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Expert Panel on Security Regulations

I will briefly describe an effective management system that I have worked on and developed over the past years. I draw off my years of experience, expertise, knowledge and in depth understanding of police and the industry. I speak to this from the position of a seasoned lead investigator and corporate fraud manager. I believe my Securities Intake and Review Panel warrants serious consideration. I see it as a reasonable and necessary process in addressing community safety and quality of life and effective police management. This is a management tool which will take a leading role in coordinating efforts and resource management between police services and victims of crime. It is a system intended to improve the ability of police to respond, investigate, prosecute, educate and reduce criminal activity within the area of securities / market related crimes.

Unified Canadian System to Assess and Investigate Securities Crimes

(Current Regulator / Police Relationships)

Police Services must remain stand alone, independent of any regulatory involvement, influence or oversight where a criminal investigation is being considered or conducted based on complaints received from victims or witnesses as to alleged criminal offences.

No agency, regulatory body or oversight shall become involved at any stage beyond the initial assessment of a matter in making a reasonable determination that there may be a criminal component to any investigation or complaint received. It is when that determination has been made these matters or complainants shall be referred to the police forthwith. These matters are exclusive to the local police service to investigate and make the final determination based on all available evidence, in sight of a reasonable expectation of conviction. I would not support nor condone police service members assessing, investigating and taking enforcement action in areas dealing on regulatory matters.

The investigative path, particularly for matters pertaining to allegations of criminal conduct becomes murky and contentious where there is a blending of police and regulators. These relationships by design although well intended have a tendency to compromise or corrupt lawful due process, source of evidence, Charter of Rights and Freedoms, for future application supporting any criminal investigation or prosecution. This is always a concern in any criminal investigation however more so in this type of relationship, possessing a greater risk of no further action on the part of the police or prosecutors.

I am not advocating that police and regulators not work together, quite the contrary. There will be many occasions over the course of any criminal investigation where there will be contact and the appropriate exchange of information between agencies. What I am saying is that they must maintain that perception of independence and avoid

inappropriate transfer of information, knowledge or evidence over the course of the criminal investigation. Work on totally different parallels, maintaining the Wall of China approach.

Jurisdictional Authority (ties into intake and review panel)

In 2003, concerns were tabled by representatives from police services within the GTA specific to addressing issues surrounding the timely reporting, management and criteria of jurisdictional authority to investigate matters relating to criminal fraud (all general fraud including securities).

I saw this as a tremendous opportunity to develop a system or process which would be implemented to effectively manage and improve crime management and addressing the concerns of the individual victim, overall community, strengthen the intelligence sharing and working relationships between police services, timely response to reporting, appropriate assessment and assignment of criminal fraud occurrence to the appropriate jurisdictional authority to investigate and quicker turn around time on criminal fraud investigations.

This simple process eliminates lost time through early establishment of a substantive criminal offence, basic comprehension of the parameters and nature of the initial investigation based on the complaint, establishment of jurisdictional authority based on set criteria, a common base line that each service bought into, accepted, and continue to reinforce to expedite investigative assignment, response time.

Securities Intake and Review Panel

(Readers Digest Version)

The intake review panel that I am proposing would be comprised of 2-3 permanent members, per Province all of whom are recently retired members possessing an extensive policing background in corporate fraud investigation which includes that of securities fraud. As part of the selection process each panel member selected would have been required to have served with an unrelated police service, no 2 members on the panel could have served with the same police service.

The panel will perform the duties as they relate to the intake – assessment and assignment of complex or multiple victim securities investigations based on reports and or complaints received through the intake panel process. The resulting process will assist the panel in making a final determination as to the assignment of investigations to the appropriate investigative jurisdictions – police service.

The purpose of the panel is not to eliminate, remove or take on the current intake and assessment role of any police service as it relates to general fraud investigations. The intake panel is set in place specifically for **receiving, reviewing, monitoring and assignment of initial reports or complaints pertaining to securities fraud**. The panel may also be called upon in the capacity of a referee to review currently assigned investigations where new information has been brought forward early in the investigative process / complaint. Based on this new information the panel may reassign the investigation, or determine that the impact realized based on the new information will not create undue hardship to the service currently assigned the investigation, in which case the decision stands.

The intake and assessment panel will perform multiple tasks surrounding the receiving, review and eventual determination of where the investigation will be assigned, the main objective however is to establish that a criminal offence has occurred, properly determine the jurisdictional authority responsible to investigate and assignment of those investigations.

The investigations will be required to meet a set threshold, being that there is sufficient evidence to support a criminal investigation. There is sufficient information and evidence to support a reasonable expectation of obtaining a conviction. The victims are willing to cooperate and assist the police over the course of the investigation and attend court as required.

Mindful of the fact that an investigation is not so over whelming that it would be unreasonable to expect a timely investigation and or prosecution. (Complex investigations involving multiple complainants over multiple jurisdictions meeting the set criteria will be reviewed and managed on a case by case basis which may involve cross sharing of resources in a task force approach).

The intended purpose is not to make the task so over whelming that it bogs down police, the courts and so cost prohibitive to which we never see or realize any successes, which is not too far from where we stand today. If nothing else shows how ineffective the police and prosecutors are in dealing with this type of criminal activity. Which sends a clear message to those persons ill intended and considering criminal activity within this industry, which police are ineffective and risks are all but diminished with respect to apprehension and or prosecution.

I look at taking a simplified approach to each investigation or component, are they realistic, manageable and workable investigations with a higher probability of success and something that is not going to tie up investigative or prosecution resources unreasonably.

The simplified approach towards these types of investigations goes much further than building on successes it develops police skills and mindset, investigative ability, jurisdictional team building, fosters confidence, encouragement to welcome and embrace these investigations rather than resistance or disinterest. The public either through

participation in the investigation and prosecution or through the media also realize police effectiveness in this industry.

Given the extensive policing backgrounds of the panel, members will have the additional benefit of realizing current investigative resources and where applicable assist in negotiating short term asset sharing between services.

The panel given the background of its members is also a resource and in apposition to work with and assist in the development of members within the policing community.

The panel will also have the authority to follow up with any service assigned an investigation for the purpose of a progress or status report to ensure investigations are moving forward. As well as a point of contact, maintaining lines of communication between police, victim(s) and community.

The panel will maintain records and files pertaining to any complaint received, initial review, investigative assignment, decisions rendered or investigative status report requests and response.

The Provincial Panel Members will have an open format nationally between their counterparts providing (mandate to be formalized) in brief; timely transfer of information, intelligence sharing, necessary training requirements, a liaison between out of Province Services, working together to develop new innovative crime strategies, continue to improve overall effectiveness and efficiency, continue to work with victims of securities crime and police to expedite prosecutions and reduce crime within this industry.

Funds currently allocated to IMET could be relocated to the proposed Provincial Panels and Police Services, specific to members assigned to fraud investigation. These funds could be applied to additional members, training, resources and prosecutions.

To take the proposed intake and assessment model from a Provincial to a National level would prove to be an effective management tool specific to appropriate assignment, management, investigation and reporting requirements.