

## THE DAILY SPECIAL

# Jailing gangsters: The public must help

Police and prosecutors can't send criminals to prison without evidence from witnesses

BY LORI CULBERT  
VANCOUVER SUN

Someone is shot in a crowded nightclub but none of the hundreds of people on the dance floor saw the gunman.

There are 30 diners in a restaurant when gunfire erupts, but every customer was in the washroom at the time.

Bullets fly in the middle of the day in a busy neighbourhood, but no one calls 911.

The truth is, many witnesses are reluctant to testify in cases that involve gangs and organized crime.

Don't get involved. Keep your head down. Look the other way. Then, many believe, the gangs will leave them alone.

But that reasoning is dead wrong, argues Teresa Mitchell-Banks, who heads B.C.'s organized crime prosecution unit, which handles many of the province's biggest gang trials.

While people are understandably shaken by the tit-for-tat shootings on Metro Vancouver streets, there is something crucial they can do to take back their community: Phone 911 or, at the very least, CrimeStoppers, Mitchell-Banks said.

"When you don't participate in the maintenance of a civilized society you are handing it over to the gangsters," said the straight-talking senior prosecutor. "Then you're going to have another shooting."

Put simply, police and prosecutors can't send criminals to prison without witnesses providing evidence and, in some cases, testifying.

"If the community is not a player, we can't do it, because the Crown and the police are not in the community when the shots are fired," she said.

"You are."

Vancouver police Insp. Mike Porteous works closely with Mitchell-Banks, most recently on the massive Project Rebellion, which led to more than 180 charges against 25 people linked to gangs.

Porteous, head of the force's major crime section, said a recent Vancouver police analysis showed charges were less frequently approved for gang-related murders than for other homicide cases.

The main reason? Witnesses weren't cooperating in gang-related cases because of a "disproportionate fear" that they'll be targeted for doing so, he said.

Gangsters have tried to intimidate witnesses and prosecutors in court, Porteous said, but judges come down hard when they see that happen. And he has never seen retaliation against an innocent bystander who came forward to testify.

## Need public help

Attorney-General Wally Oppal insisted witnesses should not be afraid, saying the legal system will look after their security.

"We need more help from the public, particularly in gang killings where the police come upon the scene where there is a body, but there is no one to give them any kind of evidence," Oppal said.

"There is always that concern about witnesses and their safety, particularly in view of the fact that we have been getting some threats against the Crown," he said. "[But] if you look back in our history, there hasn't been any real evidence of harm being done to witnesses; there have been some idle threats from time to time."

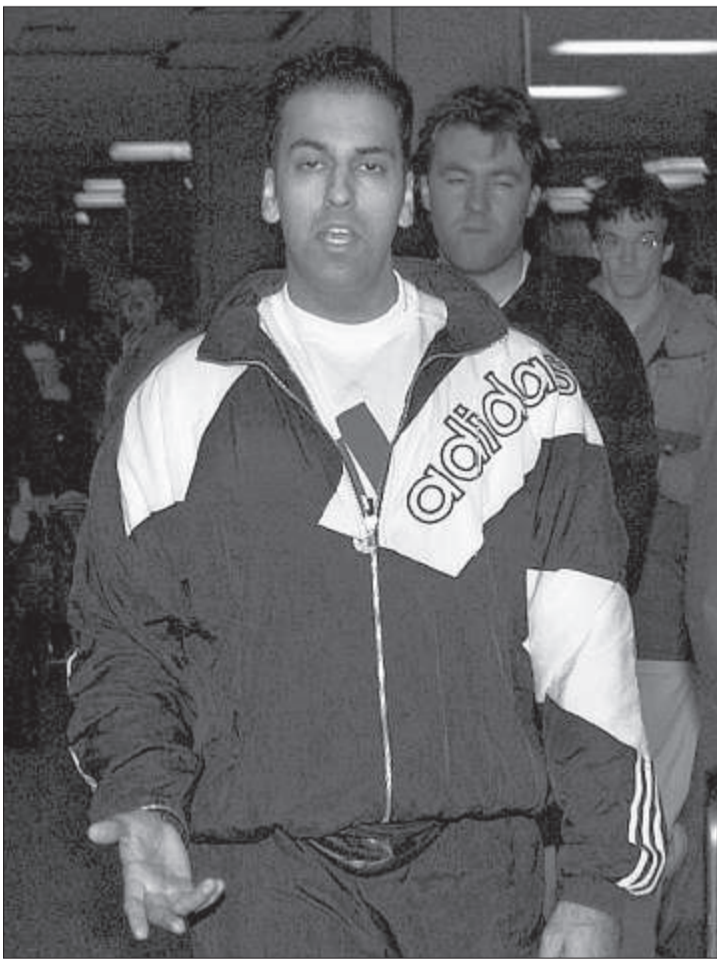
Oppal noted that a witness often doesn't have to be identified — when there are guilty pleas, for example — but snippets of evidence given to police can be key building blocks in a case or can lead to other crucial information.

