

April 3, 2006

CIVIL ASSET FORFEITURE

The Remedies for Organized Crime and Other Unlawful Activities Act (Civil Remedies Act) gives the Attorney General the power to go to court to seek to forfeit proceeds of unlawful activity. The law permits a court, at the request of the Attorney General, to freeze, seize, and forfeit to the Crown, assets that are determined to be the proceeds or instruments of unlawful activity.

Under the legislation, the court can grant an interim order to freeze assets pending the outcome of the forfeiture proceeding. Civil lawyers bring actions to court, and if they can prove to the court that the assets in question are the proceeds or instruments of unlawful activity, the court can issue orders forfeiting the assets to the Crown.

In addition to forfeiture provisions, the act allows the court to grant an order for damages or any order necessary to prevent or reduce the risk of injury to the public, where the court finds a conspiracy to engage in unlawful activity that has or likely will cause injury to the public.

Civil asset forfeiture focuses solely on the connection between property and unlawful activity, and is not based on any criminal conviction. By contrast, criminal asset forfeiture permits forfeiture of assets obtained by or used in the commission of an offence following the conviction of an individual.

Forfeited assets are liquidated and deposited into a special purpose account. The act enables direct victims of the crime, the Crown, municipal corporations and prescribed public bodies to submit a claim for compensation or cost recovery against the forfeited assets.

The Civil Remedies for Illicit Activities Office (CRIIA) of the Ministry of the Attorney General is responsible for enforcing the Civil Remedies Act. CRIIA is recognized nationally and internationally for its precedent-setting work. CRIIA has successfully argued all of its forfeiture cases to date.

Forfeiture of \$120,000 Cash Seized Under the Civil Remedies Act

This case involved money found during a search of a vehicle stopped by police near Marathon, Ontario, in February 2005. Ontario Provincial Police officers were confronted with suspicious circumstances when \$120,130 in cash was found in the trunk of the car.

The money was seized and preserved as evidence, and on May 26, 2005, the court granted the Crown temporary control of the money.

On March 30, 2006, the Ontario Superior Court of Justice ordered the forfeiture of the money to the Crown, under the Civil Remedies Act. It was proven before the court that the money was a proceed or an instrument of unlawful activity.

Police say money can be a major motivating factor behind unlawful activity. Those involved in unlawful activities, such as drug trafficking, can accumulate large amounts of cash as profit from their illicit activities. They will try to disguise the illegitimate origins of the money, and convert the cash to a legitimate use. It is estimated that between \$5 and \$17 billion is laundered in Canada every year.

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