

Overview Report: Asset Forfeiture in British Columbia

A. Scope of Overview Report

1. This overview report addresses asset forfeiture in British Columbia. It begins with a brief overview of the asset forfeiture provisions of the *Criminal Code*, R.S.C., 1985, c. C-46 and other federal legislation and an introduction to civil asset forfeiture legislation across Canada. The report then focuses on the British Columbia *Civil Forfeiture Act*, S.B.C. 2005, c. 29 (the “**CFA**”), discussing the property subject to forfeiture, the civil forfeiture process, the distribution of forfeited assets, and recent amendments to the act. It concludes by considering the operations of the Civil Forfeiture Office (“**CFO**”) and the results achieved by the Office since its inception.

B. Asset Forfeiture under Federal Legislation

2. Federal legislation has long contemplated the forfeiture of property obtained by and used in the commission of criminal and other offences. Federal forfeiture laws date back to the first *Criminal Code*, enacted in 1892, which granted judges the authority to order the forfeiture of property that had been seized and used as evidence in a criminal trial.¹

3. Currently, provisions allowing for the forfeiture of offence-related property and the proceeds of crime are found in a range of federal statutes including the *Criminal Code*, the *Controlled Drugs and Substances Act*, S.C. 1996; (the “**CDSA**”)² the *Fisheries Act*, R.S.C. 1985, c. F-14;³ the *Excise Act*, R.S.C. 1985, c. E-14;⁴ the *Customs Act*, R.S.C. 1985, c.1 (2nd Supp.);⁵ the *Cannabis Act*, S.C. 2018, c. 16; and the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.⁶ The forfeiture provisions found in the *Criminal Code* and the *CDSA* are the focus of the discussion that follows.⁷

¹ The Criminal Code, 1892, 55-56 Victoria.

² ss. 16-17.

³ ss. 70-72; Robert Hubbard *et al*, *Money Laundering and Proceeds of Crime* (Toronto: Irwin Law, 2015) at 617 (“Hubbard *et al*, 2015”).

⁴ s. 125; Hubbard *et al*, 2015 at 621.

⁵ ss. 39-39.1, 122-124.

⁶ ss. 137, 144, 148.

⁷ The *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17 (the “**PCMLTFA**”) also includes seizure and forfeiture provisions related to the unreported importation or exportation of currency and monetary instruments: see ss. 12-32.

i. Asset Forfeiture Under the *Criminal Code*: Proceeds of Crime

4. Forfeiture of the proceeds of crime is addressed in Part XII.2 of the *Criminal Code*. Part XII.2 was created through the enactment of the *Proceeds of Crime Act*, S.C. 1988, c. 51 in 1989 in order to fulfill Canada's commitments under the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*.⁸ Substantial amendments to this Part were passed in 2001 and entered into force in 2002.⁹

5. The purpose of the proceeds of crime provisions found in Part XII.2 was discussed by the Supreme Court of Canada in *R v. Lavigne*, 2006 SCC 10, [2006] 1 S.C.R. 392, at para 9:

Great importance is thus attached to the proceeds of crime, and one of the stated goals is to neutralize criminal organizations by depriving them of the profits of their activities. The Honourable Ray Hnatyshyn, who was the Minister of Justice when the bill was introduced, said that traffickers had been insufficiently deterred by traditional sentencing methods. Canada therefore had to adopt methods by which it could deprive offenders of the profits of their crimes and take away any motivation to pursue their criminal activities. Of all the methods chosen, the primary one is forfeiture...

6. Within Part XII.2, ss. 462.37, 462.38 and 462.43 allow for or require orders for the forfeiture of "proceeds of crime."

7. Proceeds of crime is defined in s. 462.3(1) to mean:

any property, benefit or advantage, within or outside Canada, obtained or derived directly as a result of

- (a) the commission in Canada of a designated offence, or
- (b) an act or omission anywhere that, if it had occurred in Canada, would have constituted a designated offence.

⁸ 1583 UNTS 3; CTS 1990/42; Robert Hubbard *et al*, *Money Laundering and Proceeds of Crime* (Toronto: Irwin Law, 2004) at 79 ("Hubbard *et al*, 2004").

⁹ *An Act to Amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other acts*, S.C. 2001 C. 32; Hubbard *et al*, 2004 at 79.

8. This definition was added as part of the 2001 amendments, which broadened the reach of forfeiture under Part XII.2.¹⁰ Under the original 1989 *Proceeds of Crime Act*, forfeiture under Part XII.2 targeted only the proceeds of “designated drug” offences and “enterprise crime” offences. The amendments repealed these definitions in favour of a broad definition of “designated offence” which means:

- (a) any offence that may be prosecuted as an indictable offence under this or any other Act of Parliament, other than an indictable offence prescribed by regulations, or
- (b) a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraph (a).

Section 462.37: Forfeiture Following Conviction

9. Section 462.37 contemplates forfeiture of the proceeds of crime following conviction.

10. Section 462.37(1) requires the Court to order forfeiture if it is satisfied, on a balance of probabilities, that property is “proceeds of crime obtained through the commission of the designated offence” of which an offender was convicted:

Subject to this section and sections 462.39 to 462.41, if an offender is convicted, or discharged under section 730, of a designated offence and the court imposing sentence on or discharging the offender, on application of the Attorney General, is satisfied, on a balance of probabilities, that any property is proceeds of crime obtained through the commission of the designated offence, the court shall order that the property be forfeited to Her Majesty to be disposed of as the Attorney General directs or otherwise dealt with in accordance with the law.

11. Section 462.37(2) permits, but does not require, forfeiture if the Court is satisfied that the property is proceeds of crime, but not satisfied that it was obtained through the commission of the designated offence of which the offender was convicted. In contrast to s. 462.37(1), this provision sets a higher evidentiary standard for forfeiture, requiring that

¹⁰ Hubbard *et al*, 2004 at 83.

the court be satisfied beyond a reasonable doubt that the property is the proceeds of crime:

If the evidence does not establish to the satisfaction of the court that property in respect of which an order of forfeiture would otherwise be made under subsection (1) was obtained through the commission of the designated offence of which the offender is convicted or discharged, but the court is satisfied, beyond a reasonable doubt, that the property is proceeds of crime, the court may make an order of forfeiture under subsection (1) in relation to that property.

12. Finally, s. 462.37(2.01) grants the Court broader powers to order the forfeiture of property of offenders convicted of criminal organization offences, certain offences under the *CDSA* and *Cannabis Act* and human trafficking offences under ss. 279.01-279.03 of the *Criminal Code*. In such cases, the Court must, on application by the Attorney General, order forfeiture of any property identified in the application if the Court is satisfied on the balance of probabilities that:

- (a) within 10 years before the proceedings were commenced in respect of the offence for which the offender is being sentenced, the offender engaged in a pattern of criminal activity for the purpose of directly or indirectly receiving a material benefit, including a financial benefit; or
- (b) the income of the offender from sources unrelated to designated offences cannot reasonably account for the value of all the property of the offender.

13. Under this provision, the Court cannot order forfeiture of any property that the offender establishes, on the balance of probabilities, is not proceeds of crime.¹¹

14. Property forfeited under s. 462.37 is “to be disposed of as the Attorney General directs or otherwise dealt with in accordance with the law.”

¹¹ *Criminal Code*, s. 462.37(2.03)

Section 462.38: Forfeiture Following Laying of Information and Death or Abscondment of Accused

15. Section 462.38(1) permits the Attorney General to apply for an order of forfeiture of any property under s. 462.38(2) once an information has been laid in respect of a designated offence.

16. Once such an application has been made, forfeiture of the property must be ordered if the judge hearing the application is satisfied that:

- (a) Any property is, beyond a reasonable doubt, proceeds of crime,
- (b) That property was obtained through the commission of a designated offence in respect of which proceedings were commenced, and
- (c) The accused charged with offence referred to in paragraph (b) has died or absconded.

17. As with s. 462.37, property forfeited under s. 462.38 is “to be disposed of as the Attorney General directs or otherwise dealt with in accordance with the law.”

Section 462.43: Residual Disposal of Property Seized or Dealt with Pursuant to Special Warrants or Restraint Orders

18. Section 462.32 of the *Criminal Code* addresses the disposal of property where “property has been seized under a warrant issued pursuant to section 462.32, a restraint order has been made under section 462.33 in relation to any property or a recognizance has been entered into pursuant to paragraph 462.34(4)(a) in relation to any property...”.

19. In such circumstances:

a judge, on application made to the judge by the Attorney General or any person having an interest in the property or on the judge’s own motion, after notice given to the Attorney General and any other person having an interest in the property, is satisfied that the property will no longer be required for the purpose of section 462.37, 462.38 or any other provision of this or any other Act of Parliament respecting forfeiture or for the purpose of any investigation or as evidence in any proceeding, the judge

- (a) in the case of a restraint order, shall revoke the order;

(b) in the case of a recognizance, shall cancel the recognizance;
and

(c) in the case of property seized under a warrant issued pursuant to section 462.32 or property under the control of a person appointed pursuant to paragraph 462.331(1)(a),

(i) if possession of it by the person from whom it was taken is lawful, shall order that it be returned to that person,

(ii) if possession of it by the person from whom it was taken is unlawful and the lawful owner or person who is lawfully entitled to its possession is known, shall order that it be returned to the lawful owner or the person who is lawfully entitled to its possession, or

(iii) if possession of it by the person from whom it was taken is unlawful and the lawful owner or person who is lawfully entitled to its possession is not known, may order that it be forfeited to Her Majesty, to be disposed of as the Attorney General directs, or otherwise dealt with in accordance with the law.

ii. Asset Forfeiture Under the *Criminal Code*: Sections 490-492

20. Offence-related property is defined in s. 2 of the *Criminal Code* to mean:

Any property, within or outside Canada,

(a) By means or in respect of which an indictable offence under [the *Criminal Code*] or the *Corruption of Foreign Public Officials Act* is committed,

(b) That is used in any manner in connection with the commission of such an offence; or

(c) That is intended to be used for committing such an offence.

21. Several provisions related to the forfeiture of offence-related property are found between ss. 490-492 of the *Criminal Code*.

22. Section 490(9) allows for the forfeiture of property detained under s. 490(1) of the *Criminal Code*. Section 490(1) provides for the detention of property seized by a peace officer where required for the purposes of an investigation, a preliminary inquiry, trial or other proceeding. Once the detained property is no longer required for these purposes or the time period for detention has expired, s. 490(9) provides that detained property may be forfeited if it was seized from a person not lawfully entitled to it - or seized when not in the possession of any person - and the person lawfully entitled to possess the property is not known. Property forfeited under this provision is “to be disposed of as the Attorney General directs, or otherwise dealt with in accordance with the law.”

23. Section 490.1 provides for the forfeiture of offence-related property related to the commission of an offence under the *Criminal Code* or the *Corruption of Foreign Public Officials Act*, S.C. 1998, c. 34. Following a conviction or discharge for such an offence, and upon application by the Attorney General, the Court is required to order the forfeiture of property if satisfied on the balance of probabilities that it is offence-related property in respect of the offence.

24. Like s. 462.38 with respect to the proceeds of crime, s. 490.2 provides for the forfeiture of offence-related property where the accused charged with the offence has died or absconded. Where an information has been laid in respect of an indictable offence under the *Criminal Code* or the *Corruption of Foreign Public Officials Act*, the Attorney General may apply for an order for forfeiture under s. 490.2(1). The order must be granted if the judge to whom the application is made is satisfied:

- (a) beyond a reasonable doubt that the property is offence-related property;
- (b) that proceedings in respect of an indictable offence under the *Criminal Code* or the *Corruption of Foreign Public Officials Act* in relation to the property were commenced; and
- (c) that the accused charged with the offence has absconded or died

25. If an order for forfeiture is to be made under s. 490.1 or s. 490.2, the Court is required to make one of the following two orders regarding disposal of the forfeited property:

(a) if the prosecution of the offence was commenced at the instance of the government of a province and conducted by or on behalf of that government, order that the property be forfeited to Her Majesty in right of that province to be disposed of or otherwise dealt with in accordance with the law by the Attorney General or Solicitor General of that province; and

(b) in any other case, order that the property be forfeited to Her Majesty in right of Canada to be disposed of or otherwise dealt with in accordance with the law by the member of the Queen's Privy Council for Canada that is designated by the Governor in Council for the purpose of this paragraph.

26. Section 491.1 provides for the forfeiture of property obtained by crime where the accused has been tried for an offence. This section applies where the court concludes that an offence has been committed, whether or not the accused has been convicted or discharged, and where property obtained by the commission of the offence is before the court or has been detained so that it can be immediately dealt with and where the property is not required as evidence in any other proceedings. In such cases, the property may be forfeited if the lawful owner or person lawfully entitled to possession of the property is not known.

27. Property forfeited under s. 491.1 is "to be disposed of as the Attorney General directs or otherwise dealt with in accordance with the law."

28. Sections 491 and 492 provide for the forfeiture of weapons, ammunition and explosives used in or connected to offences. Weapons and ammunition forfeited under s. 491 "shall be disposed of as the Attorney General directs" while explosives forfeited under s. 492 "shall be dealt with as the court that makes the conviction may direct."

iii. Asset Forfeiture under the CDSA

29. The CDSA distinguishes between "chemical offence-related property" and "non-chemical offence-related property".

30. Chemical offence-related property is defined as "offence-related property that is a chemical or precursor and includes anything that contains such property or has such property on it." Non-chemical offence-related property is defined as "offence-related property that is not chemical offence-related property."

31. The *CDSA* defines “offence-related property” to mean “with the exception of a controlled substance, any property, within or outside Canada,

(a) by means of or in respect of which a designated substance offence is committed,

(b) that is used in any manner in connection with the commission of a designated substance offence, or

(c) that is intended for use for the purpose of committing a designated substance offence.”

32. Section 13 of the *CDSA* provides that ss. 489.1 and 490 of the *Criminal Code* apply to any thing seized under the *CDSA*, and that in the case of non-chemical offence-related property, these provisions apply subject to ss. 16-22 of the *CDSA*.¹²

33. The forfeiture provisions of the *CDSA* regarding non-chemical offence-related property are found in ss. 16 and 17 of the legislation.

34. Section 16 closely mirrors s. 462.37 of the *Criminal Code*. Section 16(1) provides that

Subject to sections 18 to 19.1, if a person is convicted, or discharged under section 730 of the *Criminal Code*, of a designated substance offence and, on application of the Attorney General, the court is satisfied, on a balance of probabilities, that non-chemical offence-related property is related to the commission of the offence, the court shall

(a) if the prosecution of the offence was commenced at the instance of the government of a province and conducted by or on behalf of that government, order that the property be forfeited to Her Majesty in right of that province to be disposed of or otherwise dealt with in accordance with the law by the Attorney General or Solicitor General of that province; and

(b) in any other case, order that the property be forfeited to Her Majesty in right of Canada to be disposed of or otherwise dealt with in accordance with the law by the member of the Queen’s Privy

¹² Sections 13(1)-(2) of the *CDSA* provide that:

13 (1) Subject to subsections (2) and (3), sections 489.1 and 490 of the *Criminal Code* apply to any thing seized under this Act.

(2) If a thing seized under this Act is non-chemical offence-related property, sections 489.1 and 490 of the *Criminal Code* apply subject to sections 16 to 22 and subsections 31(6) to (9) of this Act.

Council for Canada that is designated by the Governor in Council for the purposes of this paragraph.

35. Similar to s. 462.37(2) of the *Criminal Code*, s. 16(2) permits the forfeiture of such property if found beyond a reasonable doubt to be “non-chemical offence-related property”:

Subject to sections 18 to 19.1, if the evidence does not establish to the satisfaction of the court that property in respect of which an order of forfeiture would otherwise be made under subsection (1) is related to the commission of the designated substance offence of which a person is convicted or discharged, but the court is satisfied, beyond a reasonable doubt, that the property is non-chemical offence-related property, the court may make an order of forfeiture under subsection (1) in relation to that property.