When witnesses are required to testify, Oppal said, the Crown can pursue protective measures such as editing disclosure so personal information is not divulged; publication bans on their names; holding trials in high-security courtrooms; and arranging alternative accommodations during the proceedings.

"So there is ample protection for witnesses," said Oppal, a former B.C. Court of Appeal judge.



Insp. Mike Porteous with video of arrests, which have 'functionally dismantled' one of the gangs dubbed the Sanghera crime group. Here, Bobby Sanghera is being arrested in video released by police.



Obstruction of justice charges against Bindy Johal were dropped when police feared for the safety of several secret informants.

(Oppal lost his seat in the provincial election and will cease to be AG on Wednesday.)

People may avoid phoning 911 for many reasons: they are intimidated by the justice system; put off by the inconvenience of testifying at a trial; not attracted to how courtrooms are portrayed on TV; or scared of facing down the accused. But the chances of a gangster pursuing an innocent bystander who witnessed a crime are "negligible," says Robert Gordon, director of Simon Fraser University's school of criminology.

"I think the police and Crown are correct in saying in reality, there aren't the kind of repercussions that people think there might be," Gordon said.

However, if the witness has links to the gangs — either as an insider or rival, or possibly as a police agent — then there could be serious repercussions if he testifies, he added.

In one infamous B.C. case in 1998, notorious gangster Bindy Johal was facing obstruction-of-justice charges after the Crown alleged several assault victims were coerced to visit the office of Johal's lawyer, Russ Chamberlain, to recant statements they had made to police about three assaults allegedly committed by Johal and his co-accused.

But the Crown suddenly dropped the obstruction charges against Johal and others because police feared for the safety of several secret informants. "We have collectively come to the decision that if this prosecution continues, the lives

of confidential informants who have provided information to police will be placed in serious jeopardy," special prosecutor Bill Smart told the judge.

(Johal was shot dead in a nightclub in December 1998.)

Trials involving organized crime groups can be complicated mine fields. The organized crime unit run by Mitchell-Banks has about 16 prosecutors, and the government is in the process of hiring 10 more to beef up its ranks. The unit offers assistance to other prosecutors in B.C. for gang-related trials, and members will personally handle trials involving key gang leaders.

## Gang forum Thursday

Mitchell-Banks, who will take part in a gang forum Thursday to be broadcast on Shaw TV, has recently squared off in court against all three Bacon brothers and their former associate Dennis Karbovanec, as well as the accused in Project Rebellion.

Porteous, who headed Project Rebellion, said Vancouver police officers spoke with prosecutors almost daily, including weekends, to clarify legal questions throughout the five-month operation and to be prepared for the trial.

Twelve of those arrested this spring were with the Sanghera crime group, while several others were with the Buttar group.

Organized crime trials are often long and hard-fought because cash-rich gangsters can afford good defence lawyers

who will challenge most of the evidence.

Porteous estimates a case arising from something like Project Rebellion will require the Crown to re-produce hundreds of thousands of pages of police notes and other information gathered by investigators to comply with requests by defence lawyers.

That process is called disclosure, and B.C. is lobbying the federal government to streamline it because it has been delaying major trials.

B.C. has also asked Ottawa to modernize dated wiretap legislation to cover e-mail, text-messaging, cellphones, BlackBerrys — tools more popular with gangsters than wire-line phones.

While the Conservatives have made no formal commitment to change the wiretap legislation, Oppal hopes that will happen by the fall and will also reduce delays police face to get authorization to bug a line.

"More speed is needed to wiretap, particularly when it comes to gang-related crimes, when conventional investigative techniques are not as effective as they are for other types of crimes because you really don't have any victims who come forward to testify," Oppal said.

