

**MINISTRY OF JUSTICE
COMMUNITY SAFETY AND CRIME PREVENTION BRANCH**

BRIEFING NOTE

PREPARED FOR: Suzanne Anton, Attorney General and Minister of Justice

ISSUE: Civil Forfeiture Overview

BACKGROUND:

- The Civil Forfeiture Office (CFO) operates under the authority of the Civil Forfeiture Act (“the Act”) and has been active since 2006. The CFO is entirely self-funding receiving no appropriation from government. Revenues derived from forfeitures are expended:
 - to operate the program (legal and administrative costs);
 - to provide crime prevention grants to community associations (and police);
 - to meet an assigned budget target to the government which has increased over the past two years by \$1M to its current \$3M.
- At the close of FY 12/13, the CFO had forfeited \$31M+ in property and provided in excess of \$10M+ in crime prevention grants and victim compensation payments.
- The Act allows the CFO to seek the forfeiture of property that is alleged to have been used to commit unlawful activity (e.g. a home used as for a marijuana grow operation) or property that is allegedly the proceeds of unlawful activity (e.g: cash from a drug deal or a vehicle purchased with money from selling drugs).
- The CFO uses the civil court process rather than the criminal court process. Two key distinctions are: actions depend upon a civil standard of proof – that is, a balance of probabilities – and the actions are against property- not people.
- All Civil Forfeiture actions involve normal Due Process and consideration of Charter Rights. Ultimately the CFO must convince a BC Supreme Court judge that forfeiture should be ordered. The court must also consider whether forfeiture is in the interests of justice. If a court subsequently determines that forfeiture is not in the interests of justice, the court may limit or refuse to issue a Forfeiture Order.

- The CFO can receive referrals from police and non-police agencies across BC, from other provinces and from foreign jurisdictions. Information is provided to the CFO through Information Sharing Agreements. Civil Forfeiture actions do not depend on whether there were criminal charges or convictions. The police cannot investigate on behalf of the CFO and must consider criminal forfeiture before making a referral to the CFO.
- The CFO has no power to investigate or “seize” property: it can only preserve the property pending a Court Order to have the property forfeited. Once the property is forfeited, the Act requires the CFO to liquidate (sell) the property.
- In accepting a file, the CFO will consider the strength of the evidence outlined within the case material, the interests of justice and the economic benefit of pursuing litigation.
- In 2011, the Act was amended to allow for Administrative Forfeiture, which authorized the CFO to commence proceedings against lower dollar value property (ie: cash, vehicles, jewelry) in a more cost effective manner.
- The CFO can only commence proceedings under Administrative Forfeiture for certain property: property that is worth \$75,000 or less, is not real property (a house) and property that does not have a secured interest or lien. If the interest holder does not dispute the claim that the property was either used for unlawful activity or was proceeds of unlawful activity within 60 days of notification, then the property is administratively forfeited. If a claimant files a dispute then the matter is directed into the normal Civil Forfeiture process (court).

DISCUSSION:

Specific issues:

- **Challenges to the validity of Act:** CFO cases rarely go to trial as the vast majority of actions settle on terms that are favourable to the office. In the handful of cases where a trial has occurred, the Act has been challenged but been validated by the court (both the BC Supreme Court and BC Court of Appeal). There are currently challenges to aspects of the Act in both the BCCA and the Supreme Court of Canada. Interpretations of the Act by the court have not necessitated changes to the legislation.
- **Administrative Forfeiture:** While the implementation of the Administrative Forfeiture program (the first in Canada) initially raised concerns from the BC Civil Liberties Association and some media outlets, there have been very little if any

negative comments since then. Financially, the program has been a resounding success and similar legislation is currently in the process of being enacted by other Civil Forfeiture Offices across Canada.

- **Grants:** Crime prevention grants are critical to the CFO for three reasons:
 - Grants generate positive feedback from the police and community associations which see the immediate benefit to both their community and to their departments. Police make file referrals voluntarily to the CFO and so without their support there would be no program;
 - Grants provide the government with the opportunity to identify emerging issues and meet priority commitments. For example, CFO funding of education awareness regarding the drug ecstasy following a sudden upsurge in the fatality of young persons associated to this drug;
 - Grants demonstrate to the BC Courts that the CFO is following the Supreme Court of Canada's validation of Civil Forfeiture law which outlined the requirement to compensate communities who suffer from unlawful activity.
- **CFO Security:** Following recommendations by the Ministry's Corporate Security Office, the CFO upgraded physical security to its office and increased the confidentiality of the identity of its employees. There is currently a single media requestor who is seeking to identify and publish the names of all employees. This matter is in the process of being adjudicated by the Office of Information and Privacy Commissioner.

