

Results at a glance

Evaluation of the Investigative Powers for the 21st Century Initiative (March 2020)

The *Investigative Powers for the 21st Century Initiative* (IP21C) is a horizontal initiative led by the Department of Justice Canada in collaboration with the Public Prosecution Service of Canada, the Royal Canadian Mounted Police and Global Affairs Canada.

The IP21C Initiative has supported the implementation of new legal authorities arising from former Bill C-13, the *Protecting Canadians from Online Crime Act* (PCOCA) that came into force on March 10, 2015. This Act introduced specialized investigative powers under judicial authorization to obtain digital evidence. The overall objective of the Initiative is to provide the means to implement the amendments made to the *Criminal Code* and the other Acts by the PCOCA and to meet Canada's international obligations stemming from ratification of the Budapest Convention. This is to help ensure that the Government of Canada achieves its commitments to protect Canadians from cybercrime and to provide a solid legal framework with respect to all crimes that involve digital evidence – in a manner consistent with the *Charter*.

WHAT WAS FOUND

- The evaluation confirms that the overall objective of the IP21C Initiative continues to be relevant, as cybercrime and computer-assisted crimes are growing at a fast rate both in Canada and internationally, and criminals are increasingly exploiting evolving technologies. The evaluation evidence indicates there is an ongoing need for the key activities supported by the Initiative.
- While the PCOCA addressed a significant need to modernize the investigatory powers in the *Criminal Code*, Canada's laws need to continually evolve so that law enforcement and prosecutors are equipped with the tools necessary to combat cybercrime and other computer-assisted crime. Police and prosecutors highlighted in particular the challenges associated with obtaining timely access to basic subscriber information and encrypted data.
- IP21C officials devoted considerable effort to raising awareness and knowledge of the key elements of the PCOCA. The primary target audiences, including law enforcement, prosecutors and telecommunications service providers, are now very familiar with the legislative amendments.

- Relatively few legal and operational issues have arisen related to the new investigatory powers. While it was expected that numerous *Charter* challenges would arise from the new investigative powers, this has not yet proved to be the case. The resources provided to the federal partners by the Initiative have helped them to successfully manage implementation of the investigatory powers. The main legal issue is that the new transmission data recorder warrant provisions do not provide access to basic subscriber information.
- The IP21C Initiative has contributed to improving Canada's operational ability to combat cybercrime and other computer-assisted crimes. IP21C officials have collaborated extensively with each other and with external stakeholders to support implementation of the IP21C-related investigatory powers. The RCMP has implemented a dedicated triage function to process and track data preservation requests received from foreign law enforcement. It also has developed new tools to access, obtain and process digital evidence from devices seized as evidence, as well as tools used in a live intercept situation.
- The evaluation found that the Initiative has helped Canada to increase its level of cooperation internationally to obtain digital evidence to combat cybercrime and computer-assisted crime. Canada is viewed internationally as playing an important role in supporting the Budapest Convention, with considerable effort devoted to the drafting of the Second Additional Protocol.

RECOMMENDATIONS:

- No recommendations are included as the IP21C Initiative was implemented as expected and there are no identified barriers to the achievement of expected results.

ABOUT THE EVALUATION

The purpose of the IP21C evaluation is to examine the relevance, performance and design of the Program, in accordance with the Treasury Board 2016 Policy on Results. For the full report, please visit the Evaluation Division <https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/2020/ip21c-pe21s/index.html>

