



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada



# Evaluation of the Criminal Investigations Program

Internal Audit and Program  
Evaluation Directorate

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## Acronyms and abbreviations

<b>CAS</b>	Corporate Administrative System
<b>CAM</b>	Costing Analytical Model
<b>CBSA</b>	Canada Border Services Agency
<b>CI</b>	Criminal investigations
<b>CID</b>	Criminal Investigations Division
<b>CIIMS</b>	Criminal Investigations Information Management System
<b>CIP</b>	Criminal Investigation Program
<b>DFI</b>	Digital forensic investigator
<b>DRR</b>	Departmental Results Report
<b>FMM</b>	Functional Management Model
<b>GBA Plus</b>	Gender-based analysis plus
<b>HQ</b>	Headquarters
<b>HR</b>	Human Resources
<b>HRB</b>	Human Resources Branch
<b>IEB</b>	Intelligence and Enforcement Branch
<b>IRCC</b>	Immigration, Refugees and Citizenship Canada
<b>IRPA</b>	Immigration and Refugee Protection Act
<b>ISTB</b>	Information, Science and Technology Branch
<b>ITO</b>	Information to obtain
<b>KPI</b>	Key performance indicator
<b>MCM</b>	Major case management
<b>MOU</b>	Memorandum of Understanding
<b>NTS</b>	National training standard
<b>OGD</b>	Other government department
<b>OPI</b>	Office of primary interest
<b>OSI</b>	Office of secondary interest
<b>PPSC</b>	Public Prosecution Service of Canada
<b>RCMP</b>	Royal Canadian Mounted Police
<b>SIT</b>	Supplementary information table
<b>TBML</b>	Trade based money laundering
<b>TBS</b>	Treasury Board of Canada Secretariat
<b>VP</b>	Vice president

## Executive summary

**Note [redacted]** A redacted note appears where sensitive information has been removed in accordance with the *Access to Information Act* and the *Privacy Act*.

The evaluation examined the relevance and performance (effectiveness and efficiency) of the **Criminal Investigations Program** (“the Program”) from fiscal years 2016 to 2017 through 2020 to 2021; in accordance with the 2016 Treasury Board *Policy on Results*. The scope of the evaluation was tabled at the Performance Measurement and Evaluation Committee (PMEC) in December 2021. The Program was previously evaluated in 2015.

### Program description

The Program’s mandate is to support the CBSA’s public safety and economic prosperity objectives to keep inadmissible people and goods out of Canada. The Program achieves this mandate by investigating and pursuing the prosecution of persons including travellers, importers, exporters and others who commit criminal offences in contravention of Canada's border-related legislation, in collaboration with the **Public Prosecution Service of Canada (PPSC)**. The criminal investigations process follows several key phases, including: receiving leads (referrals for investigation) from a variety of sources; selecting cases for investigation based on Program guidance and priorities; collecting evidence; referring cases to the PPSC to lay charges and pursue prosecution; and assisting PPSC throughout the prosecution process.

Annual Program expenditures increased from \$27.5 million in 2016 to 2017 to \$35.6 million in 2020 to 2021.

### Evaluation methodology

The [logic model \(included in Appendix B\)](#) was developed by the Program and used by the evaluation team to assess program progress against expected outcomes.

Data collection and analysis for this evaluation were conducted between April and August 2022; both qualitative and quantitative research methods were used. The evaluation team conducted interviews with key stakeholders within the agency and with other government departments (OGDs); conducted a survey of criminal investigators and digital forensic investigators; reviewed key documentation; reviewed administrative, human resources, and financial data; and conducted a gender-based analysis (GBA) plus.

### Evaluation findings

#### *Relevance*

The Program’s mandate is generally aligned with the priorities of the Government of Canada, the CBSA and OGDs. Since 2021, the Program is using the CBSA enforcement priorities to make decisions on case selection. The priorities apply to all CBSA regions and branches, and are aligned with Public Safety and federal budget priorities.

Some overlap with the RCMP's mandate was noted, but this was not considered a major challenge for the program, as the CBSA is able to de-conflict and collaborate when necessary. For instance, trade-based money laundering is an emerging investigation area that will require continued collaboration with the RCMP to reduce overlap. The Program will need to continue collaborating and de-conflicting on this and other emerging fields of investigation.

### *Effectiveness*

The evaluation assessed performance against the Program's expected immediate and intermediate outcomes. In assessing the immediate outcome, the evaluation determined that cases selected for investigation were not always aligned to CBSA enforcement priorities. Regions applied the Program guidance to case selection differently due to their differing operational realities, prosecutorial, judicial and jurisprudential realities, resulting in varying levels of alignment across regions for different types and categories of investigations.

In assessing the Program's intermediate outcome, it was found that the *acceptance rate* of cases referred to PPSC for prosecution is very high. When charges are laid, there is also a high *success rate* (rate of conviction) across all case categories, but especially with major cases. A key factor to the high acceptance rate is that cases are not referred by the CBSA to the PPSC unless they have been assessed as having a high likelihood of successful prosecution, meaning that this is only a partial measure of Program success in achieving the intermediate outcome.

The evaluation found that the current performance indicators used by the Program do not sufficiently capture the quality of investigations conducted. Performance indicators do not account for the investigations that were closed and not referred to PPSC to lay charges, nor the amount of PPSC assistance required to bring some cases up to the evidentiary standard required for prosecution. A recommendation was made by the evaluation to update the Performance Measurement Framework (PMF) in order to improve Program oversight and regional accountability on case selection and investigation quality.

The evaluation assessed the root causes impacting the achievement of the expected outcomes and found that low completion rates of core training for criminal investigators and digital forensic investigators could be negatively impacting the quality of investigations. In addition, CBSA and PPSC stakeholders agreed that the inadequacy of the current information management system has had direct impacts on the quality of investigations and on the efficient use of resources. Finally, additional Program guidance could improve the investigators' understanding of PPSC's roles and responsibilities within the investigation process and the potential benefits of early engagement with prosecutors. A recommendation was made to address the reasons for low training completion in order to improve criminal investigator knowledge and the quality of investigations.

### *Efficiency*

The Functional Management Model (FMM) is operating as expected and contributing to Program delivery. Increased program headquarters oversight and support to regions could be beneficial to



Program performance. The evaluation examined the number cases opened per Investigator and found that this varies by region and is dependent on the types of cases selected for investigations. The evaluation also found that the lack of Major Case Management (MCM) software and use of MCM principles, low training completion rates, and lack of administrative support for investigators have impacted the efficiency of case management and resource utilization. Improved program oversight on resource utilization and expenditures was recommended in order to support the Program to fully implement FMM. The recommendation also supports the Program in increasing collaboration between regions in support of FMM.

### *GBA Plus*

Due to limited data availability, it was not possible to perform an in-depth gender-based analysis plus (GBA Plus) or fully assess how different identity factors impact how diverse groups are impacted by the Program's activities. The limited availability of data impacts the ability of the Program to report on its impact in terms of gender and diversity, in alignment with the *Canadian Gender Budgeting Act (2018)*. The evaluation recommended that the Program review opportunities to gather information to measure the impacts of the Program on diverse groups of people based on relevant GBA Plus factors.

### *Implementation of 2015 evaluation recommendations*

The evaluation assessed the impact of the recommendations made in the 2015 evaluation and found that the recommendations were implemented as planned; however, more work could be done for the Program to fully benefit. The recommendations to update the PMF and improve training completion should assist realizing the benefits of the previous evaluation recommendations.

## Recommendations

The findings of the evaluation led to the following three recommendations which will be addressed by the specific actions included in [the management response and action plan \(included in Appendix A\)](#):

### **Recommendation 1: Addressing the root causes of low training completion rates**

The Vice President of Intelligence and Enforcement Branch should work with the Vice President of Human Resources Branch to assess issues related to the low completion rate of criminal investigator training and develop a work plan to address the gap.

### **Recommendation 2: Performance measurement, including related to case selection and Gender-based Analysis Plus factors**

The Vice President of Intelligence and Enforcement Branch should update the Criminal Investigations Program's PMF to improve oversight and reporting on case selection, quality of all investigations, program resource utilization and expenditures, and review opportunities for the Program to gather reliable information on its potential impacts on diverse groups of people based on relevant GBA Plus identity factors.

**Recommendation 3: Program HQ oversight of resource allocation and coordination of regional information sharing**

With a view to improve efficiency and mature its functional management role, over and above its ongoing work towards securing an appropriate major case management tool, the Vice President of Intelligence and Enforcement Branch should seek to better understand regional resource allocation and associated Program performance and provide a forum for regions to exchange on approaches for regional case selection, expertise, best practices and challenges.

## Introduction

### Evaluation purpose and scope

This report presents the findings of the evaluation of the Canada Border Services Agency's (CBSA or "the agency") Criminal Investigations Program ("the program"). This evaluation was identified in the CBSA's 2021 to 2022 Risk-Based Audit and Evaluation Plan.<sup>1</sup>

In accordance with the 2016 Treasury Board of Canada Secretariat's (TBS) *Policy on Results*, the main objective of the evaluation was to examine the relevance and performance (effectiveness and efficiency) of the Program for the 5-year period of fiscal years 2016 to 2017 through 2020 to 2021. The Program was previously evaluated in 2015.<sup>2</sup>

The evaluation scope was approved by the Performance Measurement and Evaluation Committee (PMEC) in December 2021 and included an assessment of:

- the implementation of the 2015 Criminal Investigations (CI) Program evaluation recommendations
- **(Relevance)** The alignment of the program's priorities with the priorities of the Government of Canada, the CBSA, and other federal organizations
- **(Effectiveness)** The extent to which the immediate and intermediate outcomes in the existing Program Logic Model have been achieved, and the identification of the main challenges to achieving results
- **(Efficiency/Economy)** Resource utilization and process efficiency

A GBA Plus approach was also included as part of the approved scope.

### Program description

The Program's mandate is to support the CBSA's public safety and economic prosperity objectives to keep inadmissible people and goods out of Canada. The Program achieves this mandate by investigating and pursuing the prosecution of persons including travellers, importers, exporters and others who commit criminal offences in contravention of Canada's border-related legislation, in collaboration with the Public Prosecution Service of Canada (PPSC). All investigations and prosecutions are carried out in accordance with established criminal law standards and in compliance with the *Canadian Charter of Rights and Freedoms*.

### Criminal investigations process

Figure 1 summarizes the key phases in the criminal investigations process.

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<sup>1</sup> The 2021 Risk-Based Audit and Evaluation Plan (available on Government of Canada network only).

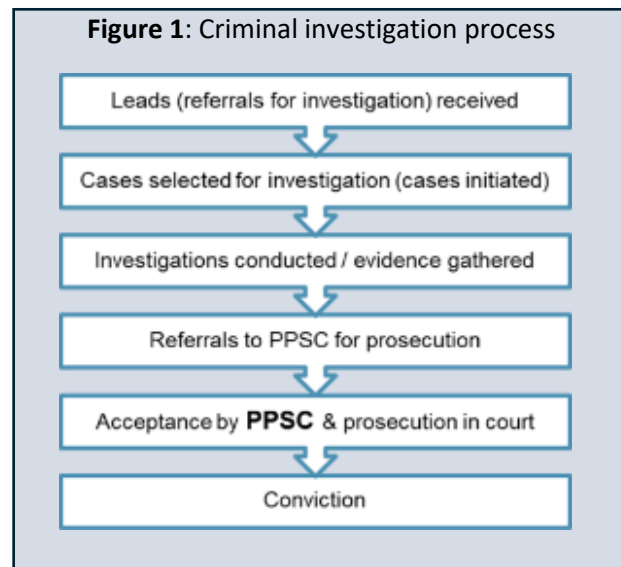
<sup>2</sup> [Evaluation of the Criminal Investigations Program 2015](#)

A criminal investigation may be launched by the CBSA as a result of a lead received from the following sources:

- within the CBSA (i.e., ports of entry, intelligence, immigration enforcement, trade programs)
- other law enforcement agencies
- other government departments (OGDs), or
- from the public

From these leads, cases are selected for investigation by regional staff based on guidance set by the Program, such as alignment with the *CBSA enforcement priorities* and the *CBSA Prosecution Policy*, gravity of the offence, level of risk to individuals or to national security, likelihood of conviction, availability of evidence, etc.<sup>3</sup> Criminal investigators then gather evidence using a variety of investigative techniques, including search warrants, production orders, digital forensic analysis and surveillance. The goal of the investigation is to discover evidence, whether it supports the guilt or the innocence of the suspects.

When sufficient evidence is found to indicate that an individual or business entity has violated border-related legislation and regulations, Criminal investigators and regional managers make a recommendation (or “referral”) to the PPSC. This takes the form of a letter called the Referral to Crown Counsel/Crown Brief (RTTC/CB) which presents the analysis and theory of the case supported by the relevant evidence.<sup>4</sup> If the PPSC accepts the case, CBSA Criminal investigators will work with the PPSC prosecutors through the laying of charges and prosecution in a court of law. The ultimate goal at this stage is to obtain a conviction.



