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Evaluation of the Criminal Investigations Program: Appendices

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Appendix A: Management response and action plan

Recommendation 1

The Vice President (VP) 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.

Management response

The Vice Presidents of the Intelligence and Enforcement Branch (IEB) and the Human Resources Branch (HRB) agree.

Management action plan

Action	Completion date	Lead(s)
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.	Q4 (Quarter 4) 2022 to 2023	• **OPI (Office of primary interest):** Training and Development Directorate, VP HRB • **OSI (Office of secondary interest):** Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB

Action	Completion date	Lead(s)
2. Identify root causes resulting in apparent low training completion.	Q1 (Quarter 1) 2023 to 2024	**OPI:** Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB
3. Develop and finalize a written work plan to address the gap in National training standard (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 IEB business line directors to ensure that trainers and participants are released to attend planned training.	Q2 (Quarter 2) 2023 to 2024	**OPI:** Training and Development Directorate, VP HRB **OSI:** Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB

Action	Completion date	Lead(s)
4. Complete the action items as determined by the work plan (refer to Action Item 1.3) no later than Q2 (Quarter 2) 2024 to 2025.	Q2 (Quarter 2) 2024 to 2025	• **OPI:** Training and Development Directorate, VP HRB • **OSI:** Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB

Recommendation 2

The Vice President of Intelligence and Enforcement Branch should update the Program's Performance Measurement Framework (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 Gender-based analysis plus (GBA Plus) identity factors.

Management response

The Vice President of the IEB agrees.

Management action plan

Action	Completion date	Lead(s)
1. Update the Criminal Investigations Program (CIP) PMF to improve oversight and reporting on case selection, quality of all investigations, and Program resource utilization and expenditures.	Q4 (Quarter 4) 2023 to 2024	**OPI:** Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB **OSI:** Efficiency and Business Improvement Unit, Transformation, Planning and Integration Directorate, VP IEB

Action	Completion date	Lead(s)
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: a. within pilot timelines established by SPB, producing preliminary and final analysis of results b. incorporating a GBA Plus data and analytics plan for the Criminal investigations (CI) Program into departmental reporting GBA Plus annexes	a. Q1 (Quarter 1) 2024 to 2025 b. Q4 (Quarter 4) 2024 to 2025	• **OPI:** Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB • **OSI:** Chief Data Office and GBA Plus Centre of Responsibility, VP SPB

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 IEB agrees.

Management action plan

Action	Completion date	Lead(s)
1. Complete a resource allocation model.	Q4 (Quarter 4) 2023 to 2024	**OPI:** Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB **OSI:** Efficiency and Business Improvement Unit, Transformation, Planning and Integration Directorate, VP IEB

Action	Completion date	Lead(s)
2. Provide additional fora for working-level staff in the regions and Criminal Investigations Division (CID) staff at NHQ (National Headquarters) to exchange on approaches for case selection, expertise, best practices and challenges, by: a. consulting with regions to develop options to enhance existing engagement formats and additional formats b. completing an options analysis to assess the feasibility, costs and timelines for implementation c. implementing new fora	Q4 (Quarter 4) 2023 to 2024	• **OPI:** Criminal Investigations Division, Intelligence and Investigations Directorate, VP IEB

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

Activity	Output
Conducting preliminary and full-scale investigations	Evidence and evidence analysis
Drafting and submitting (to the court) judicial authorization applications	Judicial authorization applications
Identifying and interviewing witnesses	Witness statements

Activity	Output
Executing search warrants and using other evidence-gathering techniques	Completed investigations
Participating in joint investigations with law enforcement partners	Relationships with OGD (Other government department)s
Preparing recommendations for criminal charges	Reports and recommendations

Submitting Referrals to PPSC (Public Prosecution Service of Canada) and Supporting Prosecutions

Activity	Output
Preparing case synopses/evidence summaries/specific charge summaries to submit to the PPSC	Crown Briefs/reports to Crown Counsel
Preparing full disclosure packages for the prosecution	Disclosure packages
Swearing of charges	Sworn charges
Serving the summons and other notifications	Arrest warrants (issued, executed and cancelled)
Assisting in managing witness attendance and providing evidence through testimony in court	Testimony

Program Support and Policy Development

Activity	Output

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

Appendix C: Program stakeholders: Roles and responsibilities

Program HQ

The CID at Headquarters (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 Criminal Investigations Information Management System (CIIMS) and works with Information, Science and Technology Branch (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), Public Prosecution Service of Canada (PPSC), Royal Canadian Mounted Policy (RCMP), Global Affairs Canada (GAC), Immigration, Refugees and Citizenship Canada (IRCC)). CIO also conducts post-case reviews/analysis for policy development/updates; completes analysis of national trends; performs quality assurance reviews (QAR) (i.e., Information to obtain (ITO) reviews); performs data integrity reviews of cases in CIIMS; 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

They are 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, Major case management (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 [42].

2. Investigation managers

They are 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 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 t he principles of the MCM model [42].

3. Criminal investigators

They 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.