RCMP Supt. Doug Kiloh believes even more legislation requires "significant change" to help police target gangsters.

"The whole judicial system needs a review," said Kiloh, head of the Combined Forces Special Enforcement Unit, B.C.'s multi-police-agency unit

which targets organized crime.

The threshold to get charges approved is too high, he said, and juries are subjected to a "19th century" court system that requires them to sit through excruciatingly long trials.

Police can protect the identity of informants who offer them information but, Kiloh said, as soon as officers ask them to do something specific, they are classified as police agents and must testify in court.

"Not a lot of people are real keen on doing that," he said. "In my view, they have to change how the court is run."

Police in Quebec tried to cripple that province's five Hells Angels chapters by filing an indictment in April seeking the arrest of 156 people.

That tactic hasn't been tried here, Oppal said, because of concerns a jury may struggle to keep the evidence straight in a legal proceeding of that size.

"Any time you have more charges or more accused, then you always have that problem of confusing the jury," he said.

Oppal said he was disappointed there hasn't been more success with the anti-gang legislation, which allows prosecutors to argue that an accused is part of a criminal organization. The constitutionality of that legislation has been challenged and Oppal hopes will soon be "sorted out."

There have been some positive advancements in the war on gangs, such as the Civil Forfeiture Act which, since it was enacted in 2006, has allowed the province to seize \$6.411 million

## GANG WARS: JUSTICE IN OUR TIMES



A special Vancouver Sun five-day series which looks at the hierarchy of B.C.'s 135 crime groups.

**Saturday, June 6:** A guide to gang structure in B.C.

**Monday, June 8:** An overview of the gang problem in the U.S., Mexico and Central America, and the links to B.C.

**TODAY:** How police and prosecutors tackle gangs in B.C.

**Wednesday, June 10:** What our judges do when gangsters get to court.

**Thursday, June 11:** How can we stop our children from becoming involved in gangs?

**Online:** Go to [vancouver.sun.com](http://vancouver.sun.com) Thursday at 7 p.m. to watch a live broadcast of a community forum featuring experts on the gang problem. The panel will discuss solutions for our justice system and communities in the fight against organized crime. The forum will be moderated by Judge Pedro de Couto, president of the Law Courts Education Society, and include panelists Supt. Dan Malo of the B.C. Integrated Gang Task Force, Crown prosecutor Teresa Mitchell-Banks, Vancouver Sun crime reporter Kim Bolan, and Safe Schools manager Theresa Campbell of the Surrey school district.

in property and assets bought with crime money or used for unlawful purposes.

And, Oppal said, there has been more collaboration between prosecutors and police.

## More cooperation

Solicitor-General Rich Coleman would add to that list more cooperation and information sharing between B.C.'s various police agencies, although not every one agrees the province's patchwork-quilt system of independent agencies is the most effective way to target gangs.

Coleman, himself a former Mountie, offers proof the current system works: Nearly 50 gangsters linked to organizations such as the United Nations, Red Scorpions and the Bacon brothers, have been arrested since February.

Coleman hinted that investigations under way will lead to more arrests.

While Porteous would like to see a more regional approach to policing, he agrees with Coleman that law enforcement is winning some of the battles in its war on gangs.

He estimates the Sanghera gang was responsible for 50 shootings from 2006 to November 2008, when Project Rebellion kicked into full gear.

The multi-million-dollar Project Rebellion grew so big it ballooned past its original budget, but despite that, Porteous said he got more positive response from the public — who pay taxes that support police salaries — over this case than any other in his long law enforcement career.

"This was a No. 1 priority in the Vancouver police department during that time frame," he said. "There was a lot of fear out there."

Mitchell-Banks cautioned, however, that even if all of the gang-related suspects currently before the courts are found guilty and sent to jail, it doesn't mean peace will suddenly break out on city streets.

"There are young bucks behind them that want that position, they are all jockeying for that."

Mitchell-Banks, who specialized in white-collar-crime trials before taking over the organized crime unit in 2005, said she and her colleagues are motivated to work these high-stakes cases in their pursuit of a more civilized society.

"We want to go shopping without worrying about a shooting on the street. We want our kids to go to school without worrying there are guns on the street."

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With files from Neal Hall.