The violations may include criminal offences under the following:

- the *Customs Act*
- the *Immigration and Refugee Protection Act (IRPA)*
- various food, plant and animal legislation
- other border-related legislation (for example, imports and exports of goods)

Prosecution may result in criminal records, court imposed fines, probation periods and incarceration. Civil penalties<sup>5</sup> may also be issued if it is determined to be the more appropriate enforcement option.

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<sup>3</sup> The complete set of criteria to be considered when making a decision to open an investigation is included in the Criminal Investigations Manual: Chapter 3 Case File Management and Finalization. p. 18-19 (available on Government of Canada network only).

<sup>4</sup> Criminal Investigation Manual Chapter 6: Enforcement (available on Government of Canada network only).

<sup>5</sup> Civil penalties such as: Ascertained Forfeitures or Administrative Monetary Penalties.

It is important to note that while the Program investigates violations under IRPA, it does not seek to identify persons who are inadmissible to Canada. Inadmissibility and removal decisions are the responsibility of other CBSA programs under the Enforcement Directorate.

## Program management structures and key stakeholders

### CBSA stakeholders

The Criminal Investigations Program is delivered by the CBSA regions and managed centrally by Headquarters (HQ) under the CBSA's Functional Management Model (FMM) implemented in April 2019.

At HQ, the Criminal Investigations Division (CID), within the Intelligence and Investigations Directorate (IID) of the Intelligence and Enforcement Branch (IEB) is the functional authority responsible for providing guidance and oversight over regional operations. Three units under the CID provide program support to the regions: the CI Operations Unit; the CI Support Unit (which includes the Digital Forensic Unit); and the CI Program Management Unit.

In the regions, criminal investigation sections (one per region) are responsible for conducting the investigations. They report to regional IEB directors and are staffed by assistant directors, criminal investigations managers, criminal investigators, and digital forensic investigators (DFIs). CI sections may have staff based in multiple locations across the region.

Details of the [roles and responsibilities of regional staff and program HQ units are included in Annex C](#).

### Other key stakeholders

The Program works closely with stakeholders within the agency, including Intelligence Program staff, as well as border services officers, inland enforcement officers and senior officers trade compliance, who are a source of leads for investigation.

Externally, the PPSC is a key partner in the delivery of the Program. The PPSC is a national, independent and accountable prosecuting authority whose main objective is to prosecute federal offences. Within the CBSA's criminal investigations process, the PPSC takes responsibility of a case once sufficient evidence is gathered and the case is deemed ready for prosecution (that is, the CBSA referral is accepted); however, prosecutors may provide legal advice and assistance to CBSA criminal investigators throughout all phases of the investigation process.

The Program also works closely with the Royal Canadian Mounted Police (RCMP), Immigration, Refugees and Citizenship Canada (IRCC), the Canada Revenue Agency, and other law enforcement agencies, including provincial and municipal police services.

### Legal authorities

Investigators work under the authority of border-related acts, including those that are listed within the *CBSA Act*. The *Criminal Code of Canada* designates CBSA Criminal investigators as peace officers in the

administration and enforcement of the *Customs Act* and the *Immigration and Refugee Protection Act* (IRPA). CBSA investigators also utilize procedural provisions in the *Criminal Code*,<sup>6</sup> such as search warrant and arrest authorities, to investigate offences under those and other border-related Acts.

## Logic model

The [logic model \(included in Appendix B\)](#) was developed by the Program and used by the evaluation team to assess program progress against outcomes. It shows how inputs, activities, and outputs are expected to lead to the following expected outcomes:

- **Immediate:** Criminal investigations are initiated against persons or entities suspected of committing offences against border-related legislation, in alignment with CBSA priorities
- **Intermediate:** Criminal investigations result in referrals for prosecution that are supported by lawfully obtained evidence that meets the highest evidentiary standard in Canadian courts
- **Ultimate:** Individuals and entities who willfully contravene border legislation and threaten the safety, security and prosperity of Canadians and Canada are held criminally accountable

The Program also contributes to upholding Canada's border legislation through deterrence, when criminal proceedings (from charge to sentencing) are publicized.<sup>7</sup> However, this unintended impact was not included in the Program's logic model, and thus, not measured by the evaluation.

## Program expenditures

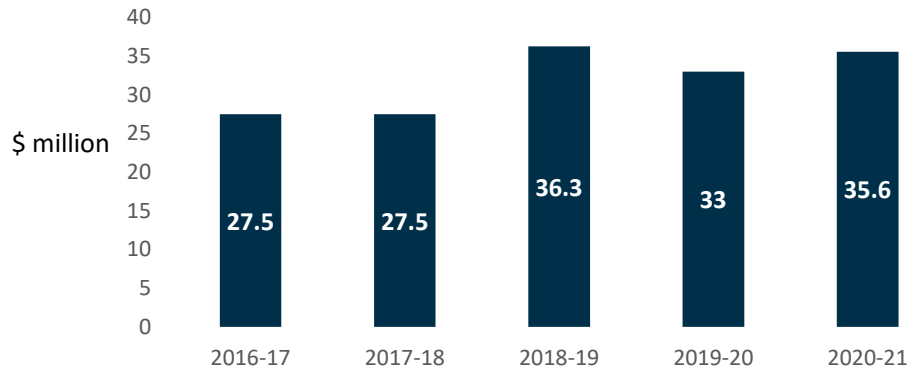
Program expenditures have fluctuated over the years, as illustrated in Figure 2. Overall, annual expenditures increased from \$27.5 million in 2016-17 to \$35.6 million in 2020 to 2021. Over the 5 years from 2016 to 2017 through 2020 to 2021, the Program spent a total of about \$159.9 million, including on salary, operations and maintenance, and capital expenditures at HQ and in the regions.

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<sup>6</sup> These provisions include (but are not limited to) the ability to swear an Information to Obtain, a search warrant, or a production order; the ability to arrest with and without warrant, seize without warrant, and compel an accused to court.

<sup>7</sup> It is a constitutionally protected principle of fundamental justice in Canada that criminal proceedings, from charge to sentencing, are matter of public record. Criminal enforcement outcomes are public and often receive significant media attention, possibly leading to a deterrence effect.

Figure 2: Total annual Program expenditures (All regions and HQ)



Source: CAS

## Evaluation methodology

The evaluation questions that follow were selected based on document review, analysis of preliminary program and financial data, consultations with Program staff, and in consideration with topics assessed in past or ongoing evaluations, audits or reviews. The questions also align with the TBS *Policy on Results'* core evaluation issues.

### Evaluation core issues and questions

#### Issue: Relevance (need/alignment)

Evaluation question 1: To what extent are the Program's risks and threat priorities aligned with the emerging priorities of the federal government and OGDs?

Evaluation question 2: To what extent are criminal investigations aligned with the CBSA priorities?

#### Issue: Effectiveness – implementation of the 2015 Evaluation Recommendations

Evaluation question 3: Has the implementation of recommendations from the 2015 evaluation improved program performance? If so, how? If not, what impacts has it had on the program? The recommendations were:<sup>8</sup>

- a. Develop a performance measurement framework that links key indicators (for each case) across each stage of the process
- b. Implement regular monitoring of program performance
- c. Identify and mitigate barriers to, and monitor progress in, obtaining evidence from OGDs using the investigative body designation
- d. Develop options to support the evolving requirements for delivery of the Digital Forensic Investigations service

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<sup>8</sup> [Evaluation of the Criminal Investigations Program 2015](#)

### **Issue : Effectiveness – Achievement of expected outcomes**

Evaluation question 4: To what extent has the program achieved its expected outcomes (assessment of progress against the program’s **immediate** and **intermediate** outcomes)?

Evaluation question 5: Has the program considered GBA Plus concerns when defining priorities and initiating investigations?

Evaluation question 6: What aspects of the program’s design and delivery have enabled and/or hindered the program from achieving its expected results?

- a. What are the main challenges experienced by the program?
- b. Does the program have a sufficiently diverse skill set and the right number of employees within its workforce to enable effective program delivery? If not, why not and what are the impacts on the program’s ability to achieve results?
- c. Has the FMM improved the operation and governance of the program? What challenges remain with fully operationalizing the FMM in the program?

### **Issue: Efficiency and economy: Resource utilization and process efficiencies**

Evaluation question 7: What resources (money and people) were utilized by the program and how were they used to achieve results?

Evaluation question 8: To what extent were the processes used by the program efficient?

## **Methods**

The evaluation team used qualitative and quantitative research methods to collect data and information from primary and secondary sources. The following methods were used:

1. Key stakeholder interviews
2. A survey of Criminal investigators and DFIs
3. Document review
4. Administrative data review
5. GBA Plus
6. Financial and Human Resources (HR) data review

Details of the [data collection methods used are included in Annex D](#). The evidence collected from all sources was analyzed and triangulated.

The common themes that emerged from multiple lines of evidence contributed to the development of preliminary evaluation findings. These findings, alongside the evidence that informed them, were presented to a working-level group representing the offices of primary and secondary interest, and the Director General-level Consultative Committee for review and input. The feedback from these consultations was incorporated, where relevant, into the final evaluation report and recommendations.



## Methodological limitations

There were some limitations in the availability of data which impacted certain aspects of the evaluation. These [limitations are described in Annex D](#).

The evaluation team employed appropriate mitigation strategies, where possible, to minimize the impact of these limitations, such as by using multiple lines of evidence to cross-validate data.

## Evaluation findings: Relevance

### Alignment of program priorities with those of the Government of Canada, the CBSA, and other government departments

**Finding 1:** The program’s mandate is generally aligned with the priorities of the Government of Canada, the CBSA and OGDs. Emerging investigation areas, such as trade-based money laundering, will require continued coordination and collaboration with partners.

The Program supports the Government of Canada’s priority to “protect the health and security of Canada through the safe and responsible management of ports of entry into Canada”.<sup>9</sup> More specifically, since 2021, the Program has aimed to focus investigation resources on cases that align with the CBSA enforcement priorities, which are based on the Minister of Public Safety mandate letter, the CBSA mandate, TBS commitments, and intelligence developed on border threats. These priorities apply to all CBSA regions and branches, and the Program adopted them in 2021 to guide case selection.

Prior to that, from 2017 to 2020, the Program selected cases based on the *CBSA Integrated Enforcement and Intelligence Priorities*, a tier-based set of priorities which were also aligned with Government of Canada priorities, TBS commitments, and federal intelligence priorities, including emerging areas of threat.<sup>10</sup>

When selecting cases to investigate, the Program also considers the legislative authorities of other government departments, in particular the RCMP, with whom the CBSA has a shared responsibility for border-related enforcement. The CBSA is responsible for investigating most border-related offences, but the RCMP is responsible for investigating crimes committed between ports of entry, as well as those involving national security, major organized crime, customs violations, human trafficking, and drug-

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<sup>9</sup> [Minister of Public Safety Mandate Letter, December 16, 2021](#).

<sup>10</sup> CBSA, *Integrated Enforcement and Intelligence Priorities, 2017 to 2018 through 2019 to 2020* (Available on Government of Canada network only).

smuggling offences under the *Controlled Drugs and Substances Act*.<sup>11</sup> The *Investigations and Referrals Annex*<sup>12</sup> of the *Memorandum of Understanding (MoU) between the CBSA and the RCMP* outlines the division of responsibilities between the two organizations regarding criminal investigations.

Despite the overlapping jurisdictions in investigating border-related offences, evidence from interviews indicate that the CBSA and the RCMP are able to use existing mechanisms to collaborate on criminal investigations and de-conflict when it is unclear under whose area of responsibility the offence falls. For example, evidence from interviews indicated that “trade-based money laundering” (TBML) is an emerging priority at the CBSA that often requires collaboration with the RCMP. The CBSA is responsible for the trade fraud aspect of TBML, such as the intentional misrepresentation of goods on commercial customs declarations. Meanwhile, the RCMP is responsible for investigating the money laundering that occurs through trade fraud techniques that enable TBML to happen.<sup>13</sup> As it is an emerging enforcement priority at the CBSA, the Program has limited training and expertise to guide staff on conducting this type of criminal investigation. While the division of responsibilities regarding TBML is outlined in the MoU between the CBSA and the RCMP,<sup>14</sup> interviewees indicate the need to clarify the roles and responsibilities between the two organizations when investigating TBML cases.

Trade-based money laundering: this is an enforcement priority under the responsibility of the CBSA and the RCMP, requiring continued collaboration between the two organizations to fill CBSA’s knowledge gaps and de-conflict between agencies when needed.

Overall, evidence suggested that the continued collaboration with the RCMP can support the Program in achieving expected results in this and other emerging fields of investigation, and de-conflict when necessary.

## Evaluation findings: Performance and achievement of results

### Alignment of cases selected for investigation with CBSA enforcement priorities

According to the immediate outcome in the Program logic model, criminal investigations are expected to be initiated against persons or entities suspected of committing offences against border-related legislation, in alignment with CBSA priorities.

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<sup>11</sup> CBSA, Criminal Investigations Division (January 2020). *Criminal Investigations Doctrine*, Section 8. Division of Responsibilities between the CBSA and the RCMP, p. 11 (Available on Government of Canada network only).