Figure C-1: Reporting relationship
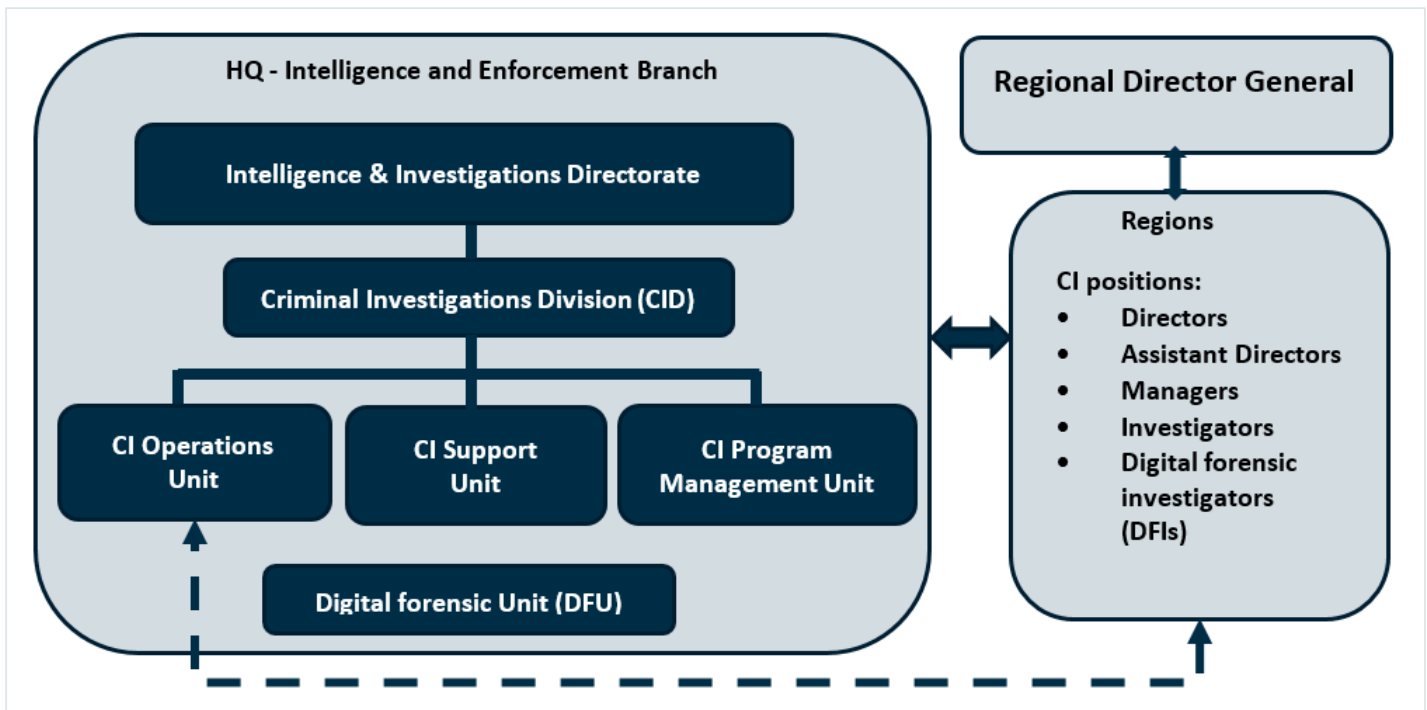
Source: Diagram developed by the Program Evaluation Division based on Program documents.

▼ Image description

Flow chart showing the reporting relationship between Program stakeholders at headquarters and in the regions.

To the left of the chart, the following groups are outlined, from top to bottom:

1. HQ – Intelligence and Enforcement Branch
2. Intelligence and Investigations Directorate
3. Criminal Investigations Division
4. CI Operations Unit, CI Support Unit, and CI Program Management Unit
5. Digital Forensic Unit

To the right of the chart, the following positions are outlined, from top to bottom:

1. Regional Director General

2. Directors

3. Assistant Directors

4. Managers

5. Investigators

6. Digital forensic investigators

The left and right sides of the chart are connected through an arrow pointing both directions. The right side of the chart is connected to the CI Operations Unit through a dotted arrow pointing in both directions.

External stakeholders: Federal enforcement partners [43]

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

Appendix D: Evaluation methodology details and limitations

Details

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

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

- PPSC prosecutors from Toronto, Halifax, Edmonton, Winnipeg, Vancouver, National Capital Region, Montreal, Quebec City, and HQ

- RCMP staff from the Financial Crimes and Border Integrity section

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).

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).

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 ISTB from CIIMS at the request of the evaluation team. HRB provided data on **training completion** for courses listed the NTS for criminal investigators and digital forensic

investigators. Training completion is based on data for CIs and DFIs working in the Program as of March 31, 2021.

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.

Financial and HR (Full-Time Equivalent (FTE) and headcounts) data review

Data from Corporate Administrative System (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 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, refer to section 5). 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 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.

Footnotes

42   Criminal Investigation Doctrine. Criminal Investigations Division. January 2020. [Redacted].

43   From Criminal Investigation Community: Federal Partners.

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