36. Like s. 462.38, s. 17 permits the Attorney General to bring an application for forfeiture absent a conviction or discharge where an accused who is the subject of an information in respect of a designated substance offence has died or absconded.

iv. *Seized Property Management Act*, S.C. 1993, c. 37

37. The *Seized Property Management Act*, S.C. 1993, c. 37 (the “**SPMA**”) was enacted in 1993. The purposes of the *SPMA* identified in s. 3 include, among other things, providing authorization for the management of seized and forfeited property, the disposition of forfeited property and the sharing of the proceeds of such property. Section 3 provides in part:

The purposes of this Act are:

...

(b) to authorize the Minister to manage property

(i) seized or restrained under any Act of Parliament or of the legislature of a province by a person employed in the federal public administration or by a provincial or municipal authority,

(ii) forfeited under any Act of Parliament or of the legislature of a province, or

(iii) paid under subsection 18(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

(c) to authorize the Minister to dispose of property referred to in paragraph (b) when it is forfeited to Her Majesty and, with the consent of the government of the province, when it is forfeited to Her Majesty in right of a province;

(d) where property referred to in paragraph (c) is forfeited to Her Majesty and disposed of, or where a fine is imposed pursuant to subsection 462.37(3) of the *Criminal Code*, to provide authority for the sharing, in certain circumstances, of the proceeds of disposition therefrom or the fine, as the case may be, with jurisdictions the law enforcement agencies of which participated in the investigations of the offences that led to the forfeiture or the imposition of the fine; and

(e) if property referred to in paragraph (c) is forfeited to Her Majesty in right of a province and disposed of by the Minister with the consent of the government of the province, to provide authority for the sharing of the proceeds of disposition in accordance with directions given by that government.

38. Section 4 of the *SPMA* identifies the property for which the Minister of Public Works and Government Services bears responsibility under the *SPMA*:

(1) On taking possession or control thereof, the Minister shall be responsible for the custody and management of all property that is

(a) seized under a warrant issued under section 83.13, 462.32 or 487 of the *Criminal Code*, section 11 of the *Controlled Drugs and Substances Act* or section 87 of the *Cannabis Act* on the application of the Attorney General and that the Minister is appointed to manage under subsection 83.13(3), 462.331(2) or 490.81(2) of the *Criminal Code*, subsection 15.1(2) of the *Controlled Drugs and Substances Act* or subsection 93(2) of the *Cannabis Act*, as the case may be;

(b) subject to a restraint order made under section 83.13, 462.33 or 490.8 of the *Criminal Code*, section 14 of the *Controlled Drugs and Substances Act* or section 91 of the *Cannabis Act* on the application of the Attorney General and that the Minister is appointed to manage under subsection 83.13(3), 462.331(2) or 490.81(2) of the *Criminal Code*, subsection 15.1(2) of the *Controlled Drugs and Substances Act* or subsection 93(2) of the *Cannabis Act*, as the case may be;

(b.01) seized or restrained under any Act of Parliament or of the legislature of a province if the Minister agrees to be responsible for the custody and management of the property;

(b.1) forfeited under subsection 14(5), seized under subsection 18(1) or paid under subsection 18(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*;

(b.2) forfeited under subparagraph 715.34(1)(e)(i) of the *Criminal Code*;

(b.3) if the Minister agrees to be responsible for its custody and management, forfeited under any Act of Parliament, other than under subsection 14(5) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* or subparagraph 715.34(1)(e)(i) of the *Criminal Code* or forfeited under any Act of the legislature of a province; or

(c) subject to a management order.

(2) Where property referred to in subsection (1) that is in the possession or under the control of the Minister is forfeited to Her Majesty, the Minister shall continue to be responsible for the custody and management thereof until the property is disposed of.

(3) In addition to being responsible for the custody and management of property referred to in subsections (1) and (2), the Minister shall be responsible, until the property is disposed of, for the custody and management of all proceeds of crime, offence-related property and property that was the subject of an application under section 83.14 of the *Criminal Code*, that were forfeited to Her Majesty as a result of proceedings conducted by the Attorney General and that were not in the possession or under the control of the Minister prior to their forfeiture.

(4) Nothing in this section precludes the operation of the *Criminal Code*, the *Controlled Drugs and Substances Act*, the *Cannabis Act* or any other Act of Parliament in respect of any property that is in the possession or under the control of the Minister.

39. Section 9(c) of the *SPMA* grants the Minister the authority to dispose of any property referred to in ss. 4(1)-(3) forfeited to Her Majesty in right of Canada as well as any property forfeited to Her Majesty in right of a province, with the consent of the

government of that Province and share the proceeds of the disposition of that property in accordance with directions given by the government of that Province.

40. Sections 10 and 11 of the *SPMA* provide for the sharing of property forfeited to Her Majesty in right of Canada where law enforcement agencies within Canada, or of a foreign state, participated in an investigation that led to the forfeiture of property (or the imposition of a fine or the payment of a penalty).¹³

41. The *SPMA* establishes two accounts in the “accounts of Canada.” Section 12(1) establishes the “Seized Property Working Capital Account.” Section 13(1) establishes the “Seized Property Proceeds Account.”

42. Sections 13-16 govern the payment of funds into the Consolidated Revenue Fund and credited or charged to the Seized Property Proceeds Account”:

13 (1) There is hereby established in the accounts of Canada an account to be known as the Seized Property Proceeds Account.

(2) There shall be paid into the Consolidated Revenue Fund and credited to the Proceeds Account

(a) the net proceeds, calculated in the prescribed manner, received from the disposition of any property referred to in any of subsections 4(1) to (3) that is forfeited to Her Majesty and disposed of by the Minister;

(b) amounts paid or recovered as a fine imposed pursuant to subsection 462.37(3) of the *Criminal Code* in relation to proceedings commenced at the instance of the Government of Canada; and

(c) subject to the regulations, amounts received from the governments of foreign states pursuant to agreements entered into pursuant to section 11.

(3) There shall be charged to the Proceeds Account

(a) such amounts as are approved by the Treasury Board and as are recovered by the Minister in respect of operating expenses incurred by the Minister in carrying out the purposes of this Act, other than

¹³ See also *Forfeited Property Sharing Regulations*, SOR/95-76.

expenses charged to the Working Capital Account pursuant to paragraph 12(2)(a);

(b) amounts paid as a result of claims arising from undertakings given by the Attorney General pursuant to subsections 462.32(6) and 462.33(7) of the *Criminal Code*; and

(c) amounts paid pursuant to sections 10 and 11.

14 If the proceeds of disposition available to Her Majesty from the forfeiture of any property under subsection 462.37(1), (2) or (2.01) or 462.38(2), subparagraph 462.43(c)(iii) or subsection 490(9) of the *Criminal Code*, subsection 16(1) or 17(2) of the *Controlled Drugs and Substances Act* or subsection 94(1) or 95(2) of the *Cannabis Act* are insufficient to cover the outstanding amounts charged to the Working Capital Account under subsection 12(2), and any interest on it, in respect of the property, there is to be charged to the Proceeds Account and credited to the Working Capital Account, or to interest revenue, as the case may be, an amount equal to the amount of the shortfall.

15 (1) Where the amount standing to the credit of the Proceeds Account is not sufficient for the payment of any amount required to be charged to the Proceeds Account pursuant to section 13, the Minister of Finance may, on a request therefor by the Minister, authorize the making of an advance to the Proceeds Account in an amount sufficient to meet the payment.

(2) An advance made pursuant to subsection (1) shall be credited to the Proceeds Account and repaid in such manner and on such terms and conditions, including the payment of interest, as the Minister of Finance may fix.

(3) The repayment of an amount advanced pursuant to subsection (1) shall be charged to the Proceeds Account.

16 At the prescribed times, all amounts credited to the Proceeds Account that are not shared pursuant to sections 10 and 11, less such amounts as are reserved

(a) for future losses,

(b) to pay claims arising from undertakings given by the Attorney General pursuant to subsections 462.32(6) and 462.33(7) of the *Criminal Code*, and

(c) for ongoing expenses,

shall be credited to such account in the accounts of Canada as is prescribed.

v. Seized Property Management Directorate Seizure and Forfeiture Data

43. The Seized Property Management Directorate (“**SPMD**”) manages assets seized or restraining under specific sections of the *Criminal Code*, the *CDSA*, and the *PCMLTFA*. The SPMD receives seized assets from the law enforcement agency responsible for the seizure and retains custody of the assets until the conclusion of legal proceedings. If the assets are ordered forfeit, the SPMD is responsible for managing the disposal of the assets.¹⁴

SPMD Data – Seizures in British Columbia

44. The following tables show the total value of assets seized within British Columbia that were managed by SPMD for the fiscal year 2009/10-2018/19 inclusively. It includes three separate tables: SPMD Seized Assets in BC for Non PCMLTFA seizures, SPMD Seized Assets in BC for CBSA level 1-2-3 seizures and SPMD Seized Assets in BC for CBSA level 4 seizures.¹⁵

¹⁴ See Public Services and Procurement Canada, “Government of Canada’s Seized Property Management Directorate” online: *Government of Canada* < <https://www.tpsgc-pwgsc.gc.ca/app-acq/gbs-spm/index-eng.html> >.

¹⁵ While CBSA seizures under the *PCMLTFA* are not included in Table 1, CBSA seizures under other legislation are included. The characteristics of the four levels of CBSA seizure have been described to the Commission as follows:

Level 4 Seizure: Officers who suspect on reasonable grounds that non-reported currency or monetary instruments are proceeds of crime or terrorist finances, may seize currency with no terms of release.

Levels 1-3 seizures have the following terms of release:

Level 1 Seizure: Penalty of \$250, in the case of a person or entity who:

- I. has not concealed the currency or monetary instruments,
- II. has made a full disclosure of the facts concerning the currency or monetary instruments upon their discovery, and
- III. has no previous seizures under the *PC(ML)TFA*.

Level 2 Seizure: Penalty of \$2,500, in the case of a person or entity who:

- I. has concealed the currency or monetary instruments, other than by means of using a false compartment in a conveyance, or
- II. has made a false statement with respect to the currency or monetary instruments, or

Table 1: SPMD Seized Assets in BC - Non-PCMLTFA Seizures

FY	Case Count	Asset Count	Asset Value
2009/2010	1,271	1,900	\$17,006,522
2010/2011	1,295	1,900	\$19,625,592
2011/2012	1,176	1,647	\$10,267,218
2012/2013	868	1,234	\$10,658,433
2013/2014	611	820	\$5,441,117
2014/2015	699	940	\$3,042,950
2015/2016	621	950	\$10,822,314
2016/2017	539	802	\$4,818,928
2017/2018	327	465	\$3,014,679
2018/2019	207	253	\$2,910,508

Table 2: SPMD Seized Assets in BC - CBSA - Level 1-2-3 Seizures

FY	Case Count	Asset Count	Asset Value
2009/2010	1,066	1,071	\$471,500
2010/2011	484	489	\$240,250
2011/2012	837	841	\$317,750
2012/2013	379	380	\$177,500
2013/2014	300	317	\$148,269
2014/2015	451	463	\$195,250
2015/2016	743	758	\$411,750
2016/2017	624	631	\$281,500
2017/2018	449	449	\$220,250
2018/2019	663	663	\$312,000

III. has a previous seizure under the *PC(ML)TFA*, other than in respect of any type of concealment or for making false statements with respect to the currency or monetary instruments.

Level 3 Seizure: Penalty of \$5,000 in the case of a person or entity who:

- I. has concealed the currency or monetary instruments by using a false compartment in a conveyance, or
- II. has a previous seizure under the *PCMLTFA* for any type of concealment or for making a false statement with respect to the currency or monetary instruments seized under the *PC(ML)TFA*.

Table 3: SPMD Seized Assets in BC - CBSA - Level 4 Seizures¹⁶

FY	Case Count	Asset Count	Asset Value
2009/2010	77	155	\$1,502,222
2010/2011	36	76	\$991,496
2011/2012	28	51	\$512,387
2012/2013	22	36	\$306,101
2013/2014	22	33	\$350,407
2014/2015	22	40	\$391,509
2015/2016	38	72	\$481,060
2016/2017	33	92	\$446,044
2017/2018	31	45	\$493,852
2018/2019	46	46	\$1,088,753

SPMD Data – Forfeiture in British Columbia

45. The following tables show the total value of the forfeited assets within British Columbia that were managed by SPMD for the fiscal year 2009/10-2018/19 inclusively. It includes three separate tables: SPMD Forfeited Assets in BC for Non-PCMLTFA, SPMD Forfeited Assets in BC for CBSA level 1-2-3 and SPMD Forfeited Assets in BC for CBSA level 4.

¹⁶ The CBSA has separately provided the following data for level 4 seizures which differs from that provided by the SPMD:

FISCAL YEAR	NUMBER OF SEIZURES/FORFEITURES	VALUE OF SEIZURES/FORFEITURES (CDN)
2010-11	40	\$876,496
2011-12	31	\$558, 938
2012-13	22	\$318,427
2013-14	25	\$460,918
2014-15	21	\$391,827
2015-16	40	\$548,859
2016-17	36	\$523,716
2017-18	34	\$568,057
2018-19	62	\$1,233,965

Neither the CBSA nor the SPMD has been able to identify with certainty the reason for this discrepancy. They may be the result of factors including lag time between the time of seizure and the deposit date, transfer of seized funds to the RCMP for use as evidence in criminal proceedings, human error, and the effects of variable currency exchange rates.

Table 4: SPMD Forfeited Assets in BC (Non-PCMLTFA Seizures)

FY	Case Count	Asset Count	Asset Value
2009/2010	648	1,098	\$11,868,688
2010/2011	753	1,232	\$12,124,034
2011/2012	696	1,095	\$8,755,758
2012/2013	720	1,101	\$8,763,999
2013/2014	703	1,051	\$6,241,404
2014/2015	467	766	\$10,915,887
2015/2016	353	586	\$3,254,889
2016/2017	360	640	\$6,123,578
2017/2018	328	525	\$3,905,040
2018/2019	233	383	\$4,477,959

Table 5: SPMD Forfeited Assets in BC (CBSA - Level 1-2-3 Seizures)

FY	Case Count	Asset Count	Asset Value
2009/2010	980	980	\$409,500
2010/2011	446	446	\$208,250
2011/2012	469	469	\$193,750
2012/2013	417	417	\$185,750
2013/2014	518	518	\$217,250
2014/2015	369	369	\$146,000
2015/2016	767	768	\$411,750
2016/2017	571	571	\$246,250
2017/2018	425	425	\$198,750
2018/2019	538	538	\$260,750

Table 6: SPMD Forfeited Assets in BC (CBSA - Level 4 Seizure)

FY	Case Count	Asset Count	Asset Value
2009/2010	23	39	\$585,447
2010/2011	12	27	\$464,536
2011/2012	6	11	\$94,141
2012/2013	10	15	\$142,847
2013/2014	5	5	\$79,860
2014/2015	11	16	\$185,263
2015/2016	22	41	\$388,439
2016/2017	18	48	\$287,732
2017/2018	19	29	\$289,383
2018/2019	9	9	\$277,362

C. Asset Forfeiture under Provincial Legislation

46. Ontario and Alberta were the first provinces to enact provincial civil asset forfeiture legislation.¹⁷ The Alberta *Victims Restitution and Compensation Payment Act*, S.A. 2001, c. V-3.5 entered into force on November 29, 2001, with the Ontario *Remedies for Organized Crime and Other Unlawful Activities Act*, S.O. 2001, c.28 (commonly referred to as the *Civil Remedies Act*) following shortly afterwards on December 14, 2001.

47. Both statutes granted provincial authorities the power to seek forfeiture of property associated with criminal and other unlawful activity by commencing civil proceedings. Neither required criminal culpability as a condition precedent to forfeiture and both identified the civil standard of proof as applicable to provincial forfeiture proceedings. While the Alberta legislation does not include an express statement of its purpose, s. 1 of the Ontario act provided that its purpose was “to provide civil remedies that will assist in:

- (a) compensating persons who suffer pecuniary or non-pecuniary losses as a result of unlawful activities;
- (b) preventing persons who engage in unlawful activities and others from keeping property that was acquired as a result of unlawful activities;
- (c) preventing property... from being used to engage in certain unlawful activities; and
- (d) preventing injury to the public that may result from conspiracies to engage in unlawful activities.”

