



Tackling Financial Crime – David Eby

[00:00:08] Welcome back to the podcast, Bribe, Swindle or Steal. I'm Alexandra Wrage, and today, I'm back in Vancouver to speak with BC's attorney General, David Eby. In addition to being the MLA for Vancouver-Point Grey and the attorney general for British Columbia, David has responsibility for gambling and alcohol policy here and, really interesting background note, prior to holding elected office, he was the executive director of the BC Civil Liberties Association. David, thank you for joining me.

[00:00:34] Thanks for having me.

[00:00:35] We talked about the German report on this podcast last week, and it's a financial crime podcast, so I don't usually get to tell success stories. It might be too soon to say, but this sounds like it might be a success story. Can you describe the impetus, your motivation behind commissioning this report?

[00:00:52] I don't know how many of your listeners have experience in government, but when you're sworn in as a new cabinet minister, the public service comes and briefs you on the portfolios you have responsibility for. I was attorney general here in British Columbia. I'm responsible for the administration of justice and the courts and anytime someone sues government. I thought that would be the majority of my work. The premier tacked on some additional portfolios — gambling, liquor policy and ICBC, which is our public auto insurer here in the province. It turned out actually, after I got my briefings, that I'd spend most of my time on car insurance and gambling. The gambling file is the one we'll talk about. The reason for setting up the report was I wanted the public to receive the briefing that I received about gambling because it was a real eye-opener. I had been the critic in opposition around gambling policy in the province. I was aware of some of the issues related to the oversight of gaming in the province, but the briefing that I received was completely different from that. It started with a public servant — the regulator — telling me that I needed to prepare to have my mind blown because the material that I would be presented would be so crazy.

[00:02:03] Not how official conversations usually start.

[00:02:05] No other briefing started that way that I received, and I got a lot of briefings. They showed me video tape of people bringing large bags of cash through BC casinos — US\$20 bills bundled with elastics, transactions of hundreds of thousands of dollars. The startling thing about it was that I knew that if people had been just driving around in their car, and they'd had that kind of money sitting on the seat beside them, the police would seize the money and there would be an issue with enforcement — "Where did the money come from?" — and a big investigation, but it appeared to me and to the regulator as well that if people could get the money inside the front door of the casino, they were treated as VIPs. It's important for your listeners to know, technically, provincially owned casinos, the service providers operate them on behalf of the province.

[00:02:45] Actually, that's a really good point. The casinos in British Columbia are responsible for something close to US\$1 billion a year in revenue.

[00:02:51] That's right, and that's the revenue to the province from all gaming, so it's not just the casinos. That includes lotto and so on, but the casinos are a significant piece of revenue for the province. The high-end gambling that was facilitated in part by these cash transactions is worth, we estimate, about US\$30 million a year to the province.

[00:03:08] You had this briefing when you were first getting started, and then your next step?

[00:03:13] I had this crazy briefing, and the difficult part for me as minister was, I had all this information, and nobody else did except for the outgoing government, the police — and they weren't talking about it — and the regulator, and they weren't talking about it either, so how could I get this information out to British Columbians? Because it was clear to me that we had to take some fairly significant steps, that there would be some pain associated with it. There'd be reduced provincial revenue. How did I explain to people what was going on? So I retained Peter German, who's an international expert in money laundering — he's literally written a book about money laundering law in Canada, a former senior police officer — to come in and do a review and present the information. He's a very credible person here, independent of politics. I was also concerned if I came out to present the information, it would be perceived that I was doing it for political gain or that it was motivated by political partisanship, so coming from a senior police officer and an expert in money laundering, people would understand this was not a political thing. It's just what was happening in BC casinos.

[00:04:11] We'll link to Peter German's report again. We did last week, but it's a very lively and easy report to read. Peter was keen to make it clear that his report was based on a review and not an investigation. Has there been any thought of taking a second run at this, a deeper dive, some sort of commission where you do actually ascertain who is to blame? Or are you only looking forward at this point?