<sup>12</sup> *Memorandum of Understanding between the Canada Border Services Agency (CBSA) and the Royal Canadian Mounted Police (RCMP) – Investigations and Referrals Annex*. 18 March 2019. [redacted]

<sup>13</sup> CBSA, IEB, Trade Fraud & Trade-Based Money Laundering Centre of Expertise (Available on Government of Canada network only).

<sup>14</sup> *Memorandum of Understanding between the Canada Border Services Agency (CBSA) and the Royal Canadian Mounted Police (RCMP) – Investigations and Referrals Annex*, Appendix A-10, p.46-49 18 March 2019. [redacted]

Since the number of leads received every year is high (over 2000) and the number of investigators is limited (an average of 207 per year), the Program provides guidance to managers to select cases that represent the most efficient use of investigative resources in alignment with:

- the *CBSA Prosecution Policy* (such as by selecting cases that are in the public interest to investigate)
- the CBSA enforcement priorities<sup>15</sup>

Per the criminal investigations doctrine, managers are also required to focus the “vast majority of their activities” on major and complex cases (that is, category 1 and 2 investigations)<sup>16</sup> which deal with multiple fraud/crime schemes, multiple entities, or that go beyond a single incident), rather than port prosecution cases, which are single or isolated incidents or cases that arise at a port of entry. Regions are provided a certain degree of flexibility to select cases based on regional considerations, as well as other considerations such as the gravity of the offence, level of risk to individuals or to national security, likelihood of conviction, and availability of evidence.

**Table 1:** Number of leads received annually and number of investigators, by region (average from 2016 to 20-17 to 2020 to 20-21)rage from 2016 to 2017 through 2020 to 2021)

Region	Leads received per year (highest to lowest)	Number of investigators <sup>1</sup>
Prairie	526	24
Greater Toronto Area	428	48
Pacific	353	39
Southern Ontario	283	23
Quebec	267	46
Atlantic	159	14
Northern Ontario	146	12
<b>Total</b>	<b>2,162</b>	<b>207</b>

Source: Leads data from the Criminal Investigations Information Management System (CIIMS) provided by the Program.

Number of investigators is from the Corporate Administrative System (CAS) minus the count of DFIs provided by the program.

\*Table note 1: In this report, “investigators” refers to investigators who are responsible for investigating cases, also referred to by the Program as “file investigators”. In the Corporate Administrative System (CAS), the job title “Investigator” includes both file investigators and digital forensic investigators (DFIs)

Table 1 shows the number of leads received each year by the Program by region. Given the high number of leads received relative to the number of investigators available to conduct investigations, the

<sup>15</sup> Criminal Investigations Manual: Chapter 3 Case File Management and Finalization, p. 8(Available on Government of Canada network only).

<sup>16</sup> Criminal Investigations Doctrine, p. 8. (Available on Government of Canada network only).

Program is only able to open a limited number of cases at a given time. This emphasizes the need to ensure case selection is based on established Program guidelines.

**Finding 2:** During the period examined, cases selected for investigation were not always aligned to the *CBSA enforcement priorities*. Regions applied Program guidance to case selection differently due to their differing operational, prosecutorial, judicial and jurisprudential realities, resulting in varying levels of alignment across regions for different types and categories of investigations.

An analysis of cases selected for investigation over the last 5 years showed that certain types and categories of cases selected for investigation were more aligned to CBSA enforcement priorities than others. For instance, cases related to *IRPA* contraventions were better aligned to priorities, in comparison to cases related to the *Customs Act* contraventions (see **Error! Reference source not found.**). Major and complex cases were also better aligned to priorities in comparison to port prosecution cases.

Examples of a Customs Act contravention: Firearms smuggling (often charged as Non-report/smuggling); Trade fraud (often charged as Misrepresentation)

Examples of an IRPA contravention: Immigration consultant fraud (often charged as Counselling Misrepresentation); Human Smuggling (often charged as Organizing Entry into Canada)

Examples of a non-priority contravention: [redacted]

Alignment also varied widely by region. Table 2 shows that the proportion of cases linked to priorities was as low as 15% in the Greater Toronto Area Region for port prosecutions related to the *Customs Act* and Table 3 shows a proportion as high as 100% for major and complex cases related to *IRPA* in the Quebec region.

**Table 2:** Proportion of Customs Act offenses cases aligned to CBSA enforcement priorities, by region (average from 2016 to 2017 through 2020 to 2021)

Region	Customs Act offences	
	Major and complex (%)	Port prosecutions (%)
Atlantic	58	37
<b>Greater Toronto Area</b>	50	15
<b>Northern Ontario</b>	48	33
Pacific	82	53
Prairie	58	51
Québec	47	39
<b>Southern Ontario</b>	72	40

Source: CIIMS data provided by the Program

**Table 3:** Proportion of IRPA offenses cases aligned to CBSA enforcement priorities, by region (average from 2016 to 2017 through 2020 to 2021)

Region	IRPA offences	
	Major and complex (%)	Port prosecutions (%)
Atlantic	94	62
Greater Toronto Area	90	49
Northern Ontario	88	44
Pacific	99	53
Prairie	89	67
Québec	100	81
Southern Ontario	87	40

Source: CIIMS data provided by the Program

In interviews, regional managers stated that they did not consider the misalignment of cases selected for investigation with the CBSA enforcement priorities to be a concern, as they appreciated the flexibility afforded to them to select cases based on their unique operational realities. Regional managers indicated that the port prosecution cases they select, while not aligned with enforcement priorities, are still in the public interest to prosecute. They also noted these cases provide opportunities for new investigators to gain experience on more straightforward files.

However, all regional managers interviewed also stated that they do not have sufficient investigators to handle the volume of work. As such, improved alignment of case selection to priorities is important for overall Program success, as it would help narrow down the number of cases to investigate, assist in managing workload, and most importantly, ensure that available resources are assigned to cases that pose the greatest threat to the safety, security, and prosperity of Canada.

### Acceptance and success rates of referrals for prosecution

As per the expected outcomes in the Program logic model, criminal investigations should “result in referrals for prosecution that are supported by lawfully obtained evidence that meets the highest evidentiary standard in Canadian courts.” To measure the achievement of this intermediate outcome, the Program uses the following two performance measures:

- Acceptance rate of referrals for prosecution by the Public Prosecution Services Canada (PPSC)
- The percentage of prosecutions concluded that result in a conviction (also referred to as the “success rate” of prosecutions)

**Finding 3:** The acceptance rate of cases referred to PPSC for prosecution is very high. When charges are laid, there is also a high success rate (rate of conviction) across all case categories, but especially with

major cases. A key factor to the high acceptance rate is that cases are not referred by the CBSA to the PPSC unless they have been assessed as having a high likelihood of successful prosecution.

Data analysis showed that the overall acceptance rate of cases referred to the PPSC for prosecution was above 94% in all regions over the period of 2016 to 2017 through 2020 to 2021 (see Table 4). Regional manager and PPSC interviewees explained that cases are not referred by the CBSA to the PPSC unless there is a high likelihood of successful prosecution, which explains the high acceptance rate. This high acceptance rate is seen as an indication of quality by the Program, demonstrating that criminal investigators ultimately collect the evidence necessary to lay charges and seek prosecution.

**Table 4:** PPSC acceptance rate of investigation files from 2016 to 2017 through 2020 to 2021

Region	Referrals	Referrals accepted	Acceptance rate (highest to lowest)
Southern Ontario	166	165	99.6%
Northern Ontario	117	116	99.1%
Prairie	133	131	98.5%
Greater Toronto Area*	59	56	95.2%
Quebec	147	140	95.2%
Atlantic	85	81	95.1%
Pacific	233	218	93.7%
<b>All regions</b>	<b>940</b>	<b>908</b>	<b>96.6%</b>

Source: Provided by the Program. Manually reported by regions to Program HQ.

When charges are laid and prosecution is sought, there is also a high success rate (rate of conviction) across all case categories. Table 5 shows that, nationally, 94% of cases resulted in a conviction, when charges were laid and the evidence was presented in court by prosecutors. The analysis of this data set also showed that the success rate of cases is above 90% for all categories, with the exception of Category 4, port prosecutions. Notably, major cases (Category 1) were always successfully prosecuted.

While prosecution in court is ultimately the responsibility of the PPSC, the high success rate with these cases indicates that the CBSA criminal investigators have positively contributed by collecting sufficient evidence to lay charges and obtain a conviction, ultimately holding these individuals and entities criminally accountable for contraventions to border legislation.

**Table 5:** Cases successfully prosecuted (conviction obtained) as a percentage of all finished cases when charges were laid, 5-year total from 2016 to 2017 through 2020 to 2021

Region	All cases total (%) <sup>1</sup>	Major and complex cases		Port prosecution cases		All cases by type	
		Category 1 (%)	Category 2 (%)	Category 3 (%)	Category 4 (%)	Customs (%)	IRPA (%)
Atlantic	97	100	97	100	94	96	98
Greater Toronto Area	94	100	99	94	86	92	96

Northern Ontario	90	100	96	96	86	88	95
Pacific	94	100	99	97	89	90	98
Prairie	95	100	100	100	82	89	99
Québec	97	100	97	98	95	93	99
Southern Ontario	93	100	100	100	87	93	96
<b>Total</b>	<b>94</b>	100	99	98	89	92	98

Source: CIIMS data provided by the Program

Table note1: CIIMS data for cases marked **successful** is considered to be unreliable by the Program, while cases marked **not successful** is slightly more accurate. For this reason, the evaluation used cases marked **not successful** to calculate the success rate. The numbers presented in this table are the inverse of the cases marked not successful to comment on the success rate ([see Appendix D for an explanation of the current data limitations associated with this approach](#)). Finished cases includes both cases concluded and cases marked not successful.

Overall, the above evidence speaks to the success of the Program in achieving its intermediate outcome for cases that were investigated and resulted in charges being laid.

The following section will examine the cases that were selected for investigation but were subsequently dropped before charges could be laid, which could provide insights on the quality of investigations conducted or the types of cases selected for investigation.

## Quality of investigations

**Finding 4:** Current performance indicators used by the Program do not sufficiently capture the quality of investigations conducted, and do not account for the investigations that were closed and not referred to PPSC, nor the amount of PPSC assistance required to bring some cases up to the evidentiary standard required for prosecution.

To measure the quality of investigations (i.e. if evidence collected meets the highest evidentiary standards), the Program currently uses two key performance indicators: 1) percentage of referrals to PPSC accepted; and 2) percentage of prosecutions that result in conviction.

Some PPSC interviewees suggested that these performance indicators do not sufficiently measure the quality of investigations conducted. They explained that the high rate of referrals accepted by PPSC does not capture the amount of support that is provided by PPSC prosecutors to CBSA investigators in certain cases to ensure that the evidence collected meets the evidentiary standard required in Canadian courts. In addition, there are no indicators in place to capture the outcome of cases that were not referred by the CBSA to the PPSC to lay charges. Performance information on these cases could provide valuable insights into the quality of investigations, particularly if the data identifies the reasons why these cases were not referred to PPSC. This could also inform future decisions on leads selected for investigation.

“You can’t use the number of referrals being accepted by PPSC as a measure of quality. There may be a lot of referrals but there was a lot of work done [to support laying charges].” - PPSC interviewee

The evaluation, therefore, included some additional indicators into the analysis and found some limited evidence in case data pulled from the Criminal Investigations Information Management System (CIIMS)<sup>17</sup> and through stakeholder feedback to suggest that the quality of investigations could be improved.

First, the analysis of cases in CIIMS indicated that, nationally from 2016 to 2017 through 2020 to 2021, approximately 50% of investigations were closed without the case being referred to the PPSC to consider pursuing a prosecution (see Table 6). A case closed without charges laid or a prosecution being pursued may not automatically indicate that challenges exist with the collection of evidence or with case selection; it is a standard practice that a preliminary investigation first needs to be completed in order to determine if a full investigation is warranted. However, the number of cases closed without charges laid or a prosecution being pursued confirms that resources were spent investigating cases that did not lead to a criminal enforcement result (referral for prosecution and conviction). Additional data would be needed to draw definitive conclusions from this analysis. In particular, the reasons for closing a case without making a referral to PPSC would be important to know in order to identify potential challenges with case selection or evidence collection.

Secondly, key stakeholder feedback on the quality of investigations was also sought by the evaluation. PPSC interviewees indicated that the quality of evidence collected could be improved. Sometimes significant support is provided by prosecutors to CBSA criminal investigators to improve the quality of evidence collected, sometimes beyond what is expected from prosecutors. For example, prosecutors provided support to assess the feasibility of continuing to pursue an investigation based on the available evidence, identify what evidence is required for specific charges, determine which charges are appropriate for each case, identify the best point in an investigation for conducting a search warrant, scope the required amount of evidence for an investigation, utilize the correct translation tools to avoid compromising the evidence, and apply the correct interviewing techniques. PPSC interviewees suggested that without support in some of these areas, some cases might not have been successfully prosecuted.