48. In the decade that followed most other provinces passed asset forfeiture legislation of their own. The third province to do so was Manitoba, which passed the *Criminal Property Forfeiture Act*, C.C.S.M. c. C306 in 2004. British Columbia and Saskatchewan passed the *Civil Forfeiture Act*, S.B.C. 2005, c. 29 (the “CFA”) and the *Seizure of Criminal Property Act* respectively in 2005. Nova Scotia enacted its own *Civil Forfeiture Act*, S.N.S. 2007, c. 27 in 2007 and Quebec passed its *Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity*, C.Q.L.R. c. C-52.2 in

¹⁷ Michelle Gallant, “Alberta and Ontario: Civilizing the Money-Centred Model of Crime Control” (2004) 4 *Asper Journal of International Business and Trade* 13.

the same year. New Brunswick enacted the *Civil Forfeiture Act*, S.N.B. 2010, c. C-4.5 in 2010. In 2017, Nunavut became the latest Canadian jurisdiction to pass such legislation with the enactment of the *Unlawful Property Forfeiture Act*, S.Nu. 2017, c. 14, which has yet to come into force.

i. *Chatterjee v. Ontario (Attorney General)*, 2009 SCC 19

49. A constitutional challenge to the Ontario *Civil Remedies Act* was brought on federalism grounds in *Chatterjee v. Ontario (Attorney General)*, 2009 SCC 19. In *Chatterjee*, the Attorney General of Ontario brought an application for forfeiture of cash seized from the appellant's vehicle. In contesting the application, the appellant argued that forfeiture of the proceeds of crime under the Act amounted to an impermissible encroachment on the federal government's criminal law power and as such was *ultra vires* the Province.

50. The Court ruled in favour of the Province and upheld the legislation. Writing for the Court, Binnie J. held that while the *Civil Remedies Act* has an incidental effect on the federal criminal law power, it was nevertheless validly enacted by Ontario under provincial jurisdiction over property and civil rights.

51. Justice Binnie distinguished the scheme enacted by the *Civil Remedies Act* from traditional federal criminal law measures in paragraph 4 of the decision:

[T]he *CRA* method of attack on crime is to authorize *in rem* forfeiture of its proceeds and differs from both the traditional criminal law which ordinarily couples a prohibition with a penalty (see *Reference re Firearms Act (Can.)*, 2000 SCC 31, [2000] 1 S.C.R. 783) and criminal procedure which in general refers to the means by which an allegation of a particular criminal offence is proven against a particular offender. The appellant's answer, however, is that the effect of the *CRA in rem* remedy just adds to the penalties available in the criminal process, and as such the *CRA* invalidly interferes with the sentencing regime established by Parliament. It is true that forfeiture may have *de facto* punitive effects in some cases, but its dominant purpose is to make crime in general unprofitable, to capture resources tainted by crime so as to make them unavailable to fund future crime and to help compensate private individuals and public institutions for the costs of past crime. These are valid provincial objects. There is no operational conflict between the forfeiture

provisions of the *Criminal Code*, R.S.C. 1985, c. C-46¹⁸, and the *CRA*. It cannot reasonably be said that the *CRA* amounts to colourable criminal legislation.

52. In a number of decisions since *Chatterjee*, the British Columbia Court of Appeal and Supreme Court have indicated that the reasoning in *Chatterjee* applies to this province's *CFA*: see *British Columbia (Director of Civil Forfeiture) v. Onn*, 2009 BCCA 402; *British Columbia (Director of Civil Forfeiture) v. Wolff*, 2012 BCCA 473; *British Columbia (Director of Civil Forfeiture) v. Nguyen*, 2013 BCSC 1610; *British Columbia (Director of Civil Forfeiture) v. Hells Angels Motorcycle Company*, 2013 BCSC 2575.

53. In *British Columbia (Director of Civil Forfeiture) v. Angel Acres Recreation and Festival Property Ltd.*, 2020 BCSC 880, the Court again affirmed that the reasoning in *Chatterjee* applies generally to the *CFA*. However, the Court distinguished provisions of the *CFA* that defined “instrument of unlawful activity” to include property likely to be used in the future to engage in unlawful activity that may result in the acquisition of property or an interest in property, or cause serious bodily harm to a person (paras. 1354-1379). The Court went on to conclude that these provisions of the *CFA* were “in pith and substance legislation in relation to criminal law which, by reason of s. 91(27) of the *Constitution Act, 1867*, falls within the exclusive jurisdiction of the federal government” declaring these provisions *ultra vires* the Province of British Columbia (paras 1465-1499).

54. This decision is under appeal at the time of writing. On October 23, 2020, Abrioux J.A. stayed the declaration of the trial judge that the impugned provisions of the *CFA* were *ultra vires* the provincial government pending the determination of the appeal of the trial decision.

D. The Civil Forfeiture Act

55. British Columbia was the fifth province to enact civil asset forfeiture legislation. Passed in 2005, the *Civil Forfeiture Act* was modeled on Ontario's *Civil Remedies Act*.¹⁸ Unlike the Ontario Act, the *Civil Forfeiture Act* does not include a statement of its own purpose. However, upon its introduction for second reading in the Legislature, the Minister

¹⁸ Jeffrey Simser and James McKeachie, *Civil Asset Forfeiture in Canada* (Toronto: Thomson Reuters, 2012 (loose-leaf updated 2014, release 5) at 4-2 (“Simser and McKeachie”).

of Public Safety and Solicitor General offered the following comments, explaining the rationale underlying the Bill:

With this new legislation we will be taking the profit out of illegal activity. It will be another tool to deter and prevent fraud, theft and a host of other illegal activities, and it will enable the recovery of ill-gotten gains and will assist in providing compensation to eligible victims.

The moneys recovered through forfeiture will compensate eligible victims and will be used to support further crime prevention initiatives. The moral and legal underpinnings of civil forfeiture are very clear. Civil forfeiture is similar to the civil remedy against unjust enrichment. It takes back assets derived from illegal conduct. No one should be allowed to get rich as a result of breaking the law. No one, I hope, can or will seriously argue that point.

...

In drafting British Columbia's civil forfeiture legislation, we have been careful to ensure that the legislation will be an effective tool while protecting the rights of innocent parties. Civil forfeiture does not seek to imprison and punish those found responsible for criminal activity. Those are matters properly dealt with in the criminal law process in appropriate cases and where there is a finding of guilt beyond a reasonable doubt.

The goals of civil forfeiture are remedial, reparative and preventative. It accomplishes these goals by targeting and seizing the profits of unlawful activity, cutting off the financial lifeblood of those people seeking to victimize others through illegal activity.

When it came to the definition of "instrument of unlawful activity," we modified it to include forfeiture for past illegal use as well as the future likelihood that the property would be used for unlawful activity. We also changed the definition of "proceeds of unlawful activity" to ensure that it includes situations where the value of an interest in property has increased through use of illegal proceeds such as the paying down of a mortgage or other secured debt with proceeds of unlawful activity.

The definition of "uninvolved interest holder" was changed to protect individuals who are not directly or indirectly involved in the unlawful activity. Individuals who participate or acquiesce in unlawful activity will not be shielded from civil forfeiture, but those who are not involved in illegal activity will be

sufficiently protected from the possibility of losing their property. We have also clarified the provisions relating to the standard of proof and to the discharge of legal presumptions.¹⁹

56. In 2009, the British Columbia Court of Appeal distilled the purposes of the *CFA* into the following three points in *British Columbia (Director of Civil Forfeiture) v. Onn*, 2009 BCCA 402, at para. 14:

- (a) To take the profit out of unlawful activity;
- (b) To prevent the use of property to unlawfully acquire wealth or cause bodily injury; and
- (c) To compensate victims of crime and fund crime prevention remediation.²⁰

i. Property Eligible for Forfeiture

57. The *CFA* contemplates the forfeiture of property that is, in whole or in part, *proceeds* of unlawful activity and property that is an *instrument* of unlawful activity. In either case, the property or interest in property must be “located in British Columbia.”²¹ Both “proceeds of unlawful activity” and “instrument of unlawful activity” are defined in s.1 of the *CFA*.

58. “Proceeds of unlawful activity” is defined to mean any of the following

- (a) The whole of a portion of an interest in property if the whole or a portion of the interest, as the case may be, is acquired directly or indirectly as a result of unlawful activity;
- (b) The whole or a portion of an interest in property that is equivalent in value to the amount of an increase in value of the whole or the portion of the interest in property if the increase in value results directly or indirectly from unlawful activity;
- (c) The whole or a portion of an interest in property that is equivalent in value to the amount of a decrease in a debt obligation secured against the interest or

¹⁹ British Columbia, Legislative Assembly, *Hansard*, 38th Parl., 1st Sess., Vol. 2, No. 9 (19 Oct 2005) at 948 <<https://www.leg.bc.ca/documents-data/debate-transcripts/38th-parliament/1st-session/20051019pm-Hansard-v2n9#bill13-2R>>.

²⁰ See also *Director of Civil Forfeiture v. Angel Acres*, 2007 BCSC 1648; *Ontario (Attorney General) v. Chatterjee*, 2007 ONCA 406; *British Columbia (Director of Civil Forfeiture) v. Cheung*, 2008 BCSC 824.

²¹ s. 3(3).

the portion of the interest in property, if the decrease in debt obligation results directly or indirectly from unlawful activity; or

- (d) property that is realized from the disposition of the whole or a portion of an interest in property described in paragraph (a), (b) or (c) under an order of the court under section 8 (3) (d) *[interim preservation order]* or 11.02 (3) (b) *[preliminary order to preserve property]*.

59. “Instrument of unlawful activity” is defined in s.1 of the Act to include any of:

- (a) property that has been used to engage in unlawful activity that, in turn,
 - (i) resulted in or was likely to result in the acquisition of property or an interest in property, or
 - (ii) caused or was likely to cause serious bodily harm to a person;
- (b) property that is likely to be used to engage in unlawful activity that may
 - (i) result in the acquisition of property or an interest in property, or
 - (ii) cause serious bodily harm to a person;
- (c) property that is realized from the disposition of property described in paragraph (a) or (b) under an order of the court under section 8 (3) (d) *[interim preservation order]* or 11.02 (3) (b) *[preliminary order to preserve property]*;

60. “Unlawful activity” is also defined in s. 1 of the *CFA*. The definition includes acts and omissions that amount to offences committed in British Columbia, as well as those committed in other jurisdictions provided the act or omission would have been an offence had it taken place in British Columbia:

- (a) if an act or omission occurs in British Columbia, the act or omission, at the time of occurrence, is an offence under an Act of Canada or British Columbia;
- (b) if an act or omission occurs in another province of Canada, the act or omission, at the time of occurrence,
 - (i) is an offence under an Act of Canada or the other province, as applicable, and
 - (ii) would be an offence in British Columbia, if the act or omission had occurred in British Columbia;

(c) if an act or omission occurs in a jurisdiction outside of Canada, the act or omission, at the time of occurrence,

(i) is an offence under an Act of the jurisdiction, and

(ii) would be an offence in British Columbia, if the act or omission had occurred in British Columbia,

but does not include an act or omission that is an offence

(d) under a regulation of a corporation, or

(e) under an enactment of any jurisdiction if the enactment or the jurisdiction is prescribed under this Act.

61. The *CFA* was the first civil asset forfeiture statute in any province to provide for the appointment of a “director” to bring forfeiture proceedings.²² The Director of Civil Forfeiture is appointed under s. 21 of the *CFA* and is given a number of powers, functions and duties under the act, any or all of which may be delegated pursuant to s. 21(2). The Director’s responsibilities include:

(a) Collecting and managing the use and disclosure of information and maintaining records for the purposes of the *CFA* and, on the basis of information collected, determining if proceedings should be commenced under the *CFA*;²³

(b) Commencing and conducting proceedings under the *CFA*;²⁴ and

(c) Managing the distribution of proceeds from property, and interest in property or a portion of an interest in property forfeited to the government under the *CFA*.²⁵

62. The *CFA* contemplates the Director seeking forfeiture through two different processes – applications for forfeiture made under s. 3 of the *CFA* and the administrative forfeiture process described in Part 3.1 of the *CFA*. The appropriate process is determined by the value and nature of the property of which forfeiture is sought.

²² Simser and McKeachie, 4-20; For comparison, the Ontario Civil Remedies for Illicit Activities Office is an arm of the Ministry of the Attorney General: Patrick Daley, “Civil Asset Forfeiture: An Economic Analysis of Ontario and British Columbia,” (2014) 5:4 *Western Journal of Legal Studies* 1 at 6.

²³ S. 22(3)(a).

²⁴ S. 22(3)(b-c).

²⁵ S. 22(3)(c).

ii. Applications for Forfeiture

63. The Director may commence civil forfeiture proceedings by applying to the Court under s. 3 of the *CFA* for an order forfeiting property that is an instrument of unlawful activity or that is, in whole or in part, the proceeds of unlawful activity. In such an application, the Director is required to name as a party any registered owners of the property and any person the Director has reason to believe is an unregistered owner of the property.

64. The Act permits the Director to commence proceedings by petition or by action or, where Rule 17-1 of the Supreme Court Civil Rules permits, by requisition.²⁶ Civil forfeiture proceedings under parts 2 and 3 of the Act are *in rem* proceedings.²⁷ Typically, the Director commences proceedings by Notice of Civil Claim.

65. Pursuant to s. 5 of the *CFA*, the Court must make an order forfeiting property to the government if it finds that the property is proceeds or an instrument of unlawful activity. In the case of property found to be proceeds of unlawful activity, if the Court finds that only a portion of property is proceeds, it must order forfeiture of that portion.

66. Section 16 of the Act provides that findings of fact in civil forfeiture proceedings are to be made on the balance of probabilities.

67. Despite the mandatory language in s. 5, s. 8 of the *CFA* permits the Court to grant relief from forfeiture if it is not clearly in the interests of justice. In such cases, the Court may grant relief by:

- (a) Refusing to issue a forfeiture order;
- (b) Limiting the application of the forfeiture order; and/or
- (c) Placing conditions on the forfeiture order.

68. The British Columbia Court of Appeal considered the circumstances in which relief from forfeiture should be granted on this basis in *British Columbia (Director of Civil Forfeiture) v. Wolff*, 2012 BCCA 473. In *Wolff*, the Court adopted the reasoning of the

²⁶ S. 15.01(1).

²⁷ S. 15.01(2).

Court of Appeal for Ontario in *Ontario (Attorney General) v. 8477 Darlington Crescent*, 2011 ONCA 363, in which the Court held that the equivalent provision in the Ontario *Civil Remedies Act* “does not contemplate that the question of forfeiture will be decided on a mere balancing of pros and cons” of forfeiture. Rather “[t]he party seeking relief must demonstrate that... the forfeiture order would be a manifestly harsh and inequitable result.”²⁸

69. In *Wolff*, relying in part on the decision of the Saskatchewan Court of Appeal in *Saskatchewan (Seizure of Criminal Property Act, 2009, Director) v. Mihalyko*, 2012 SKCA 44, the Court went on to identify the following factors as relevant to the interests of justice in the civil forfeiture context, making clear this list is not exhaustive:

- (a) Proportionality and fairness (the “dominant considerations”);
- (b) The degree of culpability, complicity, knowledge, acquiescence, or negligence;
- (c) The extent of the problem in the community of the sort of unlawful activity in question;
- (d) The need to remove profit motive;
- (e) The need for disgorgement of wrongfully obtained profits;
- (f) The need for compensation;
- (g) Prevention of future harm;
- (h) General deterrence;
- (i) The offender’s personal and family circumstances and the effect of forfeiture on those circumstances;
- (j) The relationship between the property sought to be forfeited and the unlawful conduct in question; and
- (k) The reputation of the administration of justice²⁹

70. Section 13 of the Act provides protection for “uninvolved interest holders,” defined in s. 12 to mean a person who:

²⁸ See also *British Columbia (Director of Civil Forfeiture) v. Nguy*, 2018 BCSC 1621, at paras. 91-93

²⁹ See also *Director of Civil Forfeiture v. PacNet Services*, 2018 BCSC 387, at para. 43.