[00:04:37] As minister, I needed a couple of things right away. I needed the public to understand as quickly as possible what was going on, and I also needed some quick solutions for us to implement because during my briefing, the public servants made it clear that this activity was ongoing to a level of about US\$4-US\$6 million a month in these transactions that organized crime was running through BC casinos. With that kind of spirit of needing people to know what was happening and needing solutions quickly, we did a review instead of a public inquiry or some other fault-finding exercise. It comes with benefits. It's faster. You get the answers in a more timely way around the policy, but it comes with a cost, and that cost is being able to really name names and find fault — "This person violated this policy. This person broke the criminal law," and so on. We made that decision, but part of what I asked Dr. German to do was to give a chronology about how we got to this point in British Columbia, and he really did that. In doing that, certainly, it wasn't difficult for some people to draw conclusions that some folks who had responsibility for the portfolio at certain times had additional responsibility. For example, there was a senior police officer who had come forward and said that there was an issue with money laundering in the casinos in the media. He had been sanctioned for coming forward and saying that because the minister responsible had complained about the fact that he had done that. In addition, there were two senior members of the regulator who were fired without cause, and they had been continually trying to raise concern within the regulator about the fact that this activity had been taking place. These kinds of issues showed up and, certainly, there was some fingerpointing that took place, but no specific findings that someone had committed a crime or something like that. As a result, once the report came out, there were a lot of calls from journalists, members of the public saying, "We need a public inquiry. We need fault-finding and some accountability here." There was one individual, Fred

Pinnock, who is the head of the integrated casino team who came forward and said that he names to name, and he wanted accountability and that he would only do so under a public inquiry-type structure. We're meeting with Mr. Pinnock in September, and he's going to provide his information to the government so we can make a decision about the appropriateness of a public inquiry based on the information that he wants to bring forward. But he had a key role as the lead police officer on the integrated casino policing team that was defunded by the previous government.

[00:06:45] It sounds like we can expect some follow-on investigations — maybe not directly related to the review, but growing out of those.

[00:06:51] The book's not totally closed from a couple perspectives. One is Mr. Pinnock's going to bring forward whatever information he has about why he believes his team was defunded, what the impact of that was, what he saw during his time as the head of the casino policing team. We'll look at that information and make a call about a public inquiry. There's a second phase of Mr. German's work. This is going to focus on real estate in particular, but not exclusively, because there were a number of very specific links identified during his review that the people who were bringing the bulk cash into the casinos were also very engaged in real estate activities in British Columbia. In addition, during his work, Dr. German identified that there was a gap in horseracing oversight and luxury car purchasing oversight. In particular, you can buy a luxury cars with cash without generating any particular records that can be followed on by law enforcement, and Vancouver is a North American capital for supercars. Putting all these pieces together, we're doing a second phase to look at real estate in these two discrete areas of the economy, address the fact that, although we've reduced suspicious cash transactions in the casinos by about 100 times from the peak, that money has gone somewhere, so we just need to make sure that we're on top of following where it goes and chasing it out of the province.

[00:08:02] With respect to the report itself, there were 48 recommendations that you've accepted in their entirety, and you've already referred to a couple of those with respect to luxury cars and real estate. What is the schedule for implementation? What are your expectations around implementation?

[00:08:19] There are a couple of recommendations that were very easy to do in terms of easy to understand and relatively easy to implement. The first was we issued a directive to the casinos that they shouldn't accept cash unless they know and can prove where it came from and that it came from a legitimate source.

[00:08:36] Which does actually sound like a fairly remedial thing. I think it's going to be surprising to listeners that that was not happening in British Columbia in casinos.

[00:08:42] What was happening was when the cash came in, when someone showed up with half a million dollars in US\$20 bills bundled with elastics, a form was filled out with the person's name and identification address and so on. The form was sent off to the federal anti-money laundering agency and, as far as I can tell, it went into a box in a giant warehouse. For all of the action that appears to materialize from that form being completed, the casino operator will say, "Look, we're filling out the forms. It's federal law. That's what we're doing. We're not here to do the law enforcement. We just provide the reports, and law enforcement does what it will do." It was a full answer in defense to the idea that they were facilitating money laundering, but the idea that they could continually have the same person show up over and over with US\$200,000, US\$500,000, US\$400,000 in twenties, and nobody said, "Where is this money coming from?" The casino would say, "It's not our job to say that." The police in the jurisdiction would say, "We're doing a bunch of other jobs. We're not chasing down

casino crime. We've got people shooting each other in the streets. We're dealing with that." The regulator is saying, "We're compliant with all federal laws, and we're making sure that all the forms are filled out properly." When you put it all together, nobody was actually asking that question, so it's filed under common sense — "Stop taking the money unless you actually know where it came from." The other one was — I don't know if any of your listeners have ever actually been in a casino — but when people tend to find themselves in casinos, it's not Monday to Friday, 9:00 to 5:00. It's evenings and weekends when they're in the casino, and the regulator was only present in the casino banker's hours. It's slightly better than that Monday to Friday, 9:00 to 5:00 — no offense to the bankers who are listening. The reality was that, for the majority of the traffic in the casino, the regulator wasn't available to the casino operator when the majority of the traffic was going through the casino evenings and weekends. So we've got the regulator in a targeted way in the casino at peak hours, which is really important.