**Table 6:** Cases closed without referral to PPSC as a percentage of all finished cases, from 2016 to 2017 through 2020 to 2021

Region	Percentage (%) of cases closed before charges laid
Atlantic	61
Greater Toronto Area	66
Northern Ontario	34

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<sup>17</sup> The CIIMS is the primary record keeping and tracking tool used by the Program. (Source: Criminal Investigations Manual Chapter 3: Case File Management and Finalization. p. 12 (Available on Government of Canada network only).)



Pacific	40
Prairie	54
Quebec	49
Southern Ontario	49
<b>Total</b>	<b>50</b>

Source: CIIMS data provided by the Program

Note: Finished cases include both cases concluded and cases marked unsuccessful.

Improvements to the data in CIIMS or the addition of key performance indicators could assist the Program in measuring investigation quality. [Appendix D provides an explanation of the current data limitations](#) in CIIMS and makes some recommendations on how this data can be analyzed and used by the Program to measure the quality of investigations conducted.

## Challenges to achievement of results

### Training completion

One of the challenges identified by stakeholders through interviews and the survey was training completion. These perceptions were confirmed by an analysis of the completion rate of courses in the National Training Standard (NTS) (which lists all mandatory, core and function-specific training for criminal and digital forensic investigators).<sup>18</sup> Having the right knowledge and competencies is critical for investigators to understand how to plan investigations and lawfully obtain evidence that meets the highest evidentiary standard in court.

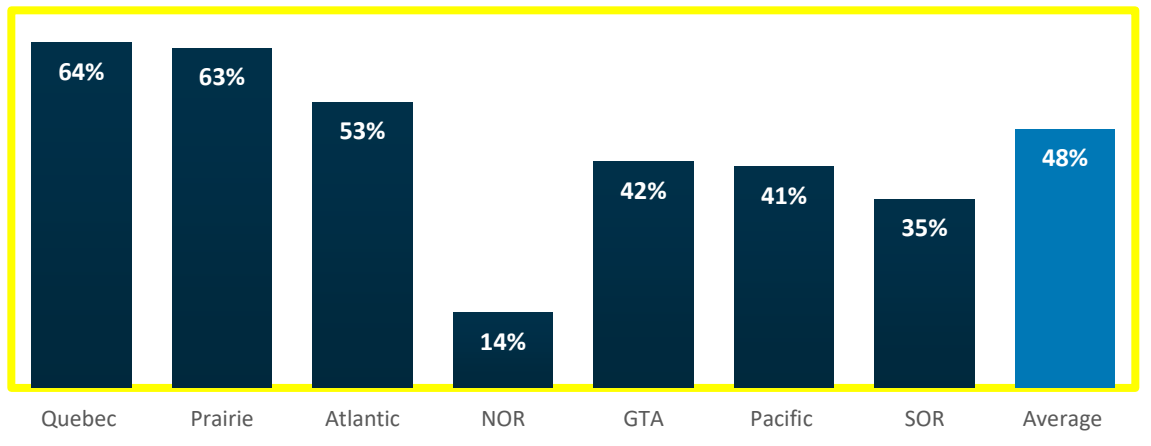
**Finding 5:** Low completion rates of core training for criminal investigators and digital forensic investigators could be negatively impacting the quality of investigations.

The analysis of training completion data indicated that no Investigator working in the Program as of 31 March 2021 had completed the full set of Investigator courses as outlined in the NTS, and only 48% of all investigators have completed the CBSA's introductory in-class course, Foundations of Criminal Investigations (S4013-N). The completion rate for this course was as low as 14% for one region. Figure 3 illustrates the breakdown of training completion for this foundational course by region, as well as the overall national average.

Figure 3: Completion rate of the introductory *Foundations of Criminal Investigations* course (S4013-N) for those occupying an investigator position as of 31 March 2021, by region

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<sup>18</sup> National Training Standard for the criminal investigator (FB-05) (Available in Government of Canada network only).



Source: Provided by HRB

“I’ve been [an Investigator] for three years and I just started getting my basic training. It impacts our job.” - Regional interviewee

Although there were some data quality limitations, findings from the data were supported by interviewees and survey respondents who indicated that completing training, both in-class and online, has been a major challenge for most regions. While the low training completion rate could partially be explained by the inability to offer in-class courses during the COVID-19 pandemic, due to health and safety-related physical distancing requirements, training completion rates were also low for investigators who have held an investigative position for over five years. This data, supported by interview and survey responses, indicates this was also an issue prior to the pandemic.

A review of the schedule for the Foundations of Criminal Investigations course showed that since 2016, the course was offered an average of twice per year, but participation at sessions was low and declined over time.

Some regions (Greater Toronto Area and Pacific) have been contracting courses outside the CBSA to close the training gap. For example, Pacific Region has been sending criminal investigators to complete an interviewing course with the Vancouver Police Department. Completion rates for this external training are not captured in CBSA’s data systems, and are not reflected in the NTS.

Stakeholders could not agree on the reasons for low training completion rates. Interviewees from the Human Resources Branch (HRB), responsible for training delivery, explained that the lack of available trainers impacted their ability to offer training sessions, as did COVID-19 pandemic-related protocols that prevented the delivery of in-class courses, leading to an increased backlog of investigators who need training.

As well, from HRB’s perspective, managers were reluctant to release investigators from their duties in order to complete training, which meant that there were not enough participants available to run course sessions. In contrast, regional managers interviewed explained that training sessions have not

been made available. This lack of agreement on the root cause of low training completion rates could indicate a need to improve the planning and communication between the HRB and the Program on course offerings.

Program stakeholders also suggested that additional training delivery coordination may be required. They explained that since the implementation of the FMM, the Program HQ has had limited involvement in the planning and delivery of training, potentially due to HRB coordinating directly with the regions.

Evidence from document review and interviews with stakeholders suggests that the lack of sufficient training delivered to Program staff impacts the quality of investigations in terms of the planning of complex cases, the preparation of evidence for disclosure, drafting Information to Obtain (ITOs)<sup>19</sup>, and the quality of interviewing. For instance, lack of training may be preventing investigators from knowing when to best engage with PPSC prosecutors for advice and guidance on complex cases. PPSC stakeholders stated that not all investigators reach out to them for guidance early in the scoping and planning phases of the process, when it is most critical for complex investigations. Stakeholders indicated that on some occasions, complex cases were closed without being referred to PPSC for prosecution due to inadequate case planning by criminal investigators.<sup>20</sup> Early engagement with PPSC could help in this regard, but not all investigators know they can engage prosecutors in the planning phase.

In addition, PPSC stated that they have limited time and resources to provide the level of support that is sometimes required by untrained investigators, so they also stressed the need for adequate investigator training.

Insufficient training may also be impacting the preparation of evidence for disclosure. Evidence from interviews and the document review indicated that investigators may be collecting a volume of evidence beyond what is required for charges to be pursued. In other instances, PPSC observed evidence gaps in disclosure due to the inadmissibility of statements collected, which could also be due to lack of training in this area. PPSC interviewees added that, in the past, they have also provided tools and guidance to CBSA criminal investigators to help them prepare for disclosure – something criminal investigators should already be trained to do. They suggested that in some instances, PPSC assistance improved the products received when the case was referred for prosecution; however, due to limited resources, PPSC is not always available to provide this level of support.

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<sup>19</sup> An ITO is a document submitted to a judge to obtain a search warrant, general warrant, production order, or a preservation order. Criminal Investigations Manual Chapter 5: Full Investigations. p. 19 (Available on Government of Canada network only).

<sup>20</sup> The Criminal Investigations Manual, Chapter 3 suggests that effective case planning is imperative for each criminal investigation. This includes deciding in advance what evidence to collect, in what order, and when, then setting down a course of action to attain investigation objectives. Criminal Investigations Manual Chapter 3: Case File Management and Finalization. p. 5 (Available on Government of Canada network only).

“The impact of no training is significant because you’re not supposed to enforce legislation without training.” - Regional interviewee

Another area that was identified by interviewees as requiring further training was drafting ITOs. Such training could improve the timeliness and the quality of the ITOs drafted to seek authorization for search warrants. In a symposium between the CBSA and PPSC that took place in February 2022, stakeholders suggested that engaging the Crown early on in the process and using correct and specific terminology on ITOs was needed.<sup>21</sup> In that symposium, PPSC stakeholders also suggested that the Program could benefit from ensuring investigators have access to adequate training on interviewing techniques for different circumstances, such as interviewing witnesses, suspects, and victims. PPSC interviewees in multiple regions mentioned the quality of evidence collected via interviews conducted by CBSA Criminal investigators was limited in some cases due to the use of leading questions, not building rapport with vulnerable individuals, or use of inappropriate translation resources.

The Program could benefit from continuing to review and update the content and availability of current training delivered to criminal investigators, in particular for training related to the management of complex investigations and investigation techniques. Revising the training delivered to address key issues, and ensuring that the courses are available and completed by investigators, could improve Program outcomes and the engagement with partners such as the PPSC.

While outside the scope of this evaluation, it is relevant to note that as of fiscal year 2022 to 2023, HRB has launched the Force Generation Modernization 3-year strategy, which aims “to ensure a flexible, agile and mobile frontline workforce capable of delivering the CBSA’s mandate.”<sup>22</sup> The strategy includes pillars related to workforce planning and training, and will include action items such as “strategic recruitment for the future” and a “strategic learning evaluation.” The action items related to training are still under development, but could support the improvement of training completion for criminal and digital forensic investigators.

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<sup>21</sup> CBSA- PPSC Joint Symposium, Record of Meeting. February 2022 (Available on Government of Canada network only).

<sup>22</sup> Force Generation Modernization 3-year Strategy: presentation for ECHR. June 2022 (Available on Government of Canada network only).

**Recent course additions and updates to the NTS** could help reduce the existing training gap, but ensuring training is completed by investigators is also needed to ensure they benefit from these changes.

New and planned additions to the NTS:

- The newly designed “Search, Seizure and Warrant Drafting” course, which was launched in October 2022, and replaces the Canadian Police College course, “Drafting Information to Obtain”
- A planned course on major case management, which in August 2022 was still in the design phase
- A planned course on trade-based money laundering, which the Program intends to prioritize
- A planned update to the online portion of the *Foundations of Criminal Investigations* course, due to take place in fiscal years 2022 to 2023 and 2023 to 2024

### Major Case Management system

Currently, the CIIMS is used as the primary tool to record and track information about cases throughout their life-cycle, from initial receipt of a lead to case conclusion/closure. Amongst the existing functionality, CIIMS allows investigators to record information about the suspect, the rationale at important case decision points, upload PDF documents and photographs, link cases together to create projects, etc.; however, it does not currently allow for evidence tracking, disclosure management, major case management, and linking to other databases.<sup>23</sup>

**Finding 6:** CBSA and PPSC stakeholders agreed that the inadequacy of the current information management system has had direct impacts on the quality of investigations and on the efficient use of resources.

All the regional and Program HQ managers interviewed, as well as many survey respondents and PPSC interviewees, described the absence of a Major Case Management (MCM) system as a challenge facing the Program. CBSA and PPSC stakeholders agreed that the inadequacy of the current information management system directly impacts the quality and efficiency of investigations. Interviewees explained that this issue has been raised for many years as a priority. The CBSA’s 2010 Evaluation of the Criminal Investigations Program also recommended the enhancement or replacement of the Program’s information management system (CIIMS) to better support the collection and reporting of Program performance information.

“We need a major case management system. As a program we’ve been screaming about it for years. It’s been a topic of discussion for 7-8 years.” - Regional interviewee

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<sup>23</sup> Criminal Investigations Manual Chapter 3: Case File Management and Finalization. p. 12 (Available on Government of Canada network only).

The MCM software and principles were noted as tools that would reduce the time spent preparing evidence for disclosure, improve the quality of investigations, and improve the relationship with PPSC.

“The difficult thing is everything has to be done manually. It took me three months to build disclosure.” - Regional interviewee

Complex cases, which are a priority for the Program, typically involve collecting a significant amount of evidence which must be prepared by investigators for disclosure. CBSA interviewees described spending a significant amount of time preparing evidence for disclosure manually, without the use of an evidence management system. PPSC emphasized the need and importance of having a MCM system that contains the entire investigative file, particularly since Complex cases are a priority for the Program. The MCM software would provide investigators consistency throughout the life-cycle of the investigation and in the preparation of evidence for disclosure.<sup>24</sup>

Interviewees stated that the CIIMS does not provide the regions with the tools they need to implement the principles of MCM, nor to efficiently prepare their material to meet rigorous disclosure requirements. According to interviewees, the system is also inadequate for HQ and the regions to use for program oversight, as extracting data from the current system also requires significant data normalization and manual calculations, and it is “nearly impossible” to run a report with useable data.<sup>25</sup> An MCM system would also benefit the triage units within the Regional Enforcement and Intelligence Operations Divisions<sup>26</sup> by allowing them to better meet performance reporting requirements, track the complete life-cycle of a referral, and enhance management oversight. Currently, triage units use Microsoft Access and Excel to track referrals, depending on the Region.<sup>27</sup>

The use of MCM software and principles is encouraged as best practice in the general field of investigations. For example, the 1996 *Campbell Report* and the 2012 *Forsaken – the Report of the Missing Women Commission of Inquiry* both recommended provincial police agencies use MCM principles and software in conducting investigations. Ontario considers MCM software to be “critical” as it “provides investigators with the necessary tools to organize, manage, retrieve and analyze the potentially large volumes of investigative data collected during major case investigations.”<sup>28</sup>

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<sup>24</sup> CBSA- PPSC Joint Symposium, Record of Meeting. February 2022 (Available on Government of Canada network only).