- (a) owns at the time of application for an order under section 3, the whole or a portion of an interest in property that is an instrument of unlawful activity, and
- (b) did not directly or indirectly engage in the unlawful activity that is the basis of the application

71. If the Court finds that property is an instrument of unlawful activity, but that a person was an uninvolved interest holder as defined in s. 12, s. 13 requires the Court to “make the orders necessary to protect the interest in the property held by the uninvolved interest holder.”

iii. Administrative Forfeiture

72. In 2011, British Columbia became the first jurisdiction in Canada to introduce an administrative forfeiture process to its civil forfeiture regime.³⁰ The legislative scheme and the purpose underlying these amendments were identified by the Minister of Public Safety and Solicitor General at the time of the Act’s second reading in the Legislature:

The Civil Forfeiture Act has been operational since May of 2006. In that time nearly 250 forfeitures have taken place. That’s nearly \$17 million that have been forfeited from gangs, drug dealers and those involved in securities fraud, to name a few.

During this time the civil forfeiture office has come to realize that nearly one-third of these forfeitures were completely uncontested. The civil forfeiture office has also turned down many low-value matters, just \$1,000 or \$2,000 seized from local drug dealers. Except those cases where there are very significant public interests, the cost of litigating these matters simply outweighs the value that can be expected.

...

Administrative forfeiture seeks to divert that one-third of cases that are uncontested and add hundreds of referrals into a more streamlined, cost-effective administrative process.

The act does not impinge on anyone’s rights. Anyone can contest the administrative forfeiture within 60 days of the notice being issued. If someone contests, then the matter will go through the existing civil court process, including the right to a full trial.

³⁰ Simser and McKeachie, 4-5; Civil Forfeiture Amendment Act, S.B.C. 2011, c. 4.

Even after the 60-day period, someone can still bring a court action before a Supreme Court judge, challenging whether the administrative process ought to have been applied in this case. But for those cases where it is expected that no one will contest the forfeiture, this process will result in significant cost savings. These cost savings can in turn be invested in additional grants and programs aimed at preventing unlawful activities...³¹

73. As indicated in the comments of the Minister of Public Safety and Solicitor General, administrative forfeiture is a streamlined process that applies to low-value property. Specifically, the administrative forfeiture process is available only with respect to property with a value of \$75,000 or less and is unavailable for claims involving real property of any value.

74. The primary distinction between standard civil forfeiture proceedings and administrative forfeiture is the manner in which the processes commence. To commence administrative forfeiture, the Director is not initially required to apply to the court under s. 3 of the Act for an order forfeiting property to the government. Instead, the Director may initiate administrative forfeiture by taking the following three steps identified in s. 14.04(1) of the Act:

- (a) Register notice of forfeiture in the personal property registry (unless the property is cash or would be refused registration);
- (b) where their addresses are known, give written notice of forfeiture to the person from whom the property was seized, any other person claiming lawful entitlement to possession of the property, any person the Director has reason to believe may be a registered or unregistered owner of an interest in the property, and the public body in possession of the property; and
- (c) publish notice of forfeiture.

75. Anyone who wishes to dispute forfeiture of the property in question must submit a notice of dispute to the Director by the end of the “dispute period”, which ends on the later of:

³¹ British Columbia, Legislative Assembly, *Hansard*, 39th Parl., 3rd Sess., Vol. 21, No. 4 (9 May 2011) at 6785 <<https://www.leg.bc.ca/documents-data/debate-transcripts/39th-parliament/3rd-session/20110509pm-Hansard-v21n4#bill06-2R>>.

- (a) 60 days after the date on which the notice of forfeiture is published; or
- (b) 60 days after notice is deemed to have been received by all known interest holders.

76. The notice of dispute must be accompanied by a sworn statement that identifies the nature of the person's interest in the property and includes that person's name, address for service and the reasons for disputing forfeiture.

77. If the Director receives a notice of dispute before the end of the dispute period, the Director must either commence proceedings under s. 3 of the *CFA* or withdraw from proceeding under the *CFA* with respect to the property. In either case, the Director must give notice of its decision to the public body in possession of the property and each known interest holder.

78. If the Director does not receive a notice of dispute by the 7th day after the expiry of the dispute period, the property is forfeited to the government.

79. Section 14.11 of the *CFA* offers relief to those who fail to provide notice within the dispute period. Under this section, a claimant may commence proceedings in court disputing forfeiture of the property if the claimant can establish that the failure to deliver a notice of dispute was not willful or deliberate and the proceedings were commenced as soon as reasonably possible after the claimant learned of the forfeiture. Section 15.01(5) provides that, unlike most proceedings under the *CFA*, those commenced under s. 14.11 are *in personam* and not *in rem*.

iv. Interim Preservation Orders

80. Section 8 of the *CFA* permits the Director to apply to the Court for an order restraining property as part of civil forfeiture proceedings commenced under s. 3 of the Act. Section 8(3) authorizes the Court to make "one or more of the following orders relating to the preservation, management or disposition of property or the whole or a portion of an interest in property:"

- (a) an order restraining the disposition or transmission of the property or the whole or the portion of the interest in property;

- (b) an order for the possession, delivery to the director or safekeeping of property;
 - (c) an order appointing a person to act as a receiver manager for property or the whole or a portion of an interest in property;
 - (d) an order for the disposition of the property or the whole or the portion of the interest in property in order to better preserve the value of the property or the whole or the portion of the interest in property;
 - (e) an order directing that the money arising from the disposition of the property or the whole or the portion of an interest in the property under paragraph (d) be paid into court pending the conclusion of the proceeding under section 3;
 - (f) for the purpose of securing performance of an obligation imposed by an order made under Part 2 of this Act or under this Part, an order granting to the director a lien for an amount set by the court on property or the whole or the portion of an interest in property;
 - (g) an order the court considers appropriate to prevent the property from being
 - (i) removed from British Columbia, or
 - (ii) used to engage in unlawful activity;
 - (h) an order the court considers appropriate for the preservation of
 - (i) the property or the whole or the portion of an interest in the property,
 - (ii) the value of the property or of the whole or the portion of an interest in the property, or
 - (iii) the rights of creditors and other interest holders;
- (i) subject to subsection (8), any other order that the court considers appropriate in the circumstances.³²

81. Section 8(5) provides that the Court *must* make such an order, unless it is clearly not in the interests of justice, if the Court concludes that one or both of the following questions amounts to a “serious question to be tried:”

- (a) Whether the whole or the portion of the interest in property that is the basis of the application is proceeds of unlawful activity;

³² Subsection 8 provides that “the court must not make any order under subsection 3(i) that would directly or indirectly reduce the amount of money that would otherwise result from the disposition of the property or the whole or a portion of the interest in property or its forfeiture under [the CFA].”

- (b) Whether the property that is the basis of the application is an instrument of unlawful activity.

82. Section 9 of the *CFA* permits the Court to make an interim preservation order without notice to any person provided the order is not made for a period greater than 60 days. Such an order may be extended only if notice is given to “every person who is required to be given notice of the application” other than those who, in the opinion of the Court, have been evading service, cannot be located despite reasonable efforts by the Director, or who do not need to be served because of “exceptional circumstances.”

v. Distribution of Property Forfeited Under the Act

83. Part 6 of the *CFA* governs the distribution of property forfeited under the Act. Section 25 establishes a “special account in the consolidated revenue fund called the civil forfeiture account.” The Director is required to pay into this account any cash forfeited to the government under the *CFA*, proceeds from the disposition of property forfeited under the *CFA* and any money paid to the government as part of any settlement of an application under the Act.

84. Section 27 of the *CFA* permits the Director to make payments out of the civil forfeiture account for certain prescribed purposes. These include:

- (a) Compensation of eligible victims;
- (b) Prevention of unlawful activities;
- (c) Remediation of the effect of unlawful activities;
- (d) Administration of the Act, including, without limitation, any costs related to the preservation, management or disposition of property or the whole or a portion of an interest in property for purposes of the *CFA*;
- (e) Compliance with a court order requiring payment to a claimant following a failure to deliver a notice of dispute within the administrative forfeiture dispute period; and
- (f) Other prescribed purposes, with the approval of the Minister of Finance.

85. The CFO was established in 2006 with the expectation that it would become self-funding. At the time of its inception, the CFO was given a target of funding its activities

from the proceeds of forfeited property by the end of its third fiscal year. The CFO exceeded this target by achieving full cost-recovery after 18 months of operation.³³

vi. The Civil Forfeiture Amendment Act, S.B.C. 2019 c. 12

86. The *Civil Forfeiture Amendment Act*, S.B.C. 2019, c. 12 was passed by the Legislature on May 13, 2019 and received Royal Assent on May 16, 2019. In introducing the bill on second reading, the Public Safety Minister explained that the amendments to the *CFA* that would be enacted by the bill were intended to make the civil forfeiture process “more efficient and cost-effective and, in turn, maximize funds available to invest in community safety programs and initiatives across the province.”

87. The substantive amendments to the *CFA* introduced through the Act can be categorized into three types:

- (a) New powers to restrain property prior to and during civil forfeiture proceedings;
- (b) New presumptions that will aid the Director in establishing that property is the proceeds or an instrument of an offence; and
- (c) New powers to obtain information.

New Powers to Restrain Property

88. Two amendments enacted through the *Civil Forfeiture Amendment Act* enhance the ability of the Director of Civil Forfeiture to restrain property prior to and during a civil forfeiture action.

89. New sections 11.02-11.04 permit the Director to seek any of the following orders restraining property *before* commencing civil forfeiture proceedings:

- (a) an order restraining the disposition or transmission of the property or the whole or the portion of the interest in property;
- (b) an order for the disposition of the property or the whole or the portion of the interest in property in order to better preserve the value of the property or the whole or the portion of the interest in property;

³³ British Columbia, Ministry of Public Safety and Solicitor General, *Civil Forfeiture Office: A Two Year Status Report*, PSSG 08-023 at 3 & 9; Daley at 9.

- (c) an order the court considers appropriate to prevent the property from being
 - (i) removed from British Columbia, or
 - (ii) used to engage in unlawful activity;
- (d) ... any other order that the court considers appropriate in the circumstances.

90. Section 11.02(4) provides that such an order *must* be made, unless clearly not in the interests of justice, if the Court is satisfied that there is a serious issue to be tried as to whether the property is an instrument or proceeds of unlawful activity. The order may be made without notice provided it does not exceed 60 days.

New Presumptions

91. New sections 19.01-19.05 create presumptions that will aid the Director in establishing that property is the proceeds or an instrument of unlawful activity. These presumptions relate to property owned or controlled by members of criminal organizations, cash and other negotiable instruments, and vehicles.

92. Section 19.01 provides that proof that property is owned, controlled, or possessed by a member of a criminal organization or a corporation of which a member of a criminal organization is a director, officer or has a controlling interest (or was transferred by such a person for less than fair market value), absent evidence to the contrary, is proof that the property is proceeds of unlawful activity. This presumption applies only to property with a value of \$10,000 or more.

93. Section 19.03 provides that cash or other negotiable instruments with a value of \$10,000 or more, absent evidence to the contrary, is presumed to be the proceeds of unlawful activity if found “in proximity to a controlled substance” (as defined in the *Controlled Drugs and Substances Act*, SC 1996, c 19). Cash exceeding \$10,000 will also be presumed to be the proceeds of unlawful activity if “bundled or packaged in a manner not consistent with standard banking practices.”

94. Finally, section 19.04 and 19.05 establish presumptions relating to vehicles. Section 19.04 provides that:

(2) In proceedings under Part 2 or 3 or section 14.11, proof that any of the following were found inside, on or attached to a motor vehicle, trailer, vessel, aircraft or other conveyance is proof, in the absence of evidence to the contrary, that the motor vehicle, trailer, vessel, aircraft or other conveyance is an instrument of unlawful activity:

(a) a restricted firearm or a prohibited firearm, as defined in section 84 (1) of the *Criminal Code*;

(b) a controlled substance, in circumstances or in a quantity consistent with trafficking in the controlled substance;

(c) equipment, devices or other things related to trafficking in a controlled substance, including any prescribed equipment, devices or other things.

(3) In proceedings under Part 2 or 3 or section 14.11, proof that a motor vehicle or trailer contains an after-market compartment is proof, in the absence of evidence to the contrary, that the motor vehicle or trailer is an instrument of unlawful activity.

95. Section 19.05 provides that a motor vehicle will be presumed to be an instrument of unlawful activity if it is used to flee from a police officer or fails to stop within a reasonable time after being signalled or requested to do so by a police officer and the driver's use of the motor vehicle could have resulted in serious bodily harm.

New Powers to Obtain Information

96. New sections 22.02 and 22.03 grant the Director powers to seek information from financial institutions. Section 22.02 empowers the Director to give notice to a 'person' requiring them to produce information within 30 days if all of the following apply:

(a) The Director has reason to believe that

(i) The whole or a portion of an interest in property is proceeds of unlawful activity; or

(ii) Property is an instrument of unlawful activity

- (b) The Director has reason to believe that the property referred to in paragraph (a) (i) or (ii) is in British Columbia;
- (c) The Director has reason to believe that
 - (i) The person is a financial institution in possession of the whole or the portion of the interest in property referred to in paragraph (a) (i) or (ii); or
 - (ii) The person has a registered interest in the property referred to in paragraph (a) (i) or (ii)
- (d) The information is reasonably required by the Director in order to exercise the Director's powers or perform the Director's functions and duties under the *Civil Forfeiture Act*.

97. Where the 'person' to whom the request is made is a financial institution, the Director may request information necessary to identify the account, including the account number and other particulars, the nature and type of the account, whether the account is active, and the names and addresses of all account holders. Where the person to whom the request is made has a registered interest in property, the Director may request "information or particulars related to the interest of the person in the property".

98. Where the Director requests information from a financial institution, he or she must, as soon as practicable, do one of the following – disclose to account holders that information was requested, commence civil forfeiture proceedings, or apply for an order restraining the property in advance of proceedings, as discussed above. The Director may prohibit a financial institution that has been required to disclose information from disclosing the request to any person.

99. The *Civil Forfeiture Amendment Act* also expands the powers of the Court to make an order requiring a person to produce information or records through the creation of s. 11.01. This section permits the Director to apply to the Court for an order requiring a person to disclose to the Director "information or records" that are "reasonably required by the Director in order to exercise the Director's powers or perform the Director's functions and duties" under the Act. The Director may apply for such an order before, at

the time of or subsequent to commencing proceedings under section 3, or applying for an interim preservation order under section 8 or an order under section 11.02.

E. Civil Forfeiture Office

i. Organization and Operations of the Civil Forfeiture Office

100. The CFO is led by an Executive Director, who reports to the Assistant Deputy Minister, Community Safety and Crime Prevention Branch, within the Ministry of Public Safety and Solicitor General. Two Directors report to the Executive Director. An organizational chart current to December 2019 is attached to this overview report as Appendix “A”.

101. The CFO determines whether to commence civil forfeiture proceedings based on information referred to the CFO by external law enforcement and regulatory agencies. The *Civil Forfeiture Office Information Policy* (the “**Information Policy**”) states that:

The CFO does not possess independent investigation authority. Therefore, information used to determine if civil forfeiture proceedings should be commenced will originate from police and regulatory enforcement agencies outside of the CFO.

The Information Policy is attached to this overview report as Appendix “B”.

102. The *CFA* does not directly address the question of whether or not the CFO has “independent investigation authority.” Provisions of the *CFA* related to the Director’s powers and functions associated with the collection of information include the following subsections of s. 22:

(3) ... the director’s powers, duties and functions include

(a) collecting and managing the use and disclosure of information and maintaining records for the purposes of [the *CFA*]...

...

(4) Subject to the regulations, the director may enter into information-sharing agreements that are reasonably required by the director in order to exercise

his or her powers or perform his or her functions and duties under this Act with the following:

(a) Canada, a province or another jurisdiction in or outside of Canada;

(b) a public body.