[00:10:25] Low-hanging fruit. Those two recommendations already implemented—

[00:10:29] And there are some that are harder. He has recommended a specific separate police force to police inside casinos, so setting up a brand new police force — that takes some time. In addition, he has proposed a separate regulator similar to Nevada's gaming board, which is fully independent of government, like a crown corporation, and then all of the oversight and regulation related to money laundering and otherwise will be resident in this body instead of in the two bodies where it is currently, so setting that up, setting up the structures, laws and so on — to do that, these are longer-term projects.

[00:10:57] I'm going to press you for estimates. Do you have estimates of when you expect to have all of this in place?

[00:11:02] Yes. I'm hopeful that in our fall legislative session, which starts in October, we'll have some key pieces in place: chairing oversight of the BC Lottery Corporation by the regulator, addressing some gaps in the regulations as they stand. In terms of the new police force and the new regulator, we're looking at probably about a year in order to get everything in place for those particular projects. I have a group of deputy ministers from multiple departments. These are the most senior public servants within the Ministry of Finance, Ministry of Public Safety, a Ministry of Attorney General, which is my ministry, working together. That's a very significant project, and they're doing that work right now.

[00:11:36] That sounds like it's moving fairly briskly. If we can return to recommendations 45 and 47 again, those are the two you've already referenced about the potential for abuse in the real estate market and the luxury car sector. What are next steps for oversight in those two markets?

[00:11:53] It's maybe useful for your listeners to know the specific model of money laundering because it's replicated in these other sectors as well, allegedly. The "Vancouver Model" of money laundering, as it's called when they teach Australian anti-money laundering professionals about it, is an individual flies to Vancouver from China. They're a wealthy individual. They'd like to gamble, but because of China's currency restriction, they can't bring money with them. They arrive in Vancouver. They want to go to the casino. Someone will, from an organized crime gang, meet them at the casino and provide them with cash that was generated by the sale of drugs or other illicit activities. The person walks that cash into the casino, turns it into chips and goes ahead and gambles. In payment for the bag of cash, the individual receives that individual transfer money within China between two different bank accounts. Money never leaves China, so you don't have to worry about international oversight. They get the money they

need to gamble. The gang gets rid of the US\$20 bills. They get money out of the country into China, and Dr. German says that, in part, that money was used to pay for precursors for various drugs here as well as fentanyl, and we have a very serious fentanyl issue here. That's how the model works, and it's replicated. A couple different media outlets have identified, in the real estate side, that this model is replicated in builders liens. What happens is a homeowner that has a home with some equity in it, but they're unable to access traditional lending for whatever reason, is facilitated to meet someone from one of these organized crime groups who provides them with cash. In exchange for receiving the cash, they register a builders lien against their property, so the organized crime group now has a builders lien in the value of the cash. They've gotten rid of the cash. When the property is sold, then they receive the full payment of the loan. They are simultaneously getting rid of the cash, getting it into the legitimate market and also making money on the equity loan that they've made to the homeowner at a very significant rate.

[00:13:39] How do you address that as a problem in the community?

[00:13:42] There's a couple of issues. First of all, the basis for our understanding that this is an issue is a media story. "How big is the issue? Is it a real issue? How often are builders liens being used in this way? Was this one group of people? Is this a widespread problem?" That's the function of the review, to go in and kick the tires on a number of these different stories that are brought forward, and the media have been very active in bringing forward these stories and allegations about particular aspects of fraud or money laundering in the real estate market, which is completely out of control here. We have a very unusual real estate market in Vancouver, British Columbia. They've been doing these stories, and people are very concerned about it, but as policymakers, we don't know, "Is this one person? Is this hundreds of people? Is this US\$1 million? Is this US\$1 billion?" That's what Dr. German's review is going to be about, looking at using the resources of government to chase down some of these allegations that haven't been looked at. There's no particular body that chases those down that's particularly well suited, so bringing the resources so that he's able to chase that down and truth test it.

[00:14:40] Then you mentioned — and I didn't know this — that Vancouver is the North American capital of supercars. How does this play out in that market?