<sup>25</sup> Criminal Investigation Annual Report (2016-17 to 2019-20). 31 March 2020 (Available on Government of Canada network only).

<sup>26</sup> Regional Triage Units receive and review information relevant to both Intelligence and Enforcement, triage this information, and refer to the relevant business line (including the Criminal Investigations Program, which then becomes a lead) or to external stakeholders.

<sup>27</sup> Regional Triage Units Analysis. Criminal Investigation Program Unit. July 2019 (Available on Government of Canada network only).

<sup>28</sup> [The Ontario Major Case Management System \(Details\). Public Safety Canada](#)

CBSA interviewees suggested the agency's adopting MCM software would improve the ability for investigators to work with other police agencies in joint operations. MCM software would also allow investigators to make links between pieces of evidence, which could improve the efficiency and outcomes of investigations,<sup>29</sup> especially for Major and Complex cases. Some regions have stated that they have felt reluctant to undertake Major and Complex cases because they do not feel they have the right tools to be successful. The adoption of MCM software could encourage investigators to select more Major and Complex cases, in line with the Program's guidance.

Although discussion around the provision of this software is gaining momentum within the agency, concerns around timely delivery were raised by interviewees. The IEB's 2022 to 2025 Integrated Business Plan<sup>30</sup> includes a priority for acquiring and implementing a new MCM system by fiscal year 2023 to 2024; however, Program stakeholders stated they believe it may take longer, particularly since no funding has been secured and no decision has been made on designing a new system or purchasing an available, commercial ("off-the-shelf") option. Program staff expressed a strong preference for a commercial solution already in use by other Canadian law enforcement/investigative agencies, which could be delivered much sooner and has already been tried, tested, and proven to meet the needs for managing investigation cases. At the time the evaluation was completed, the Information, Science and Technology Branch (ISTB), responsible for system delivery, had consulted the Program and completed a needs assessment; however, the options analysis phase had not been completed and no solution had been proposed.

#### Understanding of, and engagement with, the Public Prosecution Services Canada

To ensure a fair and impartial criminal justice system, in Canada, criminal investigators, prosecutors, and judges are required to make their decisions independently of each other and all outside influence. As such, the principle of **Independence for Crown Counsel** (the principle) exists to allow PPSC prosecutors to **independently** determine the strength of a particular case and the public interest in seeking prosecution. The PPSC prosecutors retain a degree of **discretion in making decisions about individual cases**, but are able to **consult** investigators. The principle means that prosecutors do not take instructions as to how to exercise discretion in prosecution matters.<sup>31</sup>

**Finding 7:** Additional program guidance could improve the investigators' understanding of PPSC's roles and responsibilities within the investigation process and the potential benefits of early engagement with prosecutors.

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<sup>29</sup> [The Ontario Major Case Management System \(Details\). Public Safety Canada](#)

<sup>30</sup> Integrated Business Plan 2022 to 2025, p. 24-25 (Available on Government of Canada network only).

<sup>31</sup> [Public Prosecution Service of Canada Deskbook: 2.1 Independence and Accountability in Decision Making. March 2014.](#)

There appears to be a lack of understanding on the part of some CBSA Program stakeholders of the principle that defines the PPSC's role and potential involvement in the criminal investigations process. For example, in interviews and through the survey, regional Program managers, investigators and DFIs expressed a desire for more consistency between PPSC prosecutors and between PPSC regions on referral procedures and the preparation of disclosure processes. However, these views contradict the independence and discretion afforded to prosecutors (through the principle) with respect to their decision-making on individual cases.

In addition, one of the regions indicated that the Memorandum of Understanding signed with PPSC gives too much authority to PPSC over the CBSA investigation; however, this also appears to contradict the principle, which allows PPSC prosecutors to independently determine the strength of a particular case and the public interest in seeking prosecution. Ultimately, it will be the PPSC who will accept the case for prosecution (or not), and thus, it is in the best interest of the CBSA investigators to seek advice on whether to continue to pursue a case for investigation, or on the type of evidence to be collected.

Understanding PPSC roles and responsibilities within the investigative process could allow investigators to better identify how and when PPSC expertise could be leveraged to improve the quality of CBSA investigations and ultimately lead to a conviction (an intended goal of the Program).

The evaluation found that some CBSA regions have more positive working relationships with PPSC and thus are able to better leverage their expertise. Regional managers and PPSC prosecutors in these regions identified the following **best practices**:

- Early engagement of PPSC in the investigation of cases, particularly for major and complex investigations, to help focus the investigation scope and the type of evidence that is needed
- Continuous communication with PPSC throughout the course of the investigation

The ability to implement these best practices is dependent on the availability of PPSC staff. At a symposium between the CBSA and PPSC that took place in February 2022, PPSC acknowledged there is also room for improvement on their part, including to ensure more timely responses to CBSA's requests for advice, while recognizing that standards for timeliness may vary depending on the complexity of a case or question.<sup>32</sup>

## Operationalizing the Functional Management Model: Program HQ oversight

As part of Functional Management Mode (FMM) implementation, the CBSA reorganized its structure and created new national-level functional Branches to improve accountability, program consistency, and

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<sup>32</sup> CBSA- PPSC Joint Symposium, Record of Meeting. February 2022 (Available on Government of Canada network only).



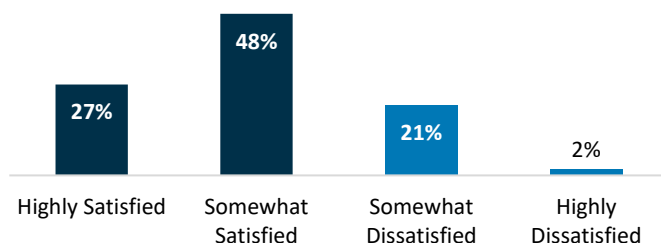
alignment of program expenditures to results. The IEB became the functional authority for the Criminal Investigations Program in April 2019.<sup>33</sup>

**Finding 8:** The FMM is operating as expected and contributing to Program delivery. Increased program HQ oversight and support to regions could be beneficial to Program performance.

The evaluation found that the Program is benefiting from FMM implementation. Feedback provided by stakeholders through interviews and the survey indicated an overall positive perception of the quality and extent of collaboration and communication between Program HQ stakeholders and regions. Program management-level stakeholders at HQ feel they are kept well informed of Regional operations through governance body meetings<sup>34</sup> and through the CI Operations Unit, (the HQ unit responsible for managing the flow of information from regions to Program HQ senior management and liaising with regions regarding emerging operational issues).

Collaboration was also seen as positive between DFIs working in the regions and the digital forensics unit (DFU) at HQ. In the regions, most criminal investigators and DFIs (75%) who completed the survey expressed satisfaction with the overall level and quality of engagement with Program HQ (see Figure 4). Satisfaction levels were especially high with respect to the “timeliness of responses” and their “ability to reach the right point of contact in HQ” – in both cases, 84% of respondents were at least “somewhat satisfied.”

Figure 4: Criminal investigator and DFI satisfaction with overall Program HQ engagement



Source: Criminal Investigations Program Evaluation Survey of criminal investigators and digital forensic investigators, 2022 (N=126)

With respect to potential areas for improvement related to FMM and the relationship between regions and HQ, evidence indicates that Program HQ still lacks some oversight **over regional operations**. One key aspect raised in interviews is that Program HQ expects to be able to advise regions on resource

<sup>33</sup> CBSA, Office of the Chief Transformation Officer. Functional Management Model: The Way Forward. September 2020 (Available on Government of Canada network only).

<sup>34</sup> The agency created two main governance bodies to improve the communication and coordination between regions and HQ: the Intelligence and Enforcement Business Line Management Board and the Agency Operations Committee.

allocation and funding strategies, particularly since the implementation of FMM.<sup>35</sup> Stakeholders at HQ stated that they still have limited visibility of Regional expenditures and insufficient understanding of reasons why budgets fluctuate each year for each Region.

“We’re not there yet in terms of functional management. (...) We don’t have the capacity to report on how money is spent. We don’t have eyes on how money is spent in our regions. There is the exception of our digital forensics unit.” - Program HQ staff

Additional areas for improvement are related to the support that regions require from Program HQ. The Program HQ stakeholders develop national **operational guidance** to support the regions in conducting criminal investigations. Due to particular Regional characteristics and needs, such guidance is not perceived to be consistently applied. For example, regions may interpret and apply guidance on how to select cases for investigation differently. The inconsistency in guidance application could be dependent on the nature of cases in each Region, as well as different practices between PPSC prosecutors, among other factors. Regional stakeholders expressed a desire for more guidance on when to exercise discretion to deal with these unique regional aspects.

How can collaboration be improved between regions?

Survey respondents suggested that Program HQ develop and maintain a national list of all CBSA Criminal investigators and DFIs, including areas of expertise of each staff.

Stakeholders in the regions also expressed a need for additional support from Program HQ in terms of **accessing training, tools and equipment** to aid in the conduct of criminal investigations, as well as proactive and timely sharing of information by Program HQ on jurisprudence arising from border-related criminal prosecutions. Evidence from interviews and the survey indicate that staff in the regions are not consistently aware of best practices or challenges experienced by their peers in other regions, and would benefit from being better informed of operations across the country. Regional interviewees suggested that they could benefit from national meetings or conferences for regions to engage and share information with one another, including on **challenges and best practices**. Program HQ, as the functional authority, was identified as being in the best position to coordinate this type of national engagement.

## Evaluation findings: Resource utilization

### Human resources

**Finding 9:** The number of cases opened per Investigator varies by region and is dependent on the types of cases selected for investigations. Investigating larger and more complex cases takes more time and human resources, resulting in fewer cases per Investigator in some regions.

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<sup>35</sup> CBSA, Office of the Chief Transformation Officer. Functional Management Model: The Way Forward. September 2020. p. 11 (Available on Government of Canada network only).

To determine whether regions have sufficient resources (i.e., the right number of investigators), the evaluation examined the number of leads received from 2016 to 2017 through 2020 to 2021 in comparison to the average number of investigators working in each Region. However, this analysis is somewhat limited, as the number of leads received may not fully reflect the level of risk<sup>36</sup> and volume of work per case in a given Region.

As can be seen in Table 7, the Program had an average of 207 investigators available per year to conduct investigations. The number of investigators allocated to each region does not appear to be linked to the number of leads received each year. As a result, the number of leads per investigator varies widely by region.

**Table 7:** Number of leads received per year, investigators available, and leads per investigator (by region, 5-year average from 2016 to 2017 through 2020 to 2021)

Region	Number of leads received per year (average)	Number of investigators available per year (average)	Leads per Investigator per year (highest to lowest)
<b>Prairie</b>	<b>526</b>	24	<b>21.9</b>
<b>Southern Ontario</b>	283	23	12.3
<b>Northern Ontario</b>	146	12	11.9
<b>Atlantic</b>	159	14	11.2
<b>Pacific</b>	353	39	9.3
<b>Greater Toronto Area</b>	428	<b>48</b>	8.9
<b>Québec</b>	267	46	5.9
<b>Total</b>	<b>2,156</b>	<b>207</b>	<b>10.5</b>

Source: Leads from CIIMS data provided by the Program. Number of investigators is from CAS minus the count of DFIs provided by the Program.

Currently, regions select the number of cases to open based, in part, on the number of investigators available,<sup>37</sup> which limits certain regions since their number of investigators might not be reflective of the current volume of leads or level of risk that exists. There is therefore the potential that in some regions,

<sup>36</sup> Regions clarified that looking at number of leads is useful, but not perfect as an indicator of potential risk, as one region may get a high number of leads, but those leads may not all be high risk, relevant or reliable. In addition, the number of leads received may be influenced by the geography of a region. For example, Prairie region has 33 land border crossing, and as a result may receive a larger number of [redacted].

<sup>37</sup> According to the Criminal Investigations Manual, Chapter 3, when making decisions whether to open an investigation, regions are required to ensure that adequate resources are available. Criminal Investigations Manual: Chapter 3 Case File Management and Finalization. p. 18-19 (Available on Government of Canada network only).

leads are not being investigated because of a lack of resources rather than the merits of the leads themselves.

As illustrated in Table 7, the Prairie Region has the highest number of leads per Investigator at 21.9, in contrast to the 5.9 leads per Investigator in Quebec Region, which could indicate a lack of investigative resources in Prairie region. While this analysis has limitations, the wide variance between regions suggests a potential need to review how resources are allocated to reflect current operational realities.

An examination of CIIMS and HR data also showed that the average number of cases opened per Investigator also varies by Region (see Table 8 ), from 4.5 cases per Investigator in Northern Ontario Region, to 1.3 cases per Investigator in the Greater Toronto Area Region. The number of cases opened is not an indicator of workload. This variation can be a result of the different ways regions choose to manage their resources. Some regions choose to focus on Major and Complex cases and open relatively fewer cases as a result, while some regions focus more on Port Prosecution cases and open relatively more cases as a result. The selection of Port Prosecution cases may not be aligned with Program guidance to focus the majority of activities on Major and Complex cases, for acceptable reasons; however, data on the level of effort or hours worked per case is needed to determine the extent to which this may be problematic.