(5) Subject to the regulations, the director is entitled to information that is

(a) in the custody or control of a public body prescribed by the Lieutenant Governor in Council, and

(b) reasonably required by the director in order to exercise his or her powers or perform his or her functions and duties under this Act.

(6) A public body that has custody or control of information to which the director is entitled under subsection (5) must, on request, disclose that information to the director.

(7) This section applies despite any other enactment, but is subject to a claim of privilege based on a solicitor-client relationship.

103. As discussed above, ss. 11.01 and 22.02 also provide mechanisms by which the Director may obtain information.

104. The receipt of information from law enforcement and regulatory agencies is facilitated by information-sharing agreements entered into by the CFO. Attached to this overview report as Appendix “C” is an information-sharing agreement between the Director of Civil Forfeiture and 12 British Columbia law enforcement agencies. Attached to this overview report as Appendix “D” is an information-sharing agreement between the Government of Canada and the Government of the Province of British Columbia that governs the exchange of information between the CFO and Royal Canadian Mounted Police (“**RCMP**”). Attached to this overview report as Appendix “E” is an information-sharing agreement between the Director of Civil Forfeiture and the British Columbia Lottery Corporation.

105. In addition to these information-sharing agreements, the CFO also has agreements in place with the Vancouver Police Department (“**VPD**”) and RCMP to

second/assign employees of the CFO to the VPD and RCMP to facilitate the referral of files from those agencies to the CFO.

106. An agreement providing for the secondment of an employee of the CFO to the VPD is attached to this overview report as Appendix “F”.

107. Paragraph 15 of the agreement identifies the duties of the seconded member as follows:

The secondee will provide services exclusively to the VPD for the Term of this Agreement to carry out the duties necessary to achieve the objectives of this Agreement. Specifically, the Secondee’s work shall be for a lawful purpose and directly related to VPD investigations being conducted insofar as reviewing and assessing potential referrals by VPD members to the VPD’s AFT.³⁴ For clarity, the Secondee’s work will commence from file review of VPD files forwarded to the VPD’s AFT Team for potential referral to CFO. The Secondee will not browse police information, including PRIME, for potential file referrals to the CFO. Specific duties of the Secondee shall be to:

- Review investigations referred to the Secondee from sworn VPD members who believe that there is the potential for any assets seized or identified to be referred to the CFO for forfeiture.
- Evaluate referred investigations and decide if the potential exists for assets to be referred to the CFO for forfeiture.
- Identify if other related and similar fact incidents exist in addition to the referred investigation.
- Confirm if all or some of the identified assets are suitable for referral.
- Identify if assets may be referred to the CFO and refer that investigation to the assigned member of the AFT in OCU1 to

³⁴ The agreement describes the VPD AFT as follows: “The objective of the VPD’s informally assembled asset forfeiture team (AFT) is to work together in an integrated environment to deprive organized crime members of their criminally obtained assets. The role of AFT members includes, but is not limited to: Endeavoring to identify, seize and recommend the forfeiture of criminal assets throughout the Province of British Columbia, and recommending for prosecution the persons associated therewith and co-operating with other jurisdictions for such purposes.”

make a referral recommendation to the CFO for forfeiture of some or all of the identified assets.

- Act as a resource and subject matter expert for asset forfeiture referral to the CFO.
- Develop and deliver training to VPD staff and the staff of other municipal police departments in making asset forfeiture recommendations to the CFO.
- Assist other municipal police departments in developing a system of asset forfeiture referrals like the VPD's.

108. A memorandum of understanding (“**MOU**”) between the CFO and the RCMP “E” Division provides for the assignment of a “CFO RCMP Program Manager” (the “**Program Manager**”) with the RCMP’s Operations Support Group, Federal Serious and Organized Crime. The MOU is attached to this overview report as Appendix “G”.

109. Paragraph 4.1 of the MOU provides that the Program Manager “shall carry out all the duties necessary to achieve the objectives of this MOU...”. The “Purpose and Objectives of the MOU are set out at paras. 1.1 – 1.3 of the MOU:

1.1 The Purpose of this [MOU] is to record the understanding of the arrangement between the CFO and the RCMP pertaining to the assignment of the CFO RCMP Program Manager within the RCMP’s Federal Serious and Organized Crime (FSOC) Operational Support Group (OSG) Asset Forfeiture Unit (AFU). This MOU represents the good faith and spirit of cooperation between the CFO and the RCMP. The MOU is not intended to be and is not in any way legally binding on either party or any related governments in Canada or British Columbia.

1.2 The objective of FSOC AFU in British Columbia is to work together in an integrated environment to deprive organized crime members of their criminally obtained assets. The role of FSOC members includes, but is not limited to:

- (a) Endeavouring to identify, seize and forfeit criminal assets throughout the Province of British Columbia, recommending for prosecution the persons associated therewith and co-operating with other jurisdictions for such purposes;

- (b) Gathering of intelligence and identifying, developing and managing human sources.

1.3 The objective of the CFO is to disrupt criminal organizations and reduce crime by removing the instruments and proceeds of unlawful activity and provide funding to communities in support of crime prevention initiatives. The CFO receives referrals from enforcement agencies such as the RCMP, and based upon a consideration of the evidence, public interest and financial viability of the referrals, commences actions through civil forfeiture proceedings against the property only. The RCMP is the single largest referral agency to the CFO.

110. Challenges to the information-sharing agreement governing the exchange of information between the CFO and the RCMP, as well as the MOU, have been dismissed by the British Columbia Supreme Court. In *Angel Acres Recreation and Festival Property Ltd. v. British Columbia (Attorney General)*, 2019 BCSC 1421, the Court considered a petition seeking, among other relief:

- (a) A declaration that the Director had no authority to collect information from the RCMP nor to commence or conduct proceedings on the basis of such information; and
- (b) A declaration that the CFO had no authority to assign [the Program Manager] Position with the RCMP's Operations Support Group Federal Serious and Organized Crime.

111. The Court dismissed the relief sought in paragraph (a) above, holding at paras 147-148:

For all of the foregoing reasons, I am satisfied that the Director had lawful authority to collect information from the RCMP and to commence and conduct the related forfeiture proceedings.

The relief sought in paras. 1, 3 and 4 of Part 1 of the petition is accordingly dismissed.

112. With respect to the relief sought in paragraph (b) above, the Court held at paras 152-157:

As I apprehend the petitioners' submissions concerning the creation of the impugned CFO RCMP position by the Director under the MOU they are founded upon the same or similar assertions made by them concerning the Director's lack of statutory authority to receive referrals and information from the RCMP under the [the information-sharing agreement governing the exchange of information between the CFO and RCMP].

I have rejected those submissions and accordingly also reject the submission that the Director did not have authority to enter into the MOU or to create the impugned position.

The petitioners also, however, submit that by its terms the [information-sharing agreement], and thus the MOU do not authorize the referral process adopted by the Director and the RCMP because s. 4 of the [information-sharing agreement] provides that information from the RCMP sought by the CFO is to be sent "upon request".

The petitioners submit that the policy adopted by the CFO of accepting referrals from the RCMP rather than specifically initiating requests for information is thus not authorized by the [information-sharing agreement] or the MOU.

The short answer to that argument is that I accept that the Director has instituted referral policies and procedures that can appropriately be characterized as "standing requests" and that any failure to follow the procedure articulated by the [information-sharing agreement] does not vitiate the Director's authority to receive and use files referred by the police.

The relief sought by the petitioners in para. 2 of Part 1 is accordingly dismissed.

113. The decision to initiate civil forfeiture proceedings based on a referred file is governed by the *Civil Forfeiture Office – File Acceptance Policy* (the "**File Acceptance Policy**").

114. Paragraphs 6 and 7 of the File Acceptance Policy identify the circumstances in which the CFO will consider a referred file arising from criminal and regulatory investigations.

115. In the case of a file arising from a criminal investigation, paragraph 6 provides that a referred file will be considered if:

- (a) The [referring agency] has decided not to refer the file to a Crown prosecutor for charge approval;
- (b) ...[F]ollowing charge approval the Crown Prosecutor has decided not to pursue criminal restraint or forfeiture proceedings; or
- (c) ...[C]riminal proceedings have concluded for any reason without criminal forfeiture.

116. In the case of a file arising from a regulatory investigation, the CFO will consider the file if:

- (a) The [referring agency] has decided not to pursue regulatory enforcement proceedings; or
- (b) Where a file has been referred to a Crown Prosecutor for consideration and the Crown Prosecutor has decided not to pursue regulatory enforcement proceedings.

117. Paragraph 4 identifies the criteria by which all referred files will be assessed by the Director:

- (a) Public Interest – public interest factors may include, but are not limited to:
 - (i) Actual harm or a reasonable prospect of harm to individuals, particularly vulnerable individuals such as children or the elderly;
 - (ii) The use of firearms or other weapons;
 - (iii) Involvement of gangs or organized crime;
 - (iv) Money laundering;
 - (v) Presence of hard drugs;
 - (vi) Financial exploitation of vulnerable individuals;
 - (vii) Harm or reasonable prospect of harm to law enforcement;
and
 - (viii) Any other factors relevant to the unlawful activity.

- (b) Strength and adequacy of the Available Evidence – the available evidence is to be assessed based on the likelihood of a successful forfeiture application using a balance of probabilities standard for civil forfeiture files or the reason to believe standard for administrative forfeiture files.
- (c) Financial Considerations – Given the cost recovery nature of the CFO program, the Director’s review will be guided by a cost-benefit financial analysis of the file that will consider the estimated cost of obtaining a successful forfeiture against the estimated financial benefit.
- (d) Interests of Justice – The Director must assess the interests of justice in accordance with the Act and relevant judicial precedents by using information reasonably available to the Director at the time a file is received, which includes consideration of the reputation of the administration of justice.

118. The CFO File Acceptance Policy is attached as Appendix “H”.

ii. CFO Statistics

119. The data set out below was compiled by the CFO.³⁵

120. Table #1 identifies for each year from 2006-2019 the number of referrals received by the CFO, the number of referrals accepted by the CFO, the number of administrative forfeiture proceedings commenced and the total quantum of recoveries from forfeiture by the CFO.

Table 7: Referrals Received and Accepted and Quantum of Recoveries from Forfeiture – 2006-2019

Year	Referrals Received	Referrals Accepted	Admin. Forfeiture	Recoveries from Forfeiture
2006	31	9	0	\$62,357.06
2007	72	58	0	\$2,925,748.42
2008	107	70	0	\$2,580,128.84
2009	154	113	0	\$2,854,102.07
2010	158	124	0	\$4,894,756.57

³⁵ The record produced by the CFO setting out this data is identified within the Commission records as CFO0011.

2011	322	244	103	\$14,454,324.17
2012	525	425	304	\$9,462,495.20
2013	553	484	389	\$12,064,310.35
2014	674	626	483	\$11,083,795.31
2015	755	692	553	\$12,431,010.55
2016	1002	840	761	\$7,610,681.23
2017	1017	894	785	\$9,831,725.02
2018	1071	961	841	\$10,694,244.68
2019	1128	1027	882	\$13,472,014.31

121. Table 8 identifies the sources of referrals to the CFO since 2006, and the number of referrals made by each agency in each year.

Table 8: Referrals to the CFO by Referring Agency and Year

Referring Agency	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
100 Mile House RCMP	0	0	0	1	0	1	0	0	0	2	0	1	1	2
Abbotsford Police Dept.	3	3	1	3	15	23	25	65	9	8	23	29	44	26
Alberta Law Enforcement Response Teams	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Ashcroft RCMP	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Barriere RCMP	0	0	2	2	0	2	1	0	1	0	0	0	0	0
BC Securities Commission	0	2	1	1	1	1	1	0	2	0	0	0	0	0
Bella Coola RCMP	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Bowen Island RCMP	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Burnaby RCMP	0	3	1	2	3	5	13	10	22	21	18	32	31	39
Burns Lake RCMP	0	0	0	0	0	0	1	0	0	0	0	0	0	0
Calgary Police Service	0	0	1	0	0	0	0	0	0	0	0	0	0	0
Campbell River RCMP	0	0	2	3	1	0	7	16	9	4	14	6	13	13
Canada Border Services Agency	0	0	0	0	0	0	0	0	0	1	5	5	0	1
Canadian Armed Forces	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Capital Region Crime Unit	0	0	0	0	0	0	0	2	0	0	0	0	0	0
Castlegar RCMP	0	0	0	0	1	0	0	0	0	0	1	0	2	1
Central Interior Traffic Services	0	0	0	0	0	2	0	0	0	0	1	1	0	0
Central Saanich Police Service	0	0	0	0	0	0	1	0	0	0	0	0	2	3

Central Vancouver Island Traffic Services	0	0	0	0	0	0	0	0	0	0	0	1	0	0
Chase RCMP	0	0	0	1	0	0	0	0	1	0	0	0	0	0
Chetwynd RCMP	0	0	1	0	1	3	1	0	1	1	0	0	0	1
Chilliwack RCMP	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Clearwater RCMP	0	1	3	4	0	0	0	0	4	1	3	1	0	2
Clinton RCMP	0	0	0	0	0	0	1	1	1	0	1	1	0	0
Columbia Valley RCMP	0	0	0	0	0	1	0	0	3	0	0	0	0	0
Commercial Crime RCMP	0	0	0	0	1	0	0	0	0	0	0	0	0	0
Comox Valley RCMP	0	0	0	0	0	14	8	5	19	8	7	2	7	12
Conservation Officer Service	0	0	0	0	0	0	1	2	4	1	0	1	1	0
Coquitlam RCMP	2	2	0	4	1	1	11	23	38	15	25	16	34	25
Cranbrook RCMP	0	0	0	0	0	0	2	0	0	0	5	3	3	3
Creston RCMP	0	0	0	0	0	0	0	0	0	0	1	0	0	0
Dawson Creek RCMP	0	0	0	0	0	5	1	0	5	3	9	11	11	8
Deas Island Highway Patrol RCMP	0	0	0	0	0	1	0	1	1	3	0	1	0	0
Deas Island Traffic Services	0	0	0	0	0	0	0	0	0	1	1	0	0	0
Delta Police Dept.	1	3	4	2	3	1	9	8	11	13	10	4	3	20
Denmark	0	0	0	0	0	0	0	0	0	0	1	0	0	0
Department of Fisheries and Oceans	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Duncan RCMP	0	0	0	1	0	1	1	1	7	7	13	11	10	5

IRSU Okanagan North	0	1	0	0	0	0	0	0	0	1	0	2	0	0
IRSU Okanagan South	0	0	0	0	0	0	0	0	0	1	0	0	0	0
IRSU S.E. District	0	0	4	1	2	3	12	6	8	0	1	0	2	3
IRSU West Kootenay	0	0	0	0	2	1	1	1	1	0	1	2	0	1
Island District RCMP	0	0	0	0	0	0	0	0	0	1	0	0	0	0
Island Drug Section RCMP	2	0	0	0	0	0	1	1	1	0	0	0	0	0
Kamloops RCMP	0	0	1	1	2	2	7	2	1	0	2	5	6	11
Kamloops S.E. District RCMP	0	1	0	1	1	0	0	1	0	3	1	0	0	0
Kelowna RCMP	2	5	1	2	7	7	10	21	39	47	52	30	28	33
Kennebecasis Regional Police	0	0	0	0	0	0	0	0	0	0	0	0	1	0
Keremos RCMP	0	0	0	0	0	0	0	1	0	0	0	0	0	0
Kimberley RCMP	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Kitimat RCMP	0	0	1	0	0	0	0	1	1	0	0	0	0	0
Ladysmith RCMP	0	0	0	0	0	0	0	0	0	0	1	0	0	1
Lake Cowichan RCMP	0	0	0	0	0	0	0	0	0	0	0	1	0	0
Langley RCMP	0	2	0	3	3	9	18	24	21	19	51	41	22	46
Likely RCMP	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Lillooet RCMP	0	0	0	0	0	0	0	0	1	0	0	0	0	1
Logan Lake RCMP	0	0	0	0	0	0	1	0	0	0	0	0	0	0
Lower Mainland Traffic Services Central	0	0	1	0	2	5	6	1	0	0	1	2	0	1
Lumby RCMP	0	0	0	0	0	0	0	0	2	0	0	0	0	0
Lytton RCMP	0	0	0	0	0	0	0	1	1	0	1	0	0	0
Mackenzie RCMP	0	0	0	0	1	1	0	1	0	2	0	0	1	8