[00:14:47] The allegation here is that — the reality is that you can buy any kind of car here with cash. We have people who visit here. We have beautiful Ferrari, Lamborghini, Bentley, Rolls-Royce dealerships on Burrard Street.

[00:15:02] When somebody pays cash for one of those luxury cars, there's no reporting requirement on the dealership?

[00:15:07] That's right. Whereas if you bought real estate, or if you brought cash into a casino, there would be a report filed with the federal anti-money laundering regulator. That doesn't happen with luxury cars, so you can buy cars with cash. The other challenge is that because of the way that luxury car manufacturers market their vehicles, they market them at different price points in different countries. You can buy a luxury vehicle in Vancouver for some models more cheaply than in other countries. The concern is that a gang can use cash to buy a vehicle with no oversight, load the vehicle or vehicles into a container, send them over to a country where the vehicles are more expensive, and they've gotten rid of the cash. They sell the vehicle in that country and make a small profit on it and generate some legitimate proceeds from a sale that facilitates getting the money into legitimate economy.

[00:15:57] I started by saying this sounds like it might be a success story, but it does seem like there was a lot to work with.

[00:16:01] They're so many pieces, and the challenge with that is — we shut it down at the casino by saying, "Don't take the cash unless you know where it came from," but the very real consequence of that is the money has gone somewhere else, and we need to make sure that we're on top of where it goes.

[00:16:14] On a happier note, British Columbia seems to be out ahead of the rest of Canada on transparency around beneficial ownership in real estate, and the whole world is looking at this issue right now in the wake of the Panama Papers and the Paradise Papers. There's been a lot of talk about creation of a beneficial ownership registry for real estate. Can you talk about that a little bit?

[00:16:35] We have a really distinctive real estate market here in Metro Vancouver that's completely disconnected from local salaries, so when you look at average wages and the number of years that you would need to work to pay for a home, there's absolutely no connection, even at the high end and especially at the high end. There is a consensus that the money is coming from outside British Columbia. Nobody really knows where. Nobody really knows how, and there's a real lack of data. Part of that is a lack of transparency around who actually owns property in Metro Vancouver and in the province. A group called Transparency International, their Canadian branch did a study in Vancouver of the 100 most expensive residential properties in Vancouver. In that work, they found that, almost half of them, it was impossible to identify who the actual owner was because it was listed as either a student or a housewife — those are people who typically don't have any source of income — or a numbered company, a trust, an offshore trust. The way the numbered company model works is you have a company, and then the sole director is a lawyer, and because of our solicitor-client protection laws in Canada and British Columbia, it's impossible to get past that lawyer to know where the money came from or who the lawyer represents. What we're saying is, and what the finance minister is working on, is we will have a registry in which people have to declare who the beneficial owner — that is, the owner that benefits from owning the property. Who is that person that provided the money and the capital to put it forward? If it's a company, who are the shareholders of the company, the actual owning shareholders? If it's a trust, who's the beneficiary of the trust? And so on, but that will have to be declared. Failing to declare that or committing fraud in relation to that will be punished as an offence provincially. The intention behind it is two-fold. One is to minimize the risk of tax evasion and the ability of people to hide proceeds of crime or proceeds of tax evasion in our real estate market, to use our real estate market as an investment vehicle and also conceal where the money came from. The second is to address the concern that, not just around investment and tax evasion, but that there may, in fact, be recognition internationally that you can put money into the Vancouver real estate market and use it to launder proceeds of crime internationally, and particularly in respective countries where Canada doesn't have an extradition agreement — China, Iran, for example. There have been some high-profile cases where individuals who embezzled funds in China invested in multiple properties in Metro Vancouver, and then the Chinese company has come to Vancouver courts to try to enforce judgments that they've received in China in relation to criminal conduct, and they've been increasingly successful in our courts in doing that. We want to facilitate their ability to do that. We want to facilitate the ability of others who have been ripped off by white collar crime or fraud or otherwise and assist the federal government in enforcing tax law by ensuring that we can actually identify who owns properties.

[00:19:28] When can we look for this?

[00:19:29] There's a white paper out right now outlining our intentions in relation to the beneficial ownership structure and the structure of the registry. People are providing comments about that to the Ministry of Finance, and we're less than a year away from implementation of that registry based on the feedback we receive.

[00:19:45] Will the registry be publicly searchable, or will it only be available to the government?