**Table 8:** Cases opened per Investigator by region (average per year from 2016 to 2017 through 2020 to 2021)

<b>Cases per investigator (highest to lowest)</b>	
<b>Northern Ontario</b>	4.5
<b>Southern Ontario</b>	3.6
<b>Atlantic</b>	3.4
<b>Pacific</b>	2.4
<b>Prairie</b>	2.2
<b>Québec</b>	1.5
<b>Greater Toronto Area</b>	1.3
<b>Total</b>	2.2

Source: Cases from CIIMS data provided by the Program. Number of investigators is from CAS minus the count of DFIs provided by the Program.

## Availability of tools and resources

**Finding 10:** The lack of major case management (MCM) software and use of MCM principles, low training completion rates, and lack of administrative support for investigators have impacted the efficiency of case management and resource utilization.

Regional managers interviewed noted the lack of training and MCM software has led to cases taking longer to complete than they otherwise would. Stakeholders suggested that adopting MCM software would reduce the amount of time spent preparing evidence for disclosure, as it would reduce the need for manual tracking and organizing of the evidence collected. In addition, Public Prosecution Services Canada (PPSC) explained during the 2022 CBSA-PPSC Symposium that implementing MCM principles for case management would improve investigation planning and managing the volume of evidence collected – leading to more efficient use of investigation resources. Improved training completion could also allow new investigators to get up to speed quicker and improve quality of investigation planning, both of which could further improve efficiency.

“No administrative support to handle certain tasks in the investigation that should not be done by investigators but rather by clerks.” - Regional interviewee

All regional managers interviewed said they do not have enough administrative support staff given their volume of work, which has led to investigators doing administrative work – reducing their time available for core responsibilities and impacting their efficiency. This sentiment was also expressed by investigators across four of the regions through the survey. The lack of administrative support staff is further exacerbated by the lack of MCM software, which increases the amount of clerical work needed to prepare for disclosure. Currently, only the Atlantic, Greater Toronto Area, Pacific, and Quebec regions have investigative support staff<sup>38</sup> to assist investigators. The Program also indicated that it has a need for Analysts to provide tactical analytical support that will facilitate the advancement of investigations in a more efficient and effective manner. While the Program HQ staff was looking into the use of intelligence analysts to support investigations, this was still in the exploration phase when this evaluation was completed.<sup>39</sup>

Stakeholders expressed concern that the lack of tools and resources noted above has potentially led to cases taking too long to resolve. For example, in interviews with CBSA and PPSC, concerns were raised about cases possibly being closed due to the Supreme Court of Canada’s *Jordan* decision, which limits the period between when a person is charged and when a decision is rendered to 18 months for provincial court trials and 30 months for superior court trials.<sup>40</sup> This means that if resolution of a case takes too long after charges are laid, proceedings have to be “stayed” (a temporary or permanent stop to a trial). Given that investigators can continue to support PPSC in the collection of evidence after charges are laid or in the preparation of disclosure, their timeliness could impact whether a case is stayed due to the *Jordan* decision. While CIIMS data showed zero cases as being marked not successful due to the *Jordan* decision, one region mentioned they had knowledge of at least “a couple” of cases in their region that were unsuccessful for this reason.

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<sup>38</sup> Investigative support staff includes the job titles Enforcement Assistant, Enforcement Case Officer, Investigation Assistant, Investigation Support Clerk, Technical and Logistical Support Clerk.

<sup>39</sup> Framework: Analytical Support to the Criminal Investigation Program. Draft (Available on Government of Canada network only).

<sup>40</sup> [R. v. Jordan, 2016 SCC 27](#)

To validate stakeholder perceptions that cases may be taking too long to resolve, the evaluation analyzed available CIIMS data on the length of cases concluded (court process has been completed). Although there were limitations to this analysis (see [Annex D: Evaluation limitations](#)), the overall trend supported interviewee perceptions. Data showed that from 2016 to 2017 through 2020 to 2021, 1,069 cases were concluded. While most cases were resolved within a year, 43% of complex cases took two or more years to conclude. This is notable as complex cases can have a greater impact on the individual investigated and present a higher risk to the safety, security, and prosperity of Canada. In interviews and during the 2022 CBSA-PPSC Symposium, PPSC also noted that large and lengthy cases can have diminishing returns due to the large amount of evidence created that must be collected and prepared for disclosure, and the risk that witnesses will become unavailable over time.

## Gender-based analysis plus

**Finding 11:** Due to limited data availability, it was not possible to perform an in-depth gender-based analysis plus (GBA Plus) or fully assess how different identity factors impact how diverse groups are impacted by the Program’s activities.

The *Canadian Gender Budgeting Act (2018)* requires that the President of Treasury Board make available to the public, once a year, an analysis of impacts that Government of Canada programs had in terms of gender and diversity.<sup>41</sup> The CBSA and other federal organizations provide information of program impacts to the TBS via the *GBA Plus Supplementary Information Tables (SIT)*, contained in *Departmental Results Reports*.

The Program reported through the 2020 to 2021 GBA Plus SIT that “the analysis of GBA Plus impacts is currently limited by system capabilities to collect and report on GBA Plus data”.<sup>42</sup> This limitation was also noted in interviews conducted for this evaluation.

Limited GBA Plus data impacts the Program’s ability to gain insights into how different identity factors impact how diverse groups are impacted by criminal investigations. Information on criminal investigation cases are stored and managed in the CIIMS. Identity factors such as “gender,” “age,” and “perceived race” can be found for some of the cases, but these are not mandatory fields. For example, from April 1, 2016, to March 31, 2021:

- “gender” information was available in 83% of cases
- “age” information was available in 79% of cases
- “perceived race” was available in 38% of cases

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<sup>41</sup> [Canadian Gender Budgeting Act \(2018\), s. 5.](#)

<sup>42</sup> [2020 to 2021 Departmental Results Report: Canada Border Services Agency – Supplementary Information Tables. Gender-based analysis plus \(GBA+\), Section 2: Gender and Diversity Impacts by Program.](#)

Gender and age information originates mostly from identity documents submitted at the border, which do not include data on race and ethnicity. CBSA staff also records, in some instances, their perceptions of a traveller's race for searches and arrests purposes.<sup>43</sup> Perceived race data, as recorded by CBSA officers, is biased and not a valid or reliable measure for assessing the impacts of the Program on diverse groups of individuals in terms of their race. Asking an officer to determine another person's race based on their own assessment carries its own risks, even if the intentions are to fill in data gaps to ensure people are not being discriminated against.

Data that is not currently being collected but could be relevant for the purposes of Program GBA Plus analysis include: income, self-declared race and ethnicity, and disability status. Having access to adequate data, to the extent that is appropriate and feasible for the Program, will support the CBSA in meeting the requirements of the TBS related to the *Canadian Gender Budgeting Act* (2018).

The evaluation conducted an analysis of how the Program might be impacting a given group disproportionately. Due to the limited race data available and that it is recorded as "perceived race," the evaluation will not cover the specific results of the analysis as it would not be an accurate reflection of the impact of the Program on diverse groups.

More accurate data on the ethnicity/race of individuals involved in criminal investigation cases is necessary in order to determine the impact of the Program on diverse groups at different decision points in the investigative process. Cross-analysis of GBA Plus data with data on case characteristics could also provide information on how the Program impacts diverse groups of people.

Aside from the need to meet TBS GBA Plus reporting requirements, there is evidence to suggest that the Program also requires at least some race/ethnicity data to make operational decisions. For instance, the *CBSA Prosecution Policy* lists multiple factors to be considered when deciding to investigate a case, as not every instance of non-compliance is expected to merit a criminal investigation. One of the factors Program staff are required to consider is the public interest, which involves taking into consideration the offender's circumstances and background, including past victimization and systemic factors experienced by Indigenous persons.<sup>44</sup> Currently, the Program does not have data available to ensure that case selection takes such a factor into consideration, as perceived race is not an adequate or reliable indicator.

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<sup>43</sup> A description of a traveller's perceived race may be entered into the Integrated Customs Enforcement System (a CBSA intelligence record management system) by a Border Services Officer following the completion of searches and arrests. This information may be imported into CIIMS if it is linked to a criminal investigation case.

<sup>44</sup> CBSA Enforcement Manual, Part 9: Investigations and criminal proceedings, Chapter 1: CBSA Prosecution Policy and Referrals to Criminal Investigations (Available on Government of Canada network only).

## Implementation of 2015 evaluation recommendations

**Finding 12:** The recommendations from the 2015 Evaluation of the Criminal Investigations Program were implemented; however, more work could be done for the Program to fully benefit.

The 2015 Evaluation of the Criminal Investigations Program made four recommendations covering three themes: performance measurement, obtaining information from OGDs, and optimizing the delivery of digital forensic investigation services. This evaluation assessed the extent to which these recommendations improved Program performance.

### Performance measurement

The 2015 evaluation recommended that the program:

- develop a performance measurement framework that links key indicators (for each case) across each stage of the investigation process
  - This is to include criteria for the various decision points
- implement regular monitoring of Program performance against intended outcomes and determine if activities are aligned with Program objectives, including national priorities

The current evaluation determined that the Program made good progress in this area, but additional adjustments are required. A performance measurement framework and key performance indicators (KPIs) were developed in response to these recommendations and indicators are regularly monitored by the Program. CIIMS now includes fields for additional decision points and rationale for decisions, as recommended. In addition, the Program has introduced a Quality Assurance Review process to improve data quality, which will improve the Program's ability to use data for decision-making. However, as noted in Section 3.3 and in Annex D, there is further room to improve data in this area by making the reason for coding a case "not successful" a mandatory field in CIIMS.

There is also room to improve the current performance measurement framework to better measure the Program's performance against intended outcomes, notably the alignment of cases with CBSA priorities, the quality of evidence collected, and the utilization of resources against current workload. Ways to improve performance measurement in these areas were noted in this evaluation report in Sections 3.1, 3.3, and 4.1.

Some regional managers also expressed a desire for the performance measurement framework to capture other aspects of performance such as the decision to close a case due to lack of evidence, successful judicial authorizations and search warrants, and completion of court briefs. In their view, the outcome of cases is also influenced by factors outside the control of the CBSA (i.e. PPSC and court decisions) and thus related indicators might be better suited to assess investigation quality.



### **Obtaining information from other government departments**

The 2015 Evaluation recommended that the program identify and mitigate barriers to, and monitor progress in, obtaining evidence from OGDs using the investigative body designation (IBD).

The current evaluation determined good progress in implementing this recommendation as well. Some regional managers and the majority of criminal investigators surveyed through the current evaluation expressed satisfaction with the current process for engaging with OGDs to request information. In interviews, five regions noted continued difficulties in obtaining information and evidence from OGDs, while two regions reported that the ability to get information from OGDs had improved over the last five years. Delays in receiving a response from OGDs was noted as a main challenge through the survey. Nevertheless, 63% of criminal investigators surveyed were highly or somewhat satisfied with the overall process of requesting information from OGDs, and 61% were satisfied with the timeliness of OGD responses.

In interviews, some regional managers noted difficulty in identifying who to contact in OGDs to request information; meanwhile, 48% of criminal investigators surveyed were dissatisfied with the clarity of procedures and steps required to request evidence from OGDs.

In response to the 2015 recommendation, the Program developed an IBD course that explains what IBD is, the scope of the IBD authorities, and how to use the designation to request information. Training completion for the online only course was 91% for investigators working in their position for three to five years, but only 53% and 28% for investigators working fewer than two years, or over five years, respectively. Increasing uptake for the IBD course may address some of the concerns expressed by managers and investigators. This could be addressed by implementing the recommendation, as stated in Section 3.4, related to improving training completion overall.

### **Optimizing delivery of digital forensic investigation services**

The 2015 evaluation recommended that the program develop options to deliver the digital forensic investigation service and to optimize the alignment of existing resources to support evolving demands. The Branch should implement and monitor the selected options.

Some progress has been made in this area, but certain action items are outstanding. In response to this recommendation, the Program completed an internal review of the DFU that sits within the Criminal Investigations Division at HQ and identified five action items (Table 9).<sup>45</sup> Two items have been completed, while two are currently in progress. As a result of the internal review, the previous backlog for DFIs has been reduced, according to interviewees. Regional managers interviewed felt well supported by the DFU in terms of getting the tools and training required for DFIs to do their jobs. About 93% of criminal investigators surveyed also reported being highly or somewhat satisfied with the overall engagement with DFIs in the regions.

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<sup>45</sup> Implementation and Monitoring Plan: Response to Management Action Plan 4.3. May 2015.