[illegible]

Oak Bay Police Dept.	0	0	0	2	0	0	0	0	0	0	0	0	0	0
Oceanside RCMP	0	0	0	0	0	0	1	0	0	0	2	1	0	0
Oliver RCMP	0	0	0	0	0	0	0	0	0	0	0	1	0	0
Ontario RCMP	0	0	0	0	0	0	0	0	0	0	0	1	0	0
Osoyoos RCMP	0	0	0	1	1	2	0	0	0	0	1	4	3	0
Parksville RCMP	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Pemberton RCMP	0	0	0	0	0	0	0	0	2	0	1	1	0	0
Penticton RCMP	0	0	0	1	1	0	1	1	0	1	6	0	3	4
Philippines	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Port Alberni RCMP	0	0	1	3	1	1	1	0	0	1	0	2	0	2
Port Hardy RCMP	0	0	3	0	0	0	0	0	0	2	0	0	1	1
Port Moody Police Dept.	0	0	0	0	2	0	6	5	7	8	15	14	17	24
Powell River RCMP	0	0	0	0	0	0	4	1	1	2	2	6	8	7
Prince George RCMP	1	1	2	0	0	4	16	6	10	12	11	13	25	55
Prince George Traffic Services	0	0	0	0	0	1		0	0	0	0	0	0	0
Prince Rupert RCMP	0	0	0	1	0	1	5	7	2	2	1	2	2	1
Princeton RCMP	0	0	0	0	0	0	0	0	1	0	0	1	0	1
Queen Charlotte RCMP	0	0	0	0	0	0	1	0	2	0	0	1	0	1
Quesnel RCMP	0	0	0	0	0	2	0	1	1	6	6	5	0	1
RCMP CFSEU	1	1	1	0	1	1	11	6	12	30	15	31	62	96
RCMP E-Division Coordinated Marihuana Enforcement Team	0	0	0	0	1	0	1	0	0	0	0	0	0	0
RCMP E-Division Greater Vancouver Drug Section	0	0	0	0	0	4	9	2	1	0	0	0	0	0

RCMP E-Division Integrated Border Enforcement Team	0	0	1	0	2	1	1	1	0	1	0	0	0	0
RCMP E-Division Integrated Child Exploitation Unit	0	0	0	1	0	0	0	0	0	0	0	0	0	0
RCMP E-Division Integrated Homicide Investigation Team	0	0	0	0	0	0	1	0	1	1	0	0	1	1
RCMP E-Division Integrated Market Enforcement Team	1	0	0	0	0	0	1	0	0	0	0	0	0	1
RCMP Integrated Municipal Provincial Auto Crime Team	0	0	0	0	0	0	3	1	1	0	0	0	2	1
RCMP E-Division National Security Enforcement Team	0	0	0	0	0	1	1	0	0	0	0	0	0	0
RCMP FSOC	3	16	3	13	4	4	18	7	11	12	16	24	0	19
RCMP Integrated Gang Task Unit	2	0	0	2	6	3	4	0	0	0	0	0	0	0
RCMP Outlaw Motorcycle Gang Unit	0	0	0	0	0	0	0	2	0	0	0	0	0	0
Revelstoke RCMP	0	0	1	2	2	3	1	1	4	0	2	0	1	1
Revelstoke Traffic Services	0	0	0	0	0	0	0	0	0	1	0	0	0	0
Richmond RCMP	1	4	4	4	5	1	10	10	20	11	13	20	20	33
Ridge Meadows RCMP	0	0	0	1	7	8	8	17	16	14	14	34	21	17
Saanich Police Dept.	0	0	2	4	2	9	12	3	10	10	11	11	12	11
Salmo RCMP	0	0	0	0	0	0	0	3	0	0	0	0	0	1
Salmon Arm RCMP	0	0	1	1	1	0	1	0	1	0	3	1	1	6

Salt Spring Island RCMP	0	0	0	0	0	0	2	1	0	0	1	0	0	0
Shawnigan Lake RCMP	0	0	1	0	0	0	0	0	1	0	1	1	3	0
Sicamous RCMP	0	0	0	0	0	0	0	0	0	0	0	0	1	0
Sidney/North Saanich RCMP	0	0	0	0	0	1	1	1	3	1	1	2	3	0
Slocan Lake RCMP	0	0	0	0	0	0	3	0	0	0	1	0	0	1
Smithers RCMP	0	1	1	0	0	0	0	1	0	1	1	1	7	6
Sooke RCMP	0	0	0	1	1	3	4	1	2	5	6	2	1	3
Southeast District Roving Patrols Traffic Services	0	0	0	0	1	0	0	0	0	5	7	3	9	3
Southeast District Traffic Services	0	0	0	0	0	1	0	0	0	2	0	0	0	6
South Island Traffic Services RCMP	0	0	0	0	0	0	0	0	0	2	0	0	0	0
South Okanagan Traffic Services	0	0	0	0	0	0	0	0	0	2	0	0	1	0
South Vancouver Island Traffic Services	0	0	0	0	0	0	0	0	0	2	2	0	1	0
Squamish RCMP	0	0	0	0	0	2	3	1	14	8	4	3	4	8
Stewart RCMP	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Summerland RCMP	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Sunshine Coast RCMP	0	0	8	1	1	3	2	0	1	1	1	1	2	3
Surete du Quebec	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Surrey RCMP	0	1	9	11	14	62	87	82	72	121	183	180	166	111
Tahsis RCMP	0	0	0	0	0	0	0	0	1	0	0	0	0	0
Terrace RCMP	1	0	1	3	0	5	4	2	2	1	0	2	2	3
Tofino RCMP	0	0	0	0	0	0	0	1	0	0	0	0	0	0

[illegible]

Appendix A

Civil Forfeiture Office Organization Chart – December 2019

CIVIL FORFEITURE OFFICE – December 2019



Appendix B

Civil Forfeiture Office Information Policy



Civil Forfeiture Office Information Policy

Objective	This policy sets out how information will be collected, used and disclosed by the Civil Forfeiture Office (CFO).
Application and Scope	This policy applies to all CFO operations.
Principles	The CFO will only collect, use and disclose information as authorized by law, consistent with its mandate of determining if civil forfeiture proceedings should be commenced.
Background	The CFO does not possess independent investigation authority. Therefore, information used to determine if civil forfeiture proceedings should be commenced will originate from police and regulatory enforcement agencies outside of the CFO.
General	Authorization for the CFO to collect, use and disclose personal information, for the purpose of the <i>Civil Forfeiture Act</i> ("the Act") is specifically contained within the Act.
Security of Information	The CFO does not utilize an independent computer system. CFO staff use personal computers connected to the Ministry of Attorney General Network, known as "IDIR". Those connections have individual user access profiles that are password-protected. Physical security is provided within the CFO for hard copy records.
Requests for Access	Requests for access made to the CFO by individuals under the authority of the <i>Freedom of Information and Protection of Privacy Act</i> will be managed by the Privacy, Information & Records Management Division of the Ministry of Public Safety and Solicitor General.
Legislative Authorities	<i>Civil Forfeiture Act</i> , SBC 2005, c. 29
Effective Date	July 1, 2006

Appendix C

Information-Sharing Agreement – Civil Forfeiture Office and British Columbia Law
Enforcement Agencies

*All Signatures***INFORMATION SHARING AGREEMENT****IN ACCORDANCE WITH THE
CIVIL FORFEITURE ACT (SBC 2005 c. 29)****dated the 25th day of August, 2006****BETWEEN:****The Director of Civil Forfeiture,
Ministry of Public Safety and Solicitor General
(the "Director")****AND:****Abbotsford Police Department
as represented by the Chief Constable****AND:****Central Saanich Police Service
as represented by the Chief Constable****AND:****Delta Police Department
as represented by the Chief Constable****AND:****Nelson Police Department
as represented by the Chief Constable****AND:****New Westminster Police Service
as represented by the Chief Constable****AND:****Oak Bay Police Department
as represented by the Chief Constable****AND:****Port Moody Police Department
as represented by the Chief Constable****AND:****Saanich Police Department
as represented by the Chief Constable****AND:****Vancouver Police Department
as represented by the Chief Constable****AND:****Victoria Police Department
as represented by the Chief of Police****AND:**

**West Vancouver Police Department
as represented by the Chief Constable**

AND:

**Greater Vancouver Transit Authority Police Service
as represented by the Chief Officer**

(hereinafter referred to as the "*Municipal Police Departments*")

WHEREAS

- A. The Director has authority under the *Civil Forfeiture Act* (the "CFA") to commence civil proceedings to forfeit property that is either proceeds of unlawful activity or instruments of unlawful activity, to assess whether it is appropriate to commence such proceedings, including whether it is in the public interest to do so, to conduct civil forfeiture proceedings in accordance with the CFA, its regulations and other applicable laws, and to administer the CFA including the administration of the payment of victim compensation.
- B. The Municipal Police Department, pursuant to the *Police Act*, is mandated to generally maintain law and order in the municipality, prevent crime and offences against the law, and perform the duties and functions respecting the administration of justice.
- C. The CFA authorizes the Director to enter into information-sharing agreements with public bodies in order to exercise his or her powers or perform his or her functions and duties under the CFA.
- D. It is in the public interest that the parties cooperate for the purposes of disclosing information to the Director and on related matters.
- E. The Director and the Municipal Police Department wish to enter into an agreement for the purpose of disclosing information to the Director, and to cooperate for that purpose.

THE PARTIES AGREE AS FOLLOWS:

1.0 PURPOSE

- 1.1 The purpose of this Agreement (the "Agreement") is to provide the framework for the disclosure of records, information and personal information that is reasonably required by the Director in order to exercise his or her powers or perform his or her duties under the CFA as noted in paragraph 'A' above, and to ensure compliance with the *Freedom of Information and Protection of Privacy Act* ("FOIPPA"), the CFA, and other applicable legislation.

2.0 INTERPRETATION

2.1 In this Agreement:

"information" includes personal information as defined by the FOIPPA, and any record that contains information,

"Director" means the Director of the Civil Forfeiture Program designated/appointed under section 21(1) of the CFA,

"Municipal Police Department" means the municipal police department established under section 26 of the *Police Act*,

"record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by any means whether graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records.

3.0 STATUTORY AUTHORIZATION

3.1 The Director is authorized under Section 22(4)(b) of the CFA to enter into Information-sharing agreements that are reasonably required by the Director in order to exercise his or her powers or perform his or her functions and duties under the CFA, with public bodies as defined in the FOIPPA.

3.2 The Municipal Police Department is authorized under Section 33.1(1)(d) of the FOIPPA to disclose personal information in accordance with a provision of an agreement that is made under an enactment of British Columbia.

3.3 The Municipal Police Department is authorized under Section 33.2 (a) of the FOIPPA to disclose personal information for a use consistent with the purpose for which it was obtained or compiled, where that use is necessary for performing the statutory duties of the Municipal Police Department.

3.4 Sections 26 and 34 of the *Police Act* set out the statutory duties of the Municipal Police Department which include the prevention of crime and the administration of justice.

4.0 DISCLOSURE OF INFORMATION TO THE DIRECTOR

4.1 A Municipal Police Department may disclose information to the Director:

(a) on the initiative of the Municipal Police Department; or

(b) in response to a request for information made by the Director.

4.2 Any disclosure of information from the Municipal Police Department to the Director under this Agreement will be at the discretion of the Municipal Police Department, whose discretion will be exercised taking into consideration the public interest and in consultation with the Director.

- 4.3 A request for information made by the Director to the Municipal Police Department shall, wherever practicable, be made in writing and include the nature and scope of the information being requested, and the required form and manner of transmission of the information.
- 4.4 Prior to disclosing any records to the Director, the Municipal Police Department will identify and/or sever any information from the records that, if disclosed during the course of CFA proceedings, would:
- (a) harm a law enforcement matter;
 - (b) prejudice the defence of Canada or of any foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;
 - (c) harm the effectiveness of investigative techniques and procedures currently used, or likely to be used, in law enforcement;
 - (d) reveal the identity of a confidential source of law enforcement information;
 - (e) reveal information subject to solicitor-client privilege;
 - (f) reveal information protected from disclosure by the *Youth Criminal Justice Act* (Canada); or
 - (g) reveal information protected from disclosure under a court order, another information-sharing agreement binding on either party, of any other law of Canada or British Columbia.

5.0 USE OF INFORMATION

- 5.1 Information provided pursuant to this Agreement is provided and is to be used solely for the purpose of the Director to exercise his or her powers and perform his or her duties or functions, including:
- (a) Determining whether or not to commence forfeiture proceedings;
 - (b) Commencing and conducting forfeiture proceedings;
 - (c) Administering and disposing of property forfeited under the CFA; and
 - (d) Administering the CFA and its Regulations.
- 5.2 The Director may disclose information as required to perform his or her functions and duties under the CFA, including disclosure during civil forfeiture proceedings.
- 5.3 The Director will not disclose the records and information received from the Municipal Police Department except in accordance with section 5.2 of this Agreement, and will transfer any request received pursuant to the FOIPPA to the

Municipal Police Department that produced the records and information requested.

6.0 COMMUNICATIONS

- 6.1 Where the Municipal Police Department is conducting an ongoing investigation and where the Director is conducting civil forfeiture proceedings at the same time, the Director and the Municipal Police Department will consult and coordinate on all communications with any victim, members of any victim's family or the media.

7.0 ACCURACY OF INFORMATION

- 7.1 The Municipal Police Department will make every reasonable effort to ensure the records and information that it provides pursuant to this Agreement are accurate, complete and up-to-date.
- 7.2 The Municipal Police Department will advise the Director of the existence of further or updated records and information related to previously forwarded records and information when they come to the attention of the Municipal Police Department.

8.0 SECURITY

- 8.1 The information disclosed pursuant to this Agreement is to be used exclusively for the purposes set out herein.
- 8.2 The Director, in accordance with s. 30 of the FOIPPA, will make reasonable arrangements to maintain the security of the information in the Director's custody, by protecting it against such risks as unauthorized access, collection, use, disclosure or disposal.
- 8.3 Each party will advise the other immediately of any circumstances of unauthorized use of information or events which to the party's knowledge may have jeopardized or may in future jeopardize:
- (a) The privacy or security of individuals;
 - (b) The security of any computer system that is used to access records or information; or
 - (c) a law enforcement matter.
- 8.4 The parties will retain and dispose of documents in compliance with the *Document Disposal Act*, R.S.B.C. 1996, c. 99, and the FOIPPA, as applicable to each party.

9.0 COMPLIANCE MONITORING AND INVESTIGATIONS

- 9.1 Each party will record and monitor requests made for, and the disclosure of, information pursuant to this Agreement.
- 9.2 The Director will investigate all of the following types of incidents which come to the Director's attention, in relation to any information received from a Municipal Police Force:
- (a) Unauthorized access to or modification of the information;
 - (b) Unauthorized use of the information;
 - (c) Unauthorized disclosure of the information; or
 - (d) Breaches of privacy or security with respect to the information or with respect to any computer system in its custody that is used to access the information.
- 9.3 The Director will report the results of any investigation conducted pursuant to Section 9.2 of this Agreement and the steps taken to address any remaining issues or concerns about the security of the information or computer systems, or the privacy of individuals to whom the information relates, to the Municipal Police Department whose information was the subject of the incident.

10.0 COSTS

- 10.1 The parties will review the copying and documentation costs associated with providing information to the Director pursuant to this Agreement on a file-to-file basis and agree upon any such reasonable costs.

11.0 EFFECTIVE DATE OF AGREEMENT AND AMENDMENTS

- 11.1 This Agreement is effective from the date in which both the Director and the appropriate Municipal Police Department authority has signed the Agreement, as between the Director and that Municipal Police Department.
- 11.2 This Agreement may be amended at any time by the written consent of the parties and any such amendments will be dated and signed by both parties and attached to this Agreement as a Schedule.