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s.15, s.17

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**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
COMMUNITY SAFETY AND CRIME PREVENTION
BRIEFING NOTE**

**PREPARED FOR: Shirley Bond, Solicitor General
FOR INFORMATION**

ISSUE:

Civil Forfeiture Office-Proceedings against high profile property in Vancouver (Human Trafficking)

BACKGROUND:

- In June 2009 the RCMP received a complaint of human trafficking from a women's shelter alleging that a woman had been brought to Canada from Tanzania under false pretences in order to work as an unpaid domestic servant.
- Investigation by the RCMP revealed that the victim was forced to perform domestic chores 20 hours a day, 7 days a week, as well as provide personal service (daily massages) to a woman and her daughter. It was also determined the victim was not paid for her services or provided with basic food sustenance.
- The Crown approved charges of human trafficking against both the mother and daughter and, as a result, there has been significant media attention surrounding this event (the daughter is a UBC Professor).
- As the Crown did not approve action against the property itself, the RCMP referred this matter to the Civil Forfeiture Office (CFO) in August 2011. Following a review of the evidence, the CFO commenced action against the property which is worth approximately \$3 million

DISCUSSION:

- The Office to Combat Trafficking in Persons (OCTIP) supports the development and overall coordination of BC's strategy to address human trafficking. Human trafficking is a global problem and Canada has been identified as a destination point for human trafficking with Vancouver being singled out as a port of major concern.
- The action undertaken by the CFO in this matter supports the objectives of the BC government through OCTIP, namely to prevent human trafficking, and remove the financial incentive associated with this type of unlawful activity.
- This is the second case the CFO has undertaken involving human smuggling/trafficking. The first case involves human smuggling across the Canada/US border and this matter remains before the courts.

- The court documents related to the civil forfeiture action are public records. Given the interest in this matter the media is likely to become aware of the civil forfeiture action and may approach either the Minister or the Civil Forfeiture Office for comment.
- An information bulletin on the file may be appropriate however, as the matter is before the courts it is recommended that there be no comment on the particulars of this case prior to its conclusion.

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**MINISTRY OF JUSTICE
Community Safety and Crime Prevention
BRIEFING NOTE**

PURPOSE: For INFORMATION for Suzanne Anton, Attorney General and Minister of Justice

ISSUE: Civil Forfeiture Office – Proceedings against high profile property in Vancouver (Human Trafficking)

SUMMARY:

- The Civil Forfeiture Office (CFO) commenced civil forfeiture proceedings against the property at 1455 Bramwell Road, Vancouver in August 2011. The Notice of Civil Claim alleged the property was both an instrument and proceeds of crime associated to the offence of Human Trafficking and the relevant points were outlined in BN #470792 (attached).
- Prior to the CFO commencing its proceedings the Crown approved criminal charges against one of the owners of the property, Mumtaz LADHA. In November 2013, following a lengthy criminal trial, the accused (LADHA) was found not guilty on all counts. Further, the judge made oral comments in her decision that criticized the credibility of the victim. There is no indication the Crown plans to appeal as the credibility issue was a finding of fact (not an error in law).

BACKGROUND:

- The Office to Combat Trafficking in Persons (OCTIP) supports the development and overall coordination of BC's strategy to address human trafficking. Human trafficking is a global problem and Canada has been identified as a destination point for human trafficking with Vancouver being singled out as a port of major concern.
- The action undertaken by the CFO in this matter supported the objectives of the BC government through OCTIP, namely to prevent human trafficking, and remove the financial incentive associated with this type of unlawful activity.
- This is the second case the CFO has undertaken involving human smuggling/trafficking. The first case involved human smuggling across the Canada/US border and was successful resulting in the forfeiture of a property on the border.
- This particular civil forfeiture action was unique and relied heavily on the credibility of the victim rather than external (non-witness) evidence. Given the criminal court's finding that the victim lacked the necessary credibility, it is doubtful that the victim would be found to have credibility in the civil court venue.
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s.14

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Attachment(s)

Cliff 470792 (previous BN of August 25, 2011)

**MINISTRY OF JUSTICE
COMMUNITY SAFETY AND CRIME PREVENTION BRANCH
BRIEFING NOTE**

**PREPARED FOR: Suzanne Anton, Attorney General and Minister of Justice
FOR INFORMATION**

ISSUE:

Civil Forfeiture Grants Plan – Fiscal 2013-14

BACKGROUND:

- The *Civil Forfeiture Act* specifies that funds forfeited must be paid into the Civil Forfeiture Special Account and may only be paid out of the Special Account at the discretion of the Director for:
 - administration of the Act;
 - crime prevention activities;
 - crime remediation activities; and
 - compensation of eligible victims.
- The Civil Forfeiture Office (CFO) is self-funding, with recoveries covering CFO's operating costs.

s.17

- Since 2006, \$10.5 million in grants have been disbursed targeting a range of issues including preventing youth gangs, combating human trafficking and sexual exploitation, and stopping violence against women.