**Table 9:** Status of action items identified in the DFU internal review

Action Item	Status
Create a digital forensic Investigations Policy	Completed
Create Standard Operating Procedures	Completed
Create a performance measurement framework for the DFU	Not completed
Establish funding for the DFU	Unknown <sup>1</sup>
Review classification and staffing for DFIs	In progress

Table note 1: The current evaluation received contradictory information on the status of this action item

In interviews, three regions noted challenges in relation to attracting and retaining qualified DFI staff in order to keep up with the volume of work. The DFU also noted this challenge. Currently, DFIs must be recruited internally from existing Investigator positions, which means the pool from which to hire DFIs is limited. The DFU is looking into alternatives for the recruitment of DFIs or IT support positions.

An analysis of performance and DFI human resources data demonstrated varying levels of support available from DFIs to criminal investigators in each Region (see Table 10). A higher number of investigators per DFI indicates that a region has less support available from their DFI positions. An analysis of overtime worked per digital forensic investigators can also provide insight into whether a region has the right level of support from the DFI service – for example, Quebec region digital forensic Investigation services supports the most criminal investigators and work the second most overtime potentially indicating a need for more resources in this region.

**Table 10:** Average number of DFIs and investigators per region, from 2016 to 2017 through 2020 to 2021

	DFIs	investigators	Ratio of Investigator to one DFI (highest to lowest)	Overtime (measured in Full-Time Equivalents (FTE))
<b>Quebec</b>	4.4	46.2	11.5	0.18
<b>Southern Ontario</b>	2	23	11.5	0.07
<b>Greater Toronto Area</b>	5.2	47.8	9.7	0.27
<b>Prairie</b>	2.6	24.2	9.5	0.11
<b>Northern Ontario</b>	1.6	12.2	8.6	0.10
<b>Pacific</b>	7	39.2	5.6	0.17

<b>Atlantic</b>	3	14.2	4.7	0.05
<b>Total</b>	<b>27.8</b>	<b>206.8</b>	<b>8.2</b>	<b>0.95</b>

Source: Number of investigators is from CAS minus the count of DFIs provided by the Program. Overtime from CAM.

There may be an opportunity to share DFI resources across regions to a greater extent. However, this is currently challenging due to technological limitations making it difficult to share large files electronically. [redacted]

## Conclusion and recommendations

The program has made good progress since the 2015 evaluation and is positively supporting the CBSA's public safety and economic prosperity objectives. The Program is doing so by conducting investigations and working with the PPSC to hold individuals and entities criminally responsible for willfully contravening border legislation and threatening the safety, security and prosperity of Canadians. The Program also contributes to upholding Canada's border legislation through deterrence, when criminal proceedings (from charge to sentencing) are publicized.

The Program is achieving positive results, as demonstrated by the high acceptance rate by the PPSC of referrals for prosecution; and the high rate of conviction of cases prosecuted in court. However, the quality of investigations (i.e., the extent to which the evidence collected is of the highest standard required) could not be fully assessed using current performance indicators and data.

There is evidence to suggest that there are areas for improvement in terms of performance measurement on the quality of investigations conducted, cases aligned with priorities, and reasons when investigations were opened but dropped before referral to PPSC.

There is also an opportunity for investigators to better understand how to leverage PPSC expertise to improve investigation quality and efficiency.

Finally, operational improvements, particularly around training and availability of tools and resources, and greater alignment of case selection with CBSA enforcement priorities, could improve the efficient use of resources.

As a result of the findings and conclusions described above, the evaluation recommends the following:

### **Recommendation 1, Addressing the root causes of low training completion rates**

The Vice President of Intelligence and Enforcement Branch should work with the Vice President of Human Resources Branch to assess issues related to the low completion rate of criminal investigator training and develop a work plan to address the gap.

**Recommendation 2, Performance measurement, including related to case selection and gender-based analysis plus factors**

The Vice President of Intelligence and Enforcement Branch should update the Program's PMF to improve oversight and reporting on case selection, quality of all investigations, Program resource utilization and expenditures, and review opportunities for the Program to gather reliable information on its potential impacts on diverse groups of people based on relevant GBA Plus identity factors.

**Recommendation 3, Program HQ oversight of resource allocation and coordination of regional information sharing**

With a view to improve efficiency and mature its functional management role, over and above its ongoing work towards securing an appropriate major case management tool, the Vice President of Intelligence and Enforcement Branch should seek to better understand regional resource allocation and associated Program performance and provide a forum for regions to exchange on approaches for regional case selection, expertise, best practices and challenges.

## Appendix A: Management response and action plan

<b>Recommendation 1</b>		
<p>The Vice President of Intelligence and Enforcement Branch should work with the Vice President of Human Resources Branch to assess issues related to the low completion rate of criminal investigator training and develop a work plan to address the gap.</p>		
<p><b>Management response</b></p> <p>The Vice Presidents of the Intelligence and Enforcement Branch (IEB) and the Human Resources Branch (HRB) agree.</p>		
<b>Management action plan</b>	<b>Completion date</b>	<b>Lead(s)</b>
<p>1. Produce a repeatable report identifying which officers require which training, confirm accuracy of contents with regional criminal investigations management teams, and make corrections to training completion records as appropriate, where required evidence of course completion exists.</p>	<p>Q4 FY 2022 to 2023</p>	<p><b>OPI:</b> Training and Development Directorate, VP HRB  <b>OSI:</b> Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB</p>
<p>2. Identify root causes resulting in apparent low training completion.</p>	<p>Q1 FY 2023 to 2024</p>	<p><b>OPI:</b> Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB</p>
<p>3. Develop and finalize a written work plan to address the gap in NTS training completion and the causes identified in Action Item 2, including both online and in-person training courses. The plan will not only include HRB commitments to ensure that training is offered, but also commitments from regional I&amp;E business line directors to ensure that trainers and participants are released to attend planned training.</p>	<p>Q2 FY 2023 to 2024</p>	<p><b>OPI:</b> Training and Development Directorate, VP HRB  <b>OSI:</b> Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB</p>
<p>4. Complete the action items as determined by the work plan (see Action Item 1.3) no later than Q2 FY 2024/25.</p>	<p>Q2 FY 2024 to 2025</p>	<p><b>OPI:</b> Training and Development Directorate, VP HRB  <b>OSI:</b> Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB</p>

## RECOMMENDATION 2

The Vice President of Intelligence and Enforcement Branch should update the Program’s performance measurement framework to improve oversight and reporting on case selection, quality of all investigations, Program resource utilization and expenditures, and review opportunities for the Program to gather reliable information on its potential impacts on diverse groups of people based on relevant GBA Plus identity factors.

### Management response

The Vice President of the Intelligence and Enforcement Branch (IEB) agrees.

Management action plan	Completion date	Lead(s)
1. Update the Criminal Investigation Program (CIP) PMF to improve oversight and reporting on case selection, quality of all investigations, and Program resource utilization and expenditures.	Q4 2023 to 2024	<p><b>OPI:</b> Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB</p> <p><b>OSI:</b> Efficiency and Business Improvement Unit, Transformation, Planning and Integration Directorate, VP IEB</p>
2. Improve awareness of the potential impacts of the Program on diverse groups of people based on relevant GBA Plus identity factors, and work towards future reporting of those impacts, by participating in the Strategic Policy Branch (SPB) Pilot GBA Plus Data and Analytics Strategy and developing GBA Plus data and analytics plan, and:	<p>(a) Q1 2024 to 2025</p> <p>(b) Q4 2024 to 2025</p>	<p><b>OPI:</b> Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB</p> <p><b>OSI:</b> Chief Data Office and GBA Plus Centre of Responsibility, VP SPB</p>
<p>(a) Within pilot timelines established by SPB, producing preliminary and final analysis of results.</p> <p>(b) Incorporating a GBA Plus data and analytics plan for the CI Program into departmental reporting GBA Plus annexes.</p>		

### RECOMMENDATION 3

With a view to improve efficiency and mature its functional management role, over and above its ongoing work towards securing an appropriate major case management tool, the Vice President of Intelligence and Enforcement Branch should seek to better understand regional resource allocation and associated Program performance and provide a forum for regions to exchange on approaches for regional case selection, expertise, best practices and challenges.

#### Management response

The Vice President of the Intelligence and Enforcement Branch (IEB) agrees.

Management action plan	Completion date	Lead(s)
<p>1. Complete a resource allocation model.</p>	<p>Q4 2023 to 2024</p>	<p><b>OPI:</b> Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB</p> <p><b>OSI:</b> Efficiency and Business Improvement Unit, Transformation, Planning and Integration Directorate, VP IEB</p>
<p>2. Provide additional fora for working-level staff in the regions and CID staff at NHQ to exchange on approaches for case selection, expertise, best practices and challenges, by:</p> <p>(a) consulting with regions to develop options to enhance existing engagement formats and additional formats</p> <p>(b) completing an options analysis to assess the feasibility, costs and timelines for implementation</p> <p>(c) implementing new fora</p>	<p>Q4 2023 to 2024</p>	<p><b>OPI:</b> Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB</p>

## Appendix B: Criminal Investigations Program logic model

**CBSA mandate:** The agency is responsible for providing integrated border services that support national security and public safety priorities and facilitates the free flow of persons and goods, including animals and plants, that meet all requirements under the program legislation.

**Core responsibility:** Border Enforcement: The CBSA contributes to Canada's security by supporting the immigration and refugee system when determining a person's admissibility to Canada, taking the appropriate immigration enforcement actions when necessary, and supporting the prosecution of persons who violate our laws.

### **Departmental Results and program-level Outcomes:**

- **Ultimate:** Individuals and entities who willfully contravene border legislation and threaten the safety, security and prosperity of Canadians and Canada are held criminally accountable.
- **Intermediate:** Criminal Investigations result in referrals for prosecution that are supported by lawfully obtained evidence that meets the highest evidentiary standard in Canadian courts.
- **Immediate:** Criminal investigations are initiated against persons or entities suspected of committing offences against border-related legislation, in alignment with CBSA priorities.

### **Program-level Business Line - Conducting Criminal Investigations**

- **Activities:**
  - Conducting preliminary and full-scale investigations
  - Drafting and submitting (to the court) judicial authorization applications
  - Identifying and interviewing witnesses
  - Executing search warrants and using other evidence-gathering techniques
  - Participating in joint investigations with law enforcement partners
  - Preparing recommendations for criminal charges
- **Outputs:**
  - Evidence and evidence analysis
  - Judicial authorization applications
  - Witness statements
  - Completed investigations
  - Relationships with OGDs
  - Reports and recommendations

### **Program-level Business Line - Submitting Referrals to PPSC & Supporting Prosecutions**

- **Activities:**
  - Preparing case synopses/evidence summaries/specific charge summaries to submit to the Public Prosecution Service of Canada (PPSC)
  - Preparing full disclosure packages for the prosecution.
  - Swearing of charges
  - Serving the summons and other notifications



- Assisting in managing witness attendance and providing evidence through testimony in court
- **Outputs:**
  - Crown Briefs/reports to Crown Counsel
  - Disclosure packages
  - Sworn charges
  - Arrest warrants (issued, executed and cancelled)
  - Testimony

#### **Program-level Business Line - Program Support and Policy Development**

- **Activities:**
  - Providing functional leadership, guidance and direction
  - Supporting the development of training and ensuring investigators have access to training
  - Reporting on the program, its activities and its outputs
  - Identifying, developing or procuring and providing tools to program
  - Maintaining and strengthening collaborative partnerships
  - Evaluating and modernizing investigative tradecraft (tools and authorities)
- **Outputs:**
  - Policy manuals, procedures, directives and guidance
  - Approved National Training Standards (NTS) for criminal investigators and digital forensics investigators (DFI) and training products
  - Annual and quarterly reports
  - Investigative tools
  - Collaborative partnerships
  - Business cases, discussion papers, trend analyses

## Appendix C: Program stakeholders-- Roles and responsibilities

### Program HQ

The Criminal Investigations Division at HQ consists of the following 3 units:

#### **1. Criminal Investigations Support Unit**

The Criminal Investigations Support Unit (CISU) responds to requests for investigative assistance from foreign border agencies and other Canadian government departments in accordance with established treaties, memoranda of understanding and other international instruments. The CISU is also responsible for identifying investigative leads arising out of such requests for possible investigation by Criminal investigators in the regions.

Within the CISU, the digital forensics Unit (DFU), provides oversight and functional guidance to digital forensics investigators (DFIs) and their managers working in the regions. The DFU at HQ uses specialized training, tools and technology to access, identify, preserve, extract and report on digital evidence found in electronic media devices (e.g., phones, computers, etc.) that are seized at the ports of entry or inland as a result of investigations.

#### **2. Criminal Investigations Program Management Unit**

The Criminal Investigations Program Management Unit (CIPMU) is responsible for the planning, development and management of national strategies, programs, policies and processes related to the Criminal Investigations Program. The unit develops the National Training Standards and ensures that investigators have access to essential courses. CIPMU supports the Program as a whole by providing operational policy and directives, updating and maintaining the Criminal Investigations Manual (CIM), setting Program priorities, developing and monitoring performance indicators, and providing enhanced strategic direction directly related to the Program. This unit also provides continued support and guidance to senior management in context of enforcement capacity, authorities and strategies to ensure consistent and relevant enforcement aligned with government priorities. The division plays a key role in working with CBSA Legal Services counsel to assess impacts of current jurisprudence on CBSA investigative activities, and in doing so, collaborates with other federal regulatory agencies with investigative mandates.