[00:19:49] Our property registry in British Columbia is public. There's a small fee to access a land title registry, but we would provide free access to law enforcement and to tax authorities. In the public, it's available to them. It's about US\$15.

[00:20:00] This sounds like a lot of good news, and making life difficult for organized crime should be an easy issue to sell. Have there been any unexpected obstacles? Are there concerns about a chilling effect on legitimate investment?

[00:20:14] Yes. People whisper this particular concern — because they're a bit embarrassed about it, and frankly, I think they should be — that part of British Columbia's competitive advantage and British Columbia has benefited economically from a lack of transparency. You can set up a company here without having to disclose whoever the owners are. You can buy property here without having to disclose who the owners are. We have very low property taxes, and British Columbians selling their property to people who are seeking to hide assets are making money. They're seeing a home that they bought for US\$50,000 30 years ago valued at US\$5 million, US\$6 million, US\$7 million. British Columbians are doing very well by this kind of economic activity — well, a certain group of British Columbians are doing well by it. What's the harm, really? That's bringing a lot of money and a lot of wealth into British Columbia, and the government has benefitted by the property transfer tax. When people sell their home at US\$5 million, that's money into provincial coffers. In the casino scenario, it's US\$30 million a year, we estimate, that we're going to lose by cracking down on the money laundering. That's US\$30 million for public programs, schools, hospitals and so on. The reality, though, unfortunately, is that it does obviously come with a significant cost. We're going to spend hundreds of millions of dollars dealing with the fentanyl crisis that we have. It's been linked to the money laundering in the casinos. We have a hollowing out city in Vancouver where young people can't afford to stay, where people with families can't afford to live in Metro Vancouver. They're leaving because of that. Our wages aren't allowing them to have any kind of quality of life here, and there are lots of other places they can go. We have a very exciting and growing tech sector that's being hobbled by the fact that they can't recruit the workers that they need here because people earning legitimate wages here can't compete with people who are bringing money in from elsewhere. There are all these kinds of knock-on effects that are really difficult to put a price on. That's the one pushback. On the beneficial ownership piece, the one that surprised me was concern about people who were particularly vulnerable for one reason or another. Maybe they're law enforcement. Maybe they're a celebrity. Maybe they're a person fleeing an abusive spouse. Not being able to hide property ownership from the public registry through a particular corporate structure, being willing to take the tax of having a company hold it instead of holding it as a primary residence — which means you can't benefit from capital gains exemption that we have here in Canada for primary residence — but choosing to do that in order to avoid having somebody show up at your house who has violent intentions or is a stalker or otherwise just a pain in the ass, so that's a category of people I never anticipated having concerns about this kind of thing — the chief justice of the Supreme Court or a particular singer or a movie star or whatever. We'll have to find a way

to work with that while preserving the intentions, and we need to balance the need for transparency with concerns around security.

[00:22:59] I've heard the celebrity argument before, but given that the paparazzi stalk them and photograph them drinking their latte next door, I'm not sure how viable that is. The security issue, though, for law enforcement and judges and others is real. Is there a way to address that?

[00:23:12] That's part of the work that's being done around the white paper and in gathering information and suggestions about best practice on these kinds of things. One of the things about leading in these areas is sometimes you have to work things out as you go along. That's the intention the Finance Minister had in releasing this white paper.

[00:23:27] Is there anything else that you'd like to add to the discussion about addressing financial crime in this corner of Canada?

[00:23:33] I think that one of the challenges that we've had in communicating this issue is helping people to understand that the money that's being laundered didn't drop from space, that it's the proceeds of crime in which many British Columbians are participating — whether it's paying cash to avoid taxes, whether it's buying drugs recreationally, whether it's hiring a sex worker, whatever it is — and trying to communicate to people the link back to their choices and also the link back to the index offenses. It's very easy for money laundering to quickly become a bit of an academic discussion about money laundering separated from the offenses that generate the cash in the first place. That's the challenge for all of us, I think. There's gun violence in our communities. To connect that with, "What are they fighting over?" They're fighting over the profits from crime, and those profits are being laundered through BC government facilities or through real estate. That's why we're taking the actions we're taking.

[00:24:26] Absolutely. It's all incredibly interconnected — narco-trafficking and human trafficking and money laundering and grand-scale corruption. Money coming from foreign countries was often looted from the government coffers in those countries. It is definitely a large and pretty unattractive spider's web. Thank you so much for your time today.

[00:24:45] Thanks for having me.