12.0 REVIEW AND TERMINATION OF AGREEMENT

- 12.1 The parties agree to review this Agreement on an annual basis, however this Agreement shall remain in effect unless terminated in accordance with Section 12.2.
- 12.2 This Agreement shall remain in effect unless terminated by either party upon the giving of 30 days written notice to the other party.

13.0 NON-DEROGATION

- 13.0 Nothing in this Agreement is in any way intended to disturb any obligation that either Party is bound to or required to perform by operation of law.

14.0 NOTIFICATION

- 14.1 All notices or communications provided for in this Agreement will be in writing and will be mailed or delivered. For the purposes of delivery of notice, the addresses for delivery are:

For the Municipal Police Departments:

Chief Constable
Abbotsford Police Department
2838 Justice Way
Abbotsford, British Columbia
V2T 3P5

Chief Constable
Central Saanich Police Service
1903 Mt. Newton X Road
Saanichton, British Columbia
V8M 2A9

Chief Constable
Delta Police Department
Clarence Taylor Crescent
Delta, British Columbia
V4K 3E1

Chief Constable
Nelson Police Department
606 Stanley Street
Nelson, British Columbia
V1L 1N4

Chief Constable
New Westminster Police Service
511 Royal Avenue
New Westminster, British Columbia
V3L 1H9

Chief Constable
Oak Bay Police Department
1703 Monterey Avenue
Oak Bay, British Columbia
V8R 5V6

Chief Constable

Port Moody Police Department
 3051 St. John's Street
 Port Moody, British Columbia
 V3H 2C4

Chief Constable
 Saanich Police Department
 760 Vernon Avenue
 Victoria, British Columbia
 V8X 2W6

Chief Constable
 Vancouver Police Department
 2120 Cambie Street
 Vancouver, British Columbia
 V5Z 4N6

Chief of Police
 Victoria Police Department
 850 Caledonia Street
 Victoria, British Columbia
 V8T 5J8

Chief Constable
 West Vancouver Police Department
 1330 Marine Drive
 West Vancouver, British Columbia
 V7T 1B5

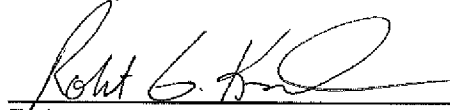
Chief Officer
 GVTAPS
 307 Columbia Street
 New Westminster, BC
 V3L 1A7

For the Civil Forfeiture Program:

Director, Civil Forfeiture Office
 P.O. Box 9234
 Stn Prov Govt
 Victoria, BC V8W 9J1

- 17.02 Any such notice or communication given by mail will be deemed to have been delivered 72 hours after having been deposited in the mail service with first class postage prepaid. If given by personal delivery, then such notice or communication will be deemed effective when delivered.

Signed on behalf of the Civil Forfeiture Office, Ministry of Public Safety and Solicitor General;



Robert G. Kroeker
Director, Civil Forfeiture Office

Date 06/08/25

Signed on behalf of the Abbotsford Police Department;

Chief Constable Ian MacKenzie
Abbotsford, British Columbia

Date

Signed on behalf of the Central Saanich Police Service;

Chief Constable Paul Hames
Central Saanich, British Columbia

Date

Signed on behalf of the Delta Police Department;

Chief Constable Jim Cessford
Delta, British Columbia

Date

Signed on behalf of the Nelson Police Department;

Chief Constable, Dan Maluta
Nelson, British Columbia

Date

Signed on behalf of the New Westminster Police Service;

Chief Constable Lorne Zapotichny
New Westminster, British Columbia

Date

Signed on behalf of the Oak Bay Police Department;

Chief Constable Ben Anderson
Oak Bay, British Columbia

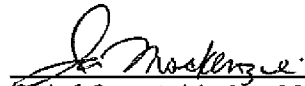
Date

Signed on behalf of the Civil Forfeiture Office, Ministry of Public Safety and Solicitor General;

Robert G. Kroeker
Director, Civil Forfeiture Office

Date

Signed on behalf of the Abbotsford Police Department;



Chief Constable Ian Mackenzie
Abbotsford, British Columbia

Date 06/09/18

Signed on behalf of the Central Saanich Police Service;

Chief Constable Paul Hames
Central Saanich, British Columbia

Date

Signed on behalf of the Delta Police Department;

Chief Constable Jim Cessford
Delta, British Columbia

Date

Signed on behalf of the Nelson Police Department;

Chief Constable Dan Maluta
Nelson, British Columbia

Date

Signed on behalf of the New Westminster Police Service;

Chief Constable Lorne Zapotichny
New Westminster, British Columbia

Date

Signed on behalf of the Oak Bay Police Department;

Chief Constable Ben Andersen
Oak Bay, British Columbia

Date

Signed on behalf of the Civil Forfeiture Office, Ministry of Public Safety and Solicitor General;

Robert G. Kroeker
Director, Civil Forfeiture Office

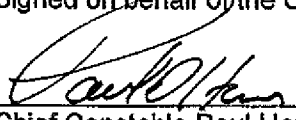
Date

Signed on behalf of the Abbotsford Police Department;

Chief Constable Ian Mackenzie
Abbotsford, British Columbia

Date

Signed on behalf of the Central Saanich Police Service;



Chief Constable Paul Hames
Central Saanich, British Columbia

Oct 10/06

Date

Signed on behalf of the Delta Police Department;

Chief Constable Jim Cessford
Delta, British Columbia

Date

Signed on behalf of the Nelson Police Department;

Chief Constable Dan Maluta
Nelson, British Columbia

Date

Signed on behalf of the New Westminster Police Service;

Chief Constable Lorne Zapotichny
New Westminster, British Columbia

Date

Signed on behalf of the Oak Bay Police Department;

Chief Constable Ben Andersen
Oak Bay, British Columbia

Date

Signed on behalf of the Civil Forfeiture Office, Ministry of Public Safety and Solicitor General;

Robert G. Kroeker
Director, Civil Forfeiture Office

Date

Signed on behalf of the Abbotsford Police Department;

Chief Constable Ian Mackenzie
Abbotsford, British Columbia


Date

Signed on behalf of the Central Saanich Police Service;

Chief Constable Paul Hames
Central Saanich, British Columbia

Date

Signed on behalf of the Delta Police Department;



Chief Constable Jim Cessford
Delta, British Columbia

Sept 14, 2007
Date

Signed on behalf of the Nelson Police Department;

Chief Constable Dan Maluta
Nelson, British Columbia

Date

Signed on behalf of the New Westminster Police Service;

Chief Constable Lorne Zapotichny
New Westminster, British Columbia

Date

Signed on behalf of the Oak Bay Police Department;

Chief Constable Ben Andersen
Oak Bay, British Columbia

Date

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Robert G. Kroeker
Director, Civil Forfeiture Office

Date

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Chief Constable Ian Mackenzie
Abbotsford, British Columbia

Date

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Chief Constable Paul Hames
Central Saanich, British Columbia

Date

Signed on behalf of the Delta Police Department;

Chief Constable Jim Cessford
Delta, British Columbia

Date

Signed on behalf of the Nelson Police Department;



Chief Constable Dan Maluta
Nelson, British Columbia

Date
2006.09.18

Signed on behalf of the New Westminster Police Service;

Chief Constable Lorne Zapotichny
New Westminster, British Columbia

Date

Signed on behalf of the Oak Bay Police Department;

Chief Constable Ben Andersen
Oak Bay, British Columbia

Date

Signed on behalf of the Civil Forfeiture Office, Ministry of Public Safety and Solicitor General;

Robert G. Kroeker
Director, Civil Forfeiture Office

Date

Signed on behalf of the Abbotsford Police Department;

Chief Constable Ian Mackenzie
Abbotsford, British Columbia

Date

Signed on behalf of the Central Saanich Police Service;

Chief Constable Paul Hames
Central Saanich, British Columbia

Date

Signed on behalf of the Delta Police Department;

Chief Constable Jim Cessford
Delta, British Columbia

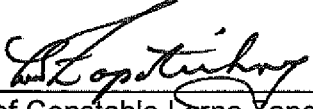
Date

Signed on behalf of the Nelson Police Department;

Chief Constable Dan Maluta
Nelson, British Columbia

Date

Signed on behalf of the New Westminster Police Service;



Chief Constable Lorne Zapotichny
New Westminster, British Columbia

Sept. 15, 2006
Date

Signed on behalf of the Oak Bay Police Department;

Chief Constable Ben Andersen
Oak Bay, British Columbia

Date

Signed on behalf of the Civil Forfeiture Office, Ministry of Public Safety and Solicitor General;

Robert G. Kroeker
Director, Civil Forfeiture Office

Date

Signed on behalf of the Abbotsford Police Department;

Chief Constable Ian Mackenzie
Abbotsford, British Columbia

Date

Signed on behalf of the Central Saanich Police Service;

Chief Constable Paul Hames
Central Saanich, British Columbia

Date

Signed on behalf of the Delta Police Department;

Chief Constable Jim Cessford
Delta, British Columbia

Date

Signed on behalf of the Nelson Police Department;

Chief Constable Dan Maluta
Nelson, British Columbia

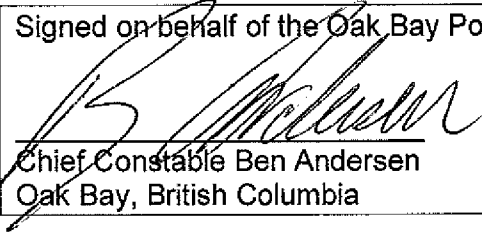
Date

Signed on behalf of the New Westminster Police Service;

Chief Constable Lorne Zapotichny
New Westminster, British Columbia

Date

Signed on behalf of the Oak Bay Police Department;



Chief Constable Ben Andersen
Oak Bay, British Columbia

Date

September 14, 2006

Signed on behalf of the Greater Vancouver Transportation Authority Police Service;


 Chief Officer Bob Kind
 Vancouver, British Columbia

Date 06-09-15

Signed on behalf of the Port Moody Police Department;

 Chief Constable Paul Shrive
 Port Moody, British Columbia

Date

Signed on behalf of the Saanich Police Department;

 Chief Constable Derek Egan
 Saanich, British Columbia

Date

Signed on behalf of the Vancouver Police Department;

 Chief Constable Jamie Graham
 Vancouver, British Columbia

Date

Signed on behalf of the Victoria Police Department;

 Chief of Police Paul Battershill
 Victoria, British Columbia

Date

Signed on behalf of the West Vancouver Police Department;

 Chief Constable Scott Armstrong
 West Vancouver, British Columbia

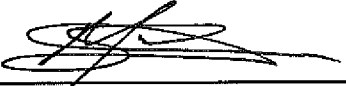
Date

Signed on behalf of the Greater Vancouver Transportation Authority Police Service;

Chief Officer Bob Kind
Vancouver, British Columbia

Date

Signed on behalf of the Port Moody Police Department;



Chief Constable Paul Shrive
Port Moody, British Columbia

Date 18 SEP 06

Signed on behalf of the Saanich Police Department;

Chief Constable Derek Egan
Saanich, British Columbia

Date

Signed on behalf of the Vancouver Police Department;

Chief Constable Jamie Graham
Vancouver, British Columbia

Date

Signed on behalf of the Victoria Police Department;

Chief of Police Paul Battershill
Victoria, British Columbia

Date

Signed on behalf of the West Vancouver Police Department;

Chief Constable Scott Armstrong
West Vancouver, British Columbia

Date

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Chief Officer Bob Kind
Vancouver, British Columbia

Date

Signed on behalf of the Port Moody Police Department;

Chief Constable Paul Shrive
Port Moody, British Columbia

Date

Signed on behalf of the Saanich Police Department;



Chief Constable Derek Egan
Saanich, British Columbia

Date 14.09.06

Signed on behalf of the Vancouver Police Department;

Chief Constable Jamie Graham
Vancouver, British Columbia

Date

Signed on behalf of the Victoria Police Department;

Chief of Police Paul Battershill
Victoria, British Columbia

Date

Signed on behalf of the West Vancouver Police Department;

Chief Constable Scott Armstrong
West Vancouver, British Columbia

Date

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Chief Officer Bob Kind
Vancouver, British Columbia

Date

Signed on behalf of the Port Moody Police Department;

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Port Moody, British Columbia

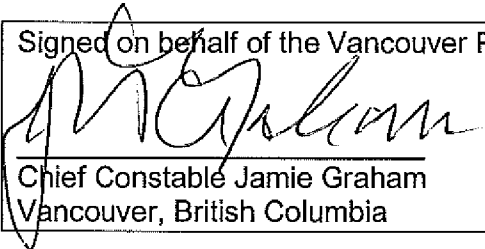
Date

Signed on behalf of the Saanich Police Department;

Chief Constable Derek Egan
Saanich, British Columbia

Date

Signed on behalf of the Vancouver Police Department;



Chief Constable Jamie Graham
Vancouver, British Columbia

Date

06-8-25

Signed on behalf of the Victoria Police Department;

Chief of Police Paul Battershill
Victoria, British Columbia

Date

Signed on behalf of the West Vancouver Police Department;

Chief Constable Scott Armstrong
West Vancouver, British Columbia

Date

Signed on behalf of the Greater Vancouver Transportation Authority Police Service;

Chief Officer Bob Kind
Vancouver, British Columbia

Date

Signed on behalf of the Port Moody Police Department;

Chief Constable Paul Shrive
Port Moody, British Columbia

Date

Signed on behalf of the Saanich Police Department;

Chief Constable Derek Egan
Saanich, British Columbia


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Signed on behalf of the Vancouver Police Department;

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Vancouver, British Columbia

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Signed on behalf of the Victoria Police Department;



Chief of Police Paul Battershill
Victoria, British Columbia

Date 06/09/18

Signed on behalf of the West Vancouver Police Department;

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Chief of Police Paul Battershill
Victoria, British Columbia

Date

Signed on behalf of the West Vancouver Police Department;

Chief Constable Scott Armstrong
West Vancouver, British Columbia

Date

06.09.22

Appendix D

Information-Sharing Agreement – Government of British Columbia and Government of
Canada

THIS AGREEMENT made in duplicate this 27th day of July, 1983

BETWEEN:

THE GOVERNMENT OF CANADA
as represented by the
Minister of Justice, and Attorney
General,

(hereinafter referred to as "Canada")

- and -

THE GOVERNMENT OF THE PROVINCE
OF BRITISH COLUMBIA
as represented by the
Attorney General of British Columbia
(hereinafter referred to as "British
Columbia")

Interpretation

1. In this Agreement

- (a) the terms "government institutions" and "personal information" have the meanings ascribed to them in the Privacy Act, S.C. 1980-81-82-83, c. 111;
- (b) "provincial institution" includes any municipal or regional government; any board, commission, corporation, agency, body or office established by or under any Act of British Columbia and which administers or enforces any law or carries out a lawful investigation; any police force, board or commission established pursuant to the Police Act, R.S.B.C. 1979, c.331; and in particular, and without restricting the generality of the foregoing, the Co-ordinated Law Enforcement Unit of the Ministry of the Attorney General.
- (c) "administering or enforcing any law or carrying out a lawful investigation" includes the investigation, detection, prevention or suppression of crime and other offences including offences against the bylaws of a

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municipality, the preservation of the peace and the gathering of intelligence information for law enforcement purposes.

Purpose

2. The purpose of this Agreement is to provide for access to, and the use and disclosure of personal information under the control of a government institution to British Columbia or a provincial institution for the purpose of administering or enforcing any law or carrying out a lawful investigation pursuant to paragraph 8(2)(F) of the Privacy Act.

Undertaking

3. Canada and British Columbia agree that any personal information disclosed pursuant to this Agreement shall only be used or disclosed for the purpose of administering or enforcing any law or carrying out a lawful investigation or for a subsequent use which is consistent therewith.

Request

4. (1) Where a request is made to a government institution by British Columbia or a provincial institution for access to or disclosure of personal information, British Columbia or the provincial institution (as the case may be) shall indicate to the government institution:
 - (a) the personal information being requested; and
 - (b) the purpose for which the personal information is being requested.

- 1 -

(2) Wherever practicable, a request under subsection 4(1) shall be made in writing.

Direct Access

5. (1) Where British Columbia or a provincial institution has direct access to a data bank listed in Schedule "A" containing personal information under the control of a government institution, section 4 of this Agreement does not apply.

(2) Where British Columbia or a provincial institution has direct access to personal information as described in subsection 5(1), British Columbia or the provincial institution shall use their best efforts to ensure that the information is only accessed, used or disclosed in accordance with this Agreement.

Amendment

6. This Agreement and the Schedule to this Agreement may be amended at any time by the mutual consent of the parties and such amendment may be effected by an exchange of letters between the parties to this Agreement.

Application

7. (1) This Agreement does not apply to personal information under the control of a government institution which may be disclosed

(a) pursuant to any Act of Parliament or any regulation made thereunder, other than the Privacy Act, that authorizes its disclosure; or

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(b) for the purpose of administering or enforcing any law or carrying out a lawful investigation pursuant to any other agreement which meets the requirements of this Agreement.

(2) Any existing agreements or arrangements between Canada or a government institution and British Columbia or a provincial institution will continue in effect to the extent that they are not inconsistent with this Agreement.

Duration

8. This Agreement shall come into force on the 1st day of July, 1983, and shall remain in effect until terminated by either party upon the giving of six months written notice to the other party.

Signed on behalf of the parties by:

Marie Gauthier
Witness

Mark MacGilligan
The Honourable Mark MacGilligan,
Minister of Justice and
Attorney General

John J. Zundel
Witness

Brian Smith
The Honourable Brian Smith,
Attorney General of British
Columbia

Appendix E

Information-Sharing Agreement – British Columbia Lottery Corporation and Civil
Forfeiture Office

INFORMATION SHARING AGREEMENT

THIS AGREEMENT is made effective the 21st day of JUNE, 2017 (the "Effective Date")

BETWEEN:

BRITISH COLUMBIA LOTTERY CORPORATION,
a Crown corporation of the Province of British
Columbia, having its principal place of business at
74 West Seymour Street, Kamloops, BC, V2C 1E2

("BCLC" or "Participant")

– and –

**HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA,** as
represented by the Director of Civil Forfeiture

("Civil Forfeiture Office" or "Participant")

WHEREAS BCLC is the provincial Crown corporation responsible for the conduct and management of gaming in the Province of British Columbia, as authorized by section 207(1) of the *Criminal Code* R.S.C., 1985, c. C-46 ("Criminal Code") and the *Gaming Control Act*, S.B.C. 2002, c. 14 ("GCA") and is a "public body" as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 ("FIPPA");

AND WHEREAS the Civil Forfeiture Office is an Office of the Ministry of Public Safety and Solicitor General of the Province of British Columbia authorized by the *Civil Forfeiture Act*, S.B.C. 2005, c. 29 ("CFA") to conduct civil and administrative proceedings in British Columbia relating to the forfeiture of the proceeds of unlawful activity, and routinely gathers Personal Information to carry out its duties;

AND WHEREAS BCLC has the responsibility under the GCA to protect the security and integrity of gaming in British Columbia, and as a result routinely gathers Personal Information about its patrons and their activities while engaged in gaming operated by BCLC in compliance with FIPPA;

AND WHEREAS both BCLC and the Civil Forfeiture Office must comply with FIPPA;

AND WHEREAS the Participants intend to enter into an Information Sharing Agreement (the "Agreement") which will ensure timely and efficient sharing of information to assist with the administration or enforcement of any law or to carry out a lawful investigation or the duties of either Participant.

NOW THEREFORE, in consideration of the promises and covenants herein set out, the parties agree as follows:

Article 1 – PURPOSE

- 1.01 The purpose of this Agreement is to document the terms and conditions of the exchange and protection of Personal Information by the Participants, in compliance with FIPPA and other applicable legislation.

Article 2 – DEFINITIONS

- 2.01 **Director** means the Director of Civil Forfeiture or his or her designate.
- 2.02 **Disclosing Participant** means the Participant who is responding to a request by the other Participant for information.
- 2.03 **Gaming Facility** means a gaming facility as defined in section 1 of the GCA.
- 2.04 **Personal Information** means personal information as defined in Schedule 1 of FIPPA.
- 2.05 **Receiving Participant** means the Participant who has made a request for information from the other Participant.
- 2.06 **Surveillance Media** means all media, whether electronic or otherwise, in any format, including video footage and still shots extracted from video footage, originating from surveillance systems installed and operating in British Columbia Gaming Facilities in which BCLC conducts and manages gaming.

Article 3 – AUTHORITY

- 3.01 This Agreement is entered into by the Civil Forfeiture Office under the authority of the CFA, specifically section 3 and Part 3.1, which allow the Director to apply to the court or conduct administrative proceedings to forfeit the proceeds of unlawful activity to government, and section 22(4), which enables the Director to enter into information sharing agreements with public bodies.
- 3.02 This Agreement is entered into by BCLC with the authority of the GCA, specifically section 7, which allows BCLC to enter into agreements, and 92 and 93, which enable BCLC to remove or prohibit individuals whose presence on the premises of a Gaming Facility is considered undesirable, and with the authority of section 35 of the *Criminal Code*, which enables BCLC to remove or prohibit any individual that BCLC reasonably believes is not entitled lawfully to be on the premises of a Gaming Facility or is about to commit an offence on the premises of a Gaming Facility.
- 3.03 The Participants have authority to collect Personal Information pursuant to FIPPA, particularly section 26.

Article 4 – SUBJECT MATTER

- 4.01 In order to administer the GCA, BCLC may require Personal Information in the custody or under the control of the Civil Forfeiture Office. In addition, the Civil Forfeiture Office may choose to proactively disclose to BCLC Personal Information of individuals whose presence on the premises of a Gaming Facility may be undesirable or who are known to frequent Gaming Facilities. Personal Information will be used by BCLC to assist BCLC

in removing or barring undesirable individuals from Gaming Facilities and to provide the required written notices to those individuals. Such information may include, but is not limited to: contact information, financial transaction details, history of possession of the proceeds of unlawful activity, history of involvement in proceedings relating to the proceeds of unlawful activity, history of association with individuals who have a history of possession of the proceeds of unlawful activity.

- 4.02 In order to carry out its duties under the CFA, the Civil Forfeiture Office may require Personal Information in the custody or under the control of BCLC. Personal Information will be used by the Civil Forfeiture Office to conduct court and administrative proceedings relating to the forfeiture of the proceeds of unlawful activity. Such information may include, but is not limited to: contact information, Surveillance Media and financial transaction details.
- 4.03 The Participants will make all requests and disclosure of Personal Information within the limits established by FIPPA.

Article 5 – REQUEST FOR PERSONAL INFORMATION

- 5.01 Either Participant may request disclosure of Personal Information regarding a specific individual or individuals. The request will be made in writing provided to:
- (a) BCLC:
Vice President, Corporate Security and Compliance or designate
 - (b) Civil Forfeiture Office:
Director of Civil Forfeiture or designate
- 5.02 Once a request is received, the Disclosing Participant will advise the Receiving Participant as to the availability of the Personal Information. It is possible that some requests for Personal Information may be denied and either Participant may be required to obtain a court order prior to disclosure.
- 5.03 The Disclosing Participant will:
- (a) advise the Receiving Participant as to whether the Disclosing Participant is able to provide the requested Personal Information; and,
 - (b) if able, provide, as soon as practicable, the requested Personal Information.

Article 6 – SECURITY AND CONFIDENTIALITY

- 6.01 All Personal Information and documentation provided to, collected by, delivered to or compiled on behalf of the Participants in the performance of their duties and responsibilities shall be dealt with subject to and in accordance with provincial statutes, particularly FIPPA.
- 6.02 The Participants agree that for the purposes of section 16(1)(b) of FIPPA, all information disclosed and received between the Participants under this Agreement is disclosed and

received in confidence and the Receiving Participant will maintain all such information in strict confidence and not divulge or otherwise communicate it to any person other than as permitted by, and to the limited extent necessary to fulfill the purpose of, this Agreement.

- 6.03 Where a Participant receives a request under FIPPA, or any similar statute or legislation, or in connection with any administrative or court proceeding including without limitation a court order, notice of application, demand for production of documents, summons or subpoena for disclosure of records that are subject to this Agreement, that Participant will immediately notify and consult with the other Participant before disclosing the records to the applicant.
- 6.04 In the event of accidental or unauthorized disclosure of Personal Information provided by the Disclosing Participant to the Receiving Participant, the Receiving Participant will promptly notify the Disclosing Participant and take all reasonable steps to prevent the recurrence of the accidental or unauthorized disclosure.

Article 7 – DISCLOSURE OF SURVEILLANCE MEDIA

- 7.01 The Civil Forfeiture Office acknowledges that BCLC's Surveillance Media constitutes highly confidential and proprietary information of BCLC that is not disclosed or otherwise available to the general public and agrees that it will:
 - (a) retain Surveillance Media disclosed by BCLC in strict confidence and within its sole custody, possession and control other than as provided for in accordance with this Agreement;
 - (b) not reproduce, release, divulge, disclose or otherwise distribute Surveillance Media or the contents of Surveillance Media to any person outside of the Civil Forfeiture Office, other than as provided for and in accordance with this Agreement;
 - (c) keep confidential all documents, materials or information regarding or containing information disclosed in the Surveillance Media, including notes or memoranda based on the Surveillance Media, and to destroy any such documents and materials upon conclusion of the matter in respect of which disclosure of the Surveillance Media was made; and
 - (d) return Surveillance Media to BCLC upon conclusion of the matter in respect of which disclosure of Surveillance Media was made.
- 7.02 If the Civil Forfeiture Office deems it necessary, for the purposes of carrying out a lawful investigation pursuant to its statutory duties, to provide Surveillance Media to expert advisors or consultants retained by it, then the Civil Forfeiture Office will obtain from that person a written confirmation that the person will keep the Surveillance Media strictly confidential, not make any copies of the Surveillance Media, maintain it in a secure manner at all times, and return it to the Civil Forfeiture Office as soon as practicable.
- 7.03 In the event the Civil Forfeiture Office receives any request or demand whatsoever that could result in disclosure of Surveillance Media, including without limitation any request under FIPPA or any other statute or legislation, or in connection with any administrative

or court proceeding including without limitation a court order, notice of application, demand for production of documents, summons or subpoena, the Civil Forfeiture Office will promptly and prior to making any disclosure of Surveillance Media give notice to BCLC in accordance with section 9.01 of this Agreement so that BCLC may seek a protective order or other appropriate remedy in respect of the Surveillance Media.

7.04 This Article will survive the termination of this Agreement for any reason whatsoever.

Article 8 – COSTS

8.01 In the event that a Receiving Participant requests information and the Disclosing Participant incurs a cost in producing, gathering, copying or amassing the requested Personal Information, the Receiving Participant will fully reimburse the Disclosing Participant for its costs, provided that neither Participant shall seek reimbursement for any staffing costs associated with fulfilling a request for information.

Article 9 – NOTIFICATION

9.01 All notices and communications provided for in this Agreement will be in writing and will be mailed or delivered to the individuals or positions responsible for the discharge of the obligations in this Agreement. For the purposes of delivery of Notice, the addresses for delivery are:

(a) For BCLC

Attn: Rob Kroeker, Vice President Corporate Security and Compliance

2940 Virtual Way

Vancouver, BC V5M 0A6

Email: rkroeker@bclc.com

(b) For the Civil Forfeiture Office:

Attn: Phil Tawtel, Executive Director

PO Box 9234 Stn Prov Govt

Victoria, BC V8W 9J1

Email: phil.tawtel@gov.bc.ca

9.02 Any such notice or communication given by mail will be deemed to have been delivered 72 hours after having been deposited in the mail service with first class postage prepaid. If given by electronic transmission, then such notice or communication will be deemed effective when received.

Article 10 – LIABILITY

10.01 Each Participant waives all claims against the other Participant in respect of damage caused to its personnel and/or its property by personnel or agents, excluding

contractors, of the other Participant arising out of, or in connection with, the implementation of this Agreement.

- 10.02 However, if damage described in section 10.01 results from reckless acts or reckless omissions, willful misconduct or gross negligence of a Participant, its personnel or agents, the liability for any costs will be the responsibility of the Participant alone.
- 10.03 If one Participant receives notice of a claim by a third party for damage of any kind, caused by one of the Participant's personnel or agents arising out of, or in connection with, the implementation of this Agreement, the receiving Participant will notify the other Participant as soon as is practicable.
- 10.04 In the event of a notice of claim as described in section 10.03, the Participants will consult and attempt to resolve the claim. If required, the Participants will divide financial responsibility between themselves to satisfy the claim. If such liability results from reckless acts or reckless omissions, willful misconduct or gross negligence of a Participant, its personnel or agents, the liability for any costs will be the responsibility of that Participant alone.
- 10.05 This Article will survive the termination of this Agreement for any reason whatsoever.

Article 11 – TERM OF AGREEMENT

- 11.01 This Agreement will come into force on the Effective Date and remain in force until replaced by another agreement or terminated in accordance with this Agreement.
- 11.02 This Agreement may be terminated at any time by either Participant if the other Participant fails to meet its obligations under this Agreement.
- 11.03 Nothing in this Agreement is in any way intended to replace or amend any obligation that either Participant is bound to or required to perform by operation of law.

Article 12 – GENERAL

- 12.01 Each Participant will perform the acts, execute and deliver the writings, and give the assurances necessary to give full effect to this Agreement.
- 12.02 It is expressly agreed and understood that the Participants have entered into an arms' length independent contract and will not be deemed to be an employee, agent, servant, partner or joint venture of the other Participant. This agreement will not be deemed to constitute or create any partnership, joint venture, master-servant, employer-employee, principal-agent or any other relationship apart from an independent contractor relationship.
- 12.03 This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and no other understandings or agreements, verbal or otherwise, exist between the Participants with respect to the subject matter of this Agreement.
- 12.04 This Agreement will only be amended by an instrument in writing signed by both parties.

- 12.05 This Agreement will be governed by the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without reference to any choice of law or conflict of law principles. The Participants hereby attorn to the exclusive jurisdiction of the courts of the Province of British Columbia and all courts competent to hear appeals therefrom.
- 12.06 This Agreement may be executed in one or more counterparts, each of which will be deemed an original and will, together, be deemed to constitute one and the same instrument. Signatures exchanged via facsimile or digital scans of signatures will be deemed originals.
- 12.07 This Agreement reflects the good faith and spirit of cooperation of the Participants, but is not legally binding on any of the Participants.

Authorized representatives of the Participants:

**BRITISH COLUMBIA LOTTERY
CORPORATION**

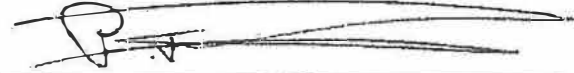


Rob Kroeker, Vice President

Corporate Security and Compliance

Date June 21, 2017

DIRECTOR OF CIVIL FORFEITURE



Phil Tawtel, Executive Director

Date 19 June 2017

Appendix F

Civil Forfeiture Office – Vancouver Police Department Secondment Agreement

MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL

SECONDMENT AGREEMENT

THIS AGREEMENT (herein called the "Agreement") dated for reference the 24 day of October 2018.

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
represented by the Ministry of Public Safety and Solicitor General

(herein called the CFO)

OF THE FIRST PART

AND

The Vancouver Police Board

(herein called the VPD)

OF THE SECOND PART

WHEREAS the CFO has an employee who can be seconded;

AND WHEREAS the VPD wishes to utilize the expertise of a CFO secondee;

AND WHEREAS the CFO agrees to the secondment of its employee to the VPD (hereinafter the "Secondee"),

AND WHEREAS the parties hereto agree as follows:

AUTHORITY

1. The VPD collects information, including Personal Information (as defined in the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165 (FIPPA) for law enforcement purposes.
2. The VPD and the CFO are public bodies governed by FIPPA and must collect, use and disclose Personal Information only as authorized by FIPPA.
3. The CFO is responsible for statutory forfeiture