#### **3. Criminal Investigations Operations Unit**

The Criminal Investigations Operations Unit (CIO) is the hub for the day-to-day operational activities and managing the flow of information from regions to Program HQ senior management. The unit is responsible for operational and functional guidance on investigations and operational activities, including:

- case and issues management of high-profile/sensitive cases
- tracking

- monitoring and reporting (proactive and reactive) to senior management on cases
- responding to media requests

The unit oversees the CIIMS and works with ISTB to update the system as required in response to legislative changes or user-identified needs.

The CIO liaises with regions regarding emerging operational issues and provides guidance in the form of policy interpretation and risk assessment. They work collaboratively with partners to obtain information and evidence (such as the Legal Services Unit (LSU), PPSC, RCMP, GAC, IRCC). CIO also conducts post-case reviews/analysis for policy development/updates; completes analysis of national trends; performs quality assurance reviews (QAR) (i.e., ITO reviews); performs data integrity reviews of cases in CIIMS; Quality Assurance Review (QAR) of Canadian Police Information Centre (CPIC) entries/processes performed in the regions; monitors and tracks the evidence room through quarterly audits; and provides oversight/tracking of foreign national witnesses.

### CBSA regions

Each CBSA region across Canada has a dedicated Criminal Investigation Unit headed by a Director of Intelligence and Enforcement. The following are the key regional stakeholders and their roles and responsibilities:

1. **Regional directors:** responsible for the providing strategic direction to the Criminal Investigations Program within the region. This responsibility is functionally shared with the HQ Director of Criminal Investigations and the regional assistant director. The directors and assistant directors jointly oversee that resources are appropriately allocated and in accordance with IEB and Government of Canada priorities.

In accordance with policy, Directors are responsible of approving surveillance operations and Project Joint Force Operations. Assistant Directors provide ultimate approval and review for key operational and enforcement activities including search warrants, MCM investigations, joint force operations, and recommendations to PPSC for prosecution. They are responsible for approving investigations under the Customs Act or IRPA initiated by the RCMP. Directors ensure strategic partnerships exist with domestic and international law enforcement agencies, other government departments and PPSC in order to ensure that the CBSA is able to advance investigations within its mandate and priorities.<sup>46</sup>

2. **Investigation managers:** responsible for the day-to-day operations of their units and have line authority for investigators in their offices. They are required to prioritize activities to ensure that

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<sup>46</sup> Criminal Investigation Doctrine. Criminal Investigations Division. January 2020. [redacted].

investigative resources are utilized effectively and aligned with the intelligence and enforcement priorities of the agency and the Government of Canada.

Their primary role is providing overall guidance to investigators on criminal cases, reviewing all documents and reports prepared by investigators, and overseeing the planning and execution of enforcement operations. They are responsible and accountable for all investigations on their team and must ensure that investigators have the resources to effectively conduct investigations. Managers may be called on to act as team commanders within MCM investigations and must ensure adherence to the principles of the MCM model.<sup>47</sup>

3. **Criminal investigators:** investigate criminal offences and arrange for suspected offenders to appear in court. They present their case and associated evidence to the PPSC in a Crown brief. This Crown brief describes the theory of the investigation, the evidence to support the theory, the witnesses to be called and a recommendation of the criminal charges to be laid. The final decision on whether or not to recommend a case for prosecution to the PPSC rests with the CBSA's regional Assistant Director responsible for criminal Investigations, while the ultimate decision to proceed with the criminal prosecution rests with the PPSC. Regional disparities do exist as some regions require PPSC pre-approval to lay charges.

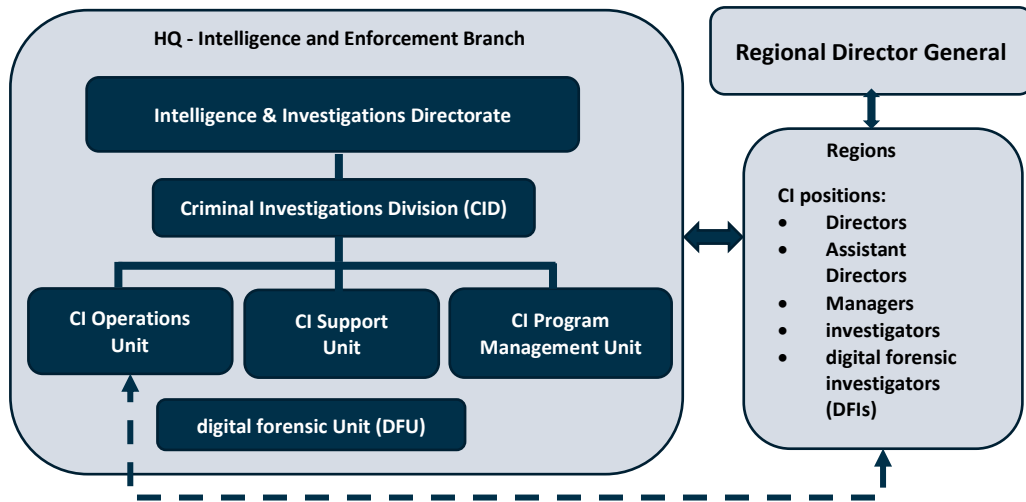
Once the CBSA Program staff refer a case to the PPSC, the lead role shifts from the CBSA to the PPSC. However, through to completion of the court proceedings, criminal investigators continue to have an active role in supporting the prosecutions by providing expert testimony, organizing and managing the evidence that will be introduced in court, including the disclosure package, subpoenaing of witnesses, and ensuring court convictions are recorded in Canadian law enforcement information systems such as CPIC.

**Figure C-1** illustrates the reporting relationship between the Program Stakeholders at HQ and in the regions

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<sup>47</sup> Ibid.

**Figure C-1: Reporting relationship**



Source: Diagram developed by the Program Evaluation Division based on Program documents

### External stakeholders: Federal enforcement partners<sup>48</sup>

The CBSA works closely with the following federal organizations to conduct investigations:

- Canadian Food Inspection Agency (CFIA)
- Immigration, Refugees and Citizenship Canada (IRCC)
- Environment and Climate Change Canada (ECCC)
- Global Affairs Canada (GAC)
- Public Prosecution Service of Canada (PPSC)
- Royal Canadian Mounted Police (RCMP)

<sup>48</sup> From CI community Atlas Page: Federal Partners (available on a Government of Canada network only)

## Appendix D: Evaluation methodology details and limitations

This section outlines the research methods used to produce this report.

1. **Interviews:** The evaluation conducted interviews between June and August 2022 with:
  - CBSA CIP managers and director at HQ
  - CBSA directors and assistant directors (or representatives) from the Pacific, Greater Toronto Area, and Prairie regions
  - CBSA managers from every region (21 in total)
  - CBSA manager and staff from Human Resources Branch
  - Public Prosecution Service of Canada (PPSC) prosecutors from Toronto, Halifax, Edmonton, Winnipeg, Vancouver, National Capital Region, Montreal, Quebec City, and HQ
  - Royal Canadian Mounted Police (RCMP) staff from the Financial Crimes and Border Integrity section
2. **Survey:** The survey of criminal investigators and digital forensic investigators across the regions was launched in June 2022 and received a reliable response rate of 56% (126 responses).
3. **Document review:** Reviewed multiple corporate documents including: planning documents (e.g., IEB Integrated Business Plan); documents outlining Program and directorate priorities; legislation, policies and guidance materials (e.g., *IRPA*, *Customs Act*, Memoranda of Understanding between the CBSA and other government departments, Enforcement Manual, Criminal Investigations Manual); management reports and other documents pertaining to the implementation and management of Program activities (e.g., previous evaluations, CID Annual Report, Internal Review of the DFU, CIP Performance Information Profile).
4. **Administrative data review (leads, cases opened, cases closed, training data, etc.):** Data on leads received by the Program and on investigation cases opened and concluded in the period between 2016 to 2017 and 2020 to 2021. The data was extracted by the Program and by the Information, Science and Technology Branch (ISTB) from CIIMS at the request of the evaluation team. HRB provided data on **training completion** for courses listed the National Training Standard (NTS) for criminal investigators and digital forensic investigators. Training completion is based on data for CIs and DFIs working in the Program as of 31 March 2021.
5. **GBA Plus :** The evaluation team conducted an analysis to explore how the Program impacts diverse groups. The evaluation examined the proportions of different groups (by gender, age, and perceived race) represented in leads received by the Program, in cases selected for investigation, and in cases for which charges were laid. Differences in representation of a given group were calculated between leads receive and leads selected for investigation, as well as between cases opened and cases with charges laid. These differences may demonstrate that a particular group is impacted to a greater extent by the Program. Some differences in representation were identified by this data analysis but are not reported on here due to data limitations noted.

6. **Financial and HR (FTE and headcounts) data review:** Data from CAS and the Costing Analytical Model (CAM) collected for the period between 2016 to 2017 and 2020 to 2021 were used to report on Program overall expenditures (CAS financial data) and on FTEs and specific activities' expenditures (CAM data). Data from CAS was reviewed to assess the number of staff under the Program. A snapshot of investigators from March 31, 2021, was used to calculate upcoming retirements and training completion. Based on this CAS data, the Criminal Investigations Division (CID) provided a breakdown of the rate of investigators available per DFIs.

## Limitations

### General data limitations

There were some drawbacks on the availability of data related to measurement of performance:

- For the period analyzed (2016 to 2017 to 2020 to 2021), the Program did not track in CIIMS cases accepted by the PPSC
  - The evaluation team used an alternative measure to assess PPSC acceptance of CBSA referrals: cases for which PPSC laid charges
- Available data does not track the amount of PPSC assistance required to bring cases up to the evidentiary standard required for prosecution
- Current data does not account for the level of effort spent by the Program on cases, so the evaluation team could not compare the level of resources required to investigate port prosecution cases versus major and complex cases

The CIP also has limited information to perform an in-depth GBA Plus and fully assess how different groups are impacted by its activities (for more information, see Section 0). Limitations include:

- some identity factors such as gender, sex at birth, income, age, race, ethnicity, country of birth, mental or physical disabilities are either not mandatory fields in CIIMS or not collected at all
- “race” data is based on CBSA staff’s perception<sup>2</sup> of a person’s race, and is not a reliable measure to assess the CIP’s unintended potential impacts on visible minorities

### Specific Limitation on CIIMS Data – Reasons for cases being closed prior to referral to PPSC

The reason why cases were closed before they could be referred to PPSC was not sufficiently captured in CIIMS. It also does not capture at which point these cases were closed, nor the amount of time spent on the case (i.e. level of effort). CIIMS allows investigators to record the reasons for cases marked unsuccessful, but unfortunately this field is not currently mandatory. This has resulted in a majority of cases having no reason recorded or marked as “Other” without further details provided. Having this field completed for every case could provide valuable insights.

There is also room for improvement in CIIMS to better systematically measure the quality of evidence in alignment with the intermediate outcome. While investigators can enter case notes and provide briefings to management on the admissibility of evidence in court, CIIMS does not capture this in a

systematic way to identify overall trends in evidence quality. This is one possible performance indicator the Program could use in the future to measure the quality of evidence collected.

### **Length of cases concluded**

Section 4.2 of this report refers to the length of cases concluded. This was calculated using available CIIMS data on cases concluded and is the difference between the date the case created in CIIMS and the date it was marked concluded. The data quality for cases concluded is limited, but the overall trend reflects the comments made in interviews by both Regional Managers and PPSC interviewees. The limitations of this data include:

- entering a case closed is not a mandatory field in CIIMS, therefore the data may not be an accurate reflection of the length of cases
- a case may be open for a given length of time, but this does not necessarily mean there were active investigation activities ongoing throughout the entire period
- some cases may be left open for a lengthy period with the expectation that the suspect may return to Canada
- a case may be lengthy due to the amount of time between referral to PPSC and the completion of the prosecution
  - Delays during this period may be outside the control of CBSA investigators
  - Data to calculate the length of time between a case opened and referred to the PPSC (which the Investigator would have greater influence over) has only become available as of March 2022

### **Cases marked successful and not successful**

Previously, a case could be closed in CIIMS without entering a result (e.g., guilty verdict, stay of proceedings, not guilty, etc.) in the “prosecution result” field in the “criminal action” tab for each entity. This field was not mandatory. When a case was closed with no result having been entered in the “prosecution result” field, it automatically entered a response of “no” in the “successful case indicator” field. In other words, it indicated that the case did not result in a successful prosecution. Using the data on the successful cases from this field may have provided inaccurate percentages for the conviction rate. It may have shown a lower success rate than the reality. The evaluation team used cases marked not successful to calculate the success rates. The numbers presented in Table 5 are therefore the inverse of the cases marked not successful to provide an illustration of the success rate. It is important to note, however, that basing the results on the cases marked not successful would not provide an entirely accurate picture either, since this likely includes some cases that had actually resulted in a successful prosecution (but the information had simply not been entered in the “prosecution result” field, automatically entering a response of “no” in the “successful case indicator” field). Since March 2022, the “prosecution result” field is mandatory. It must now be completed before being able to close a case.