DISCUSSION:

- CFO is projecting approximately s.17 will be available for grants in 2013-14.
- An open call for grant applications is proposed for November 2013.
- The proposed priority areas for grants are established through consideration of government's current strategic initiatives, crime trends, and consultation with stakeholders.
- It is proposed that this year's grant priorities will focus on the following four areas:

1. Preventing the Sexual Exploitation and Human Trafficking of Aboriginal Girls and Women

- Grants to prevent and address the domestic trafficking and sexual exploitation of Aboriginal girls and women, in accordance with Priority Area 3 of *BC's Action Plan to Combat Human Trafficking*.
- Grants will particularly focus on the vulnerability of Aboriginal girls and women to sexual exploitation as they transition from rural to urban centres, which will respond to recommendation 6.2 of the *Missing Women Commission of Inquiry Report*.

2. Enhancing or Developing Domestic Violence Units

- Grants to enhance or develop Domestic Violence Units, in accordance with the commitment made in *White Paper on Justice Reform, Part 2*.
- A Domestic Violence Unit is a collaborative model that co-locates victim service workers, police and, in some locations, child protection workers together to respond to high risk domestic violence cases.

3. Youth Crime Prevention

- Grants to prevent youth from becoming involved in crime, which will become a focus of the *BC Crime Prevention Strategy*, committed to in the *White Paper on Justice Reform, Part 2*.

4. Police Responses

- Grants for training and equipment for police to prevent crime and remediate the effects of it, as part of the broader policing response.
 - CFO also funds the Fugitive Return Program on an annual basis at \$40,000.
- All grant proposals will be reviewed using the criteria identified in the application form. Examples of criteria include:
 - The project's ability to respond to the identified issue;
 - Budget and financial accountability; and
 - Involvement and support of other community and justice partners.

ANNOUNCEMENTS and NEXT STEPS:

- The call for proposals and awarding of grants are opportunities for announcements and potential media coverage.
- Ministry staff will work with GCPE to identify opportunities for announcements – including a possible announcement of the availability of grants during BC Crime Prevention Week (November 1-7, 2013).
- Review of grant applications will be completed by March 2014, presenting further opportunities for announcements at that time.

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**MINISTRY OF JUSTICE
COMMUNITY SAFETY AND CRIME PREVENTION
BRIEFING NOTE**

PURPOSE: For INFORMATION for Suzanne Anton, Attorney General and Minister of Justice

ISSUE: Announcement and distribution of over \$5M in civil forfeiture grant funding to communities.

SUMMARY:

- The Ministry has completed its assessment for allocation of civil forfeiture grant funding for the 2013/14 fiscal year.
- Over \$5M in civil forfeiture grant funding will be awarded in the following priority areas:
 - s.13 on recommendations from the Missing Women Commission of Inquiry;
 - Over \$2.5M to prevent and address violence against women; and
 - Over \$1.5M to prevent youth involvement in crime and support other crime prevention initiatives.
- The grants will address initiatives outlined in the Minister's mandate letter, including taking action on additional Missing Women Commission of Inquiry (MWCI) recommendations and by expanding the number of domestic violence units in British Columbia.
- The grants also fulfill commitments outlined in the Status Report on the Missing Women Commission of Inquiry, White Paper 2, and the Provincial Domestic Violence Action Plan.
- With respect to the MWCI report, the Ministry will be taking action on the following six recommendations with this grant funding:
 - Urgent Measure #1 – Government will take further action on this measure and provide funding to key organizations (e.g. PEERS Victoria, PACE, Warm Zone) that provide drop-in and outreach services to vulnerable women involved in the sex trade.
 - Rec. 5.1 – Fund the evaluation of SisterWatch and the development of best practices for meaningful police-community partnerships.
 - Rec. 5.2. and 5.3 – Provide funding to Living in Community (LIC) to facilitate the implementation of the LIC collaborative model in other communities and support priority actions in LIC's action plan.

- Rec. 6.1. – Provide funding to support actions in the Highway of Tears Symposium action plan (focusing on community safety activities).
- Rec 6.2 – Provide funding to organizations to support the safety of vulnerable aboriginal women and girls during transition from rural to urban communities.
- A number of the grants are being distributed following an open call to stakeholders in November 2013 for projects which support the prevention of youth crime, domestic violence, and sexual exploitation and human trafficking.
- s.13

BACKGROUND:

- The *Civil Forfeiture Act* specifies that funds forfeited must be paid into the Civil Forfeiture Special Account and may only be paid out of the Special Account at the discretion of the Director for:
 - administration of the Act
 - crime prevention activities;
 - crime remediation activities; and
 - compensation of eligible victims.
- The recipients of this year's CFO grants were selected in two ways:
 - through an open call for applications announced in November 2013; and
 - through a selection process to targeted agencies that have demonstrated expertise and capacity to deliver the services required, and have been identified as key service providers or recognized experts in their field.

OTHER MINISTRIES IMPACTED/CONSULTED:

- N/A

NEXT STEPS:

GCPE is developing a communications plan, including an announcement to take place on March 13, 2014.

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Attachment(s): s.13

Pages 12 through 29 redacted for the following reasons:

s.12, s.17