, and 11 at night. This includes a minimum of one supervisor and two officers at the seaport. The minimum staffing levels do not include specialty teams, such as bomb disposal and the police boats. Senior management includes a chief, deputy chief, five commanders and 18 first level supervisors at the sergeant rank. The department will increase its strength for special occasions. For example, up to six officers are brought in on overtime to handle additional requirements when cruise ships are in port.

Although the POSPD does its own hiring, it obtains labour relations support from the port authority. Police officers we spoke with emphasized excellent salaries (US\$120,000 base) and benefits, a good schedule, specialization opportunities, and even paid workouts. The departmental budget is approximately US\$40 million, with 11 per cent designated for the seaport. In addition, there are capital outlays, including for two state of the art, fast harbour police boats.

Police activity in the port includes providing police services to houseboats, residential areas within the boundaries of the port, dealing with homeless people, thefts from vehicles, assaults on employees, and various police occurrences which “bleed over” from bordering municipalities. They conduct thousands of area checks annually and have 12,000 alarm points. They do not actively patrol cargo facilities due to safety concerns but co-operate on investigations with federal authorities. Coast Guard, CBP, and HSI have border search authority. The police have a very good relationship with the longshore workers’ union, including one officer who has mediated

¹⁰⁹ See its website at <https://www.portseattle.org/about/port-police#>.

disputes on the waterfront. POSPD has its own emergency centre at Seatac Airport, which covers both the airport and the seaport, and 911 calls are downloaded from the King County Sheriff's Department.

The police see great advantage to the merger of airport and seaport policing, which they describe as an "ecosystem". It allows for differential response when one or the other becomes busy, such as the seaport in the summer.

We spoke to senior port authority officials who emphasized that they "love our police", who they view as "really valuable". They appreciate the timely response to calls, stakeholder relationships, collaboration with other law enforcement entities, and the POSPD commitment to keeping commerce flowing. A recent national security challenge was posed by a vessel arriving in Seattle from a nation which faces numerous international threats. Without the POSPD, the port authority would not have felt comfortable with the vessel stopping in Seattle.

The port authority noted that the police are "stretched thin". There has been no move to defund the POSPD. In fact, the port authority indicated that it would entertain charging cruise passengers for police service rather than cutting the police budget. They would do the same with containers, although that becomes more complex. Governance of the police is provided by an elected board of King County voters.

The TWIC card, issued by the TSA has been a welcome addition to port policing. Organized crime among longshore workers has not been an issue. The police wryly note that organized crime hates having its picture taken.

U.S. ports continue to be supported by the federal Port Security Grant Program. The POSPD has also benefited financially from asset forfeiture recoveries.

PORT OF LONG BEACH

The Port of Long Beach polices its port through a contract with the Long Beach Police Department, which has created a Port Police Division.¹¹⁰ They view security and policing as

¹¹⁰ See its website at <https://www.longbeach.gov/police/about-the-lbpd/bureaus/support-bureau/port-police-division/>.

integral to the port, observing that after 911, the federal government required terminals to develop security plans and have a facility security officer. They view these security plans as the foundation for their work.

The Marine Division is led by a commander, with a lieutenant in charge of operations, five sergeant supervisors, 27 officers, and administrative staff, with a budget of approximately \$12 million per year. In addition, Long Beach possesses a Harbour Patrol, consisting of approximately 70 trained patrol officers, with limited police powers, armed for protection, who handle much of the response policing involving closed circuit cameras, and traffic. The port authority appreciates the Harbour Patrol, which can assist with ship movement. The police act as advisors to the Patrol. There is also a Commercial Vehicle Enforcement Team, which operates on a cost-recovery basis, and a Command Centre, which was referred to as its “Crown jewel”.

The CBP has a “huge contingent” working at the container port, in collaboration with numerous federal agencies. The police note that there is very little criminal activity in the port. Typical calls include homeless persons near the port, drug use within, and arguments and fights among truckers and longshore employees. The police are first responders for most issues on the water, where there have been occasional ‘body dumps’. Long Beach relies upon the Los Angeles Port Police for maritime training.

As in Seattle, all persons employed in the port require a TWIC card. According to the police, the fear of losing your TWIC card due to bad behaviour is a strong deterrent to criminal activity.

The Long Beach Port Authority is very supportive of its contract police service, referring to it as a “visible deterrence”, and “you get what you pay for”.

U.S. FEDERAL LAW ENFORCEMENT

Often referred to as the premiere U.S. law enforcement agency, the FBI, established in 1908, has responsibility for the enforcement of a wide array of federal statutes, including program areas devoted to aviation, maritime, and rail offences. Members of the FBI were present during our meeting with the POSPD. The consensus of the FBI agents in attendance and senior management of the police department was that both entities co-operate exceedingly well with

each other. The FBI was very complimentary of the police department's knowledge of its community and key stakeholders within the airport and seaport.

The FBI noted that it is always easier to move a file up to the federal level from the municipal level than to go in the other direction. In other words, most files start at the municipal level and if it is found that there are potential federal offences, the file will be referred to the FBI. On occasion, however, the FBI has its own self-initiated investigations which touch upon the airport or the seaport and will request POSPD assistance. All investigations within the port are joint in nature.

An example would be an offence that occurs on the high seas, which falls within the FBI's mandate, but would require considerable assistance from port police. There are designated officers within POSPD who either work with the FBI on joint units or are contacts for the federal agency. There is also co-operation between both levels of policing with respect to recovering and forfeiting the proceeds of crime. The FBI will assist port police with overtime spent on related case work, training, and conference attendance, and arranging for the appropriate security clearances. The FBI works in a similarly co-operative manner with American railway police.

Other U.S. federal agencies also work with the POSPD. In addition to the FBI and CBP, HSI and the Coast Guard are essential partners. The DEA also works many drug cases with the port police.

SUMMARY

Canada's ports are a cornerstone of Canada's economic security. The recent port strike likely solidified this fact in the minds of all Canadians. Our container and cruise ports are also part of a very competitive environment, facing off against large ports on the western seaboard of the United States for market share. An important component of success is that our ports be safe, secure, and able to face the challenges of today and tomorrow. They must also be part of the solution and not the problem, with respect to contraband entering or leaving the ports, particularly contraband that kills.

Policing is an essential tool in the tool kit. Understanding the current state of policing in the ports is difficult because very few people in authority wish to discuss the matter, and those that do often speak in generalities or provide bland and sanitized versions of what is occurring. If the intent is

not to allow organized crime to understand the true situation in our ports, the cat may already be out of the bag, and the fox may be in the henhouse. It is easy to sympathize with Senator Kenny in his call for an inquiry or review.

Far too often the merits of a uniform police service are underestimated, and yet, it is precisely this public-facing policing which Sir Robert Peel envisaged in 1829, when he expounded his principles of policing.¹¹¹ Although the merits of community policing were lost for many decades of the last century, they are rightly acknowledged today as the cornerstone of community safety.¹¹²

A uniform police presence, operating within a community policing model, can be expected to develop strong relationships with all stakeholders in a port environment. Situational awareness of how the ports operate is critical to any successful waterfront criminal investigation and that is only something that can be achieved by a permanent policing presence. We should not forget that port ecosystems include the surrounding roads, rail lines, and airports. Maintaining commercial vehicle safety, working with railway police, and ensuring the safety of passengers at airports and heliports is also critical. All of these exist in the case of both Vancouver and Delta ports.

The civilian police model includes the need for effective governance by an independent board, with stakeholder and citizen representatives. Much as the Transit Police has a board governing its activities, so should a port police.¹¹³

Ever since the abolition of Canada Ports Police in 1997, there have been calls for a replacement entity on the waterfront. Some argue in favour of an integrated investigative team, while others argue for a uniform presence. The absence of a police presence on the landside of our ports is matched by its absence on the waterside. Except for VPD's marine unit, there is no police presence on the water surrounding Greater Vancouver.¹¹⁴

¹¹¹ Charles Reith, *A Short History of the British Police*, Oxford: University Press, 1948.

¹¹² As recently as this month, a report on the CFSEU, though critical of that organization, was complimentary of its uniformed gang enforcement team, and its commendable, street-level work. But the report also emphasized the need to leverage those resources to further the broader CFSEU mandate Kim Bolan, "Anti-Gang Failure – Report slams B.C. agency" (Vancouver Sun, Sept. 8, 2023) at p. A1, accessed at <https://epaper.vancouversun.com/Vancouver-sun/20230908>.

¹¹³ B.C.'s *Police Act* provides for designated policing units, such as the Transit Police. *Police Act*, RSBC 1996, c. 367, s. 4.1.

¹¹⁴ Although some municipalities have funded small watercraft for their police, these tend to be used on a seasonal basis, and are not crewed around the clock.

The solution need not be complex. A federal police presence is required to work cases referred by CBSA and to pursue organized crime investigations. But a traditional, community-focussed police presence, with access to investigative and specialist resources, is also required for both the land and water sides of the port.

We have addressed possible options in the following section, however there must be more. We can no longer allow open access to our ports for all who obtain a casual or permanent job within. In the same manner that every person accessing the secure side of a courthouse, or an airport is security cleared, so should it be with our ports. Due to the sheer number of unvetted individuals working within our ports, vetting new hires rather than the entire workforce, may be the only viable route.

The future is now. The Port of Vancouver will only become larger, much larger, with time and public safety cannot be ignored. The Port is a conduit for goods, a hub of Canada's economy. Government must do its utmost to prevent contraband passing through the ports, victimizing Canadians, and the citizens of foreign nations. Policing is only one part of the equation but an important one. In the words of a former Ports Canada Police officer:

“I think the WJFO is a positive step but it's not like a 24/7 uniform presence.... As a citizen and taxpayer, it really makes me wonder what's happening here, especially given Terminal 2 coming in Delta. The crooks aren't dumb, and they will take advantage of the lack of dedicated policing.”

Another officer familiar with policing in the port, emphasized the dual requirements of an investigative unit similar to the WJFO and a uniformed presence, as follows:

“... there needs to be a uniformed police presence because CBSA only interdicts, they don't investigate or prosecute. FSOC can't do uniformed policing because they can't burn themselves. I really think, like a school liaison officer, you need uniformed officers there building relationships, learning, sharing information, gathering intel, developing sources, learning the nuances of the ports from being there every day, not every few months.”

In the following section, we look at the options available to decision makers.

OPTIONS - OVERVIEW

Based on the assumption that Canada's ports require a permanent policing presence, the question becomes, what is the optimum service delivery model for port policing in Canada and in particular, British Columbia? Various options are presented below. Further work is required to develop preferred models.

From our research, it is apparent that there is a need for both a proactive investigative unit and for a response policing model in the port. The former fits well with the RCMP's federal role and the latter fits well with the traditional municipal policing model. Two threshold issues are funding (who pays) and governance (who governs).

FUNDING

Potential funding sources include users of the port, the port authority, and the three levels of government. In the past, port authorities have pointed to the taxes paid to municipalities as justification for relying on municipal services, including policing. What is often overlooked is that the taxes paid to municipalities are heavily discounted, resulting in the citizens of surrounding municipalities, such as Delta, subsidizing the cost of ports. It is the clients of port authorities who receive the benefit of federal and municipal police services. One suggestion has been the imposition of a public safety tax or surcharge on each container that arrives in our port, to cover the cost of policing and other safety services.

GOVERNANCE

Governance of all the models should include oversight by a board. As discussed earlier, the value of an independent governance board is accepted within the police universe. It can take many different forms. These include the provincially appointed boards in those municipalities that have their own police force, or the council safety committees prevalent in municipalities which contract with the RCMP. The Transit Police Board is the closest equivalent to what one would expect for a port police force.

PROACTIVE INVESTIGATIVE POLICING

The proactive investigative model aligns with the RCMP continuing to develop intelligence and investigate organized crime in the port, through its Waterfront Joint Forces Operation. This unit currently operates in an integrated fashion with partner agencies. Problems with the current model include no 'ring fencing' of its budget, staffing shortages, and the use of the same waterfront policing officers to assist at Vancouver International Airport. Options for improvement include ring fencing, staffing to complement, and not using officers for other duties.

RESPONSE POLICING

The local policing model entails developing a capacity to police the ports with uniform officers, who respond to calls for service. These calls will run the gamut from minor assistance to serious criminal offences. They are also the essential partners that federal law enforcement requires to do its job. The police should have access to specialized services, including an investigative component. The following are potential models. We provide brief comments with respect to each.

OPTION - STATUS QUO

The status quo means no dedicated police force on the waterfront. Crime is managed by the police in the municipality where an offence takes place.

OPTION - NATIONAL PORTS POLICE

A national ports police force was abolished in 1997. Reconstituting it would require cross-designating its officers as provincial constables. It would be a visible, uniform presence in the port, allowing for community policing, relationship building, crime prevention, and response to calls. The force would likely not have the critical mass to provide specialized services in the various ports, causing it to rely on local police forces for those services. This model is similar to that of Canada's three railway police forces.

OPTION – GREATER VANCOUVER PORT POLICE

A Greater Vancouver Port Police would also constitute a visible, uniform presence in the port, allowing for community policing, relationship building, crime prevention, and response policing. However, the force would likely not have the critical mass to provide specialized services in the various ports, causing it to rely on local police forces for those services. Its officers should also be designated as provincial constables.

OPTION - DIVISION OF EXISTING POLICE FORCE

Municipal police forces, including Delta and Vancouver, could create dedicated divisions within their organizations which are focussed on the seaport. These divisions would develop local expertise and relationships in the port and be able to access specialized services within their respective departments. This is the Long Beach, California model.

OPTION - INTEGRATED SEAPORT, AIRPORT, AND TRANSIT POLICE

Various seaport policing models exist in the U.S., where airport and seaport policing are combined into a joint port police. As noted above, the RCMP currently links the seaport and the airport in terms of its waterfront resources. A merger of seaport and airport policing with the existing Metro Vancouver Transit Police would create a force with critical mass, allowing for specialized units. This is similar to the Seattle model.

Respectfully submitted this 14th day of September 2023.

Peter M. German, KC, PhD
Peter German & Associates Inc.

APPENDIX “A”

Terms of Reference

The issue of port security has been a recurring issue in Canada since the abolition of the Ports Canada Police in 1997. British Columbia’s West Coast is home to some of Canada’s largest ports for commercial and container traffic, including Vancouver, Delta, Surrey, and Prince Rupert.

In the past, both the Mayor and the Chief Constable of Delta have expressed concerns regarding port security, in and about Roberts Bank container port, in Delta. The possible expansion of Roberts Bank’s capacity has increased the urgency of examining the state of port security. Similar concerns exist elsewhere in the province.

To better understand the current state of security in our ports, the City of Delta requires that the Consultant provide strategic advice to the city, including the following tasks:

Undertake a fulsome examination of the issue, including the historical backdrop, the present level of port security, and options moving forward. This will include researching public information sources, interviewing relevant stakeholders, and making site visits.

The Consultant will prepare a comprehensive report on or before August 31, 2023, with time being of the essence. The report is to include options, for consideration by the city, for port security.

APPENDIX “B”

Consultations

Canada Border Services Agency

Combined Forces Special Enforcement Unit

Delta Police Department

Federal Bureau of Investigation

Long Beach Police Department

Port Authority of Long Beach

Port Authority of Seattle

Port of Seattle Police Department

Vancouver Police Department

Vancouver Fraser Port Authority

APPENDIX “C”

CBSA Container Search Process

PROCESS MAP: MARINE CONTAINER EXAMINATION PROCESS



1 Industry prepares for import

1 CBSA risk assessment begins

WHO IS RESPONSIBLE?

Industry

Canada Border Services Agency

May proceed

Proceeds



2 Loading



3 Arrival



4 Authorized to proceed



5 Terminal Storage



6 Authorized to move/Delivery

The vast majority of marine containers will continue along the importation continuum. (From 1 to 6)

A small percentage of marine containers are selected for examination, which may include one or more types of exams. (From A to C)



B Dockside Exam



A Large Scale Imaging Exam



D Reload

24 hours service standard



C3 Examination

3 day service standard



C Marine Container Examination Facility (Offsite)



C1 Fumigant Testing/Ventilation



C2 Offload



Canada Border Services Agency

Agence des services frontaliers du Canada

Canada

APPENDIX “D”

Port Crime Statistics - Great Vancouver (2018–2023)

Please note that this information carries RCMP "Protected A" classification and also includes statistics from other jurisdictions, thus it cannot be openly shared.

With the authorization of the Delta Police Department (DPD), data regarding calls for service that the DPD responded to at or near the Roberts Bank container port can be shared.

From 2009 to 2018, the DPD attended to 754 calls for service, averaging 75 calls per year. These calls included emergencies, general assistance, traffic offences, property damage, and reports of suspicious vehicles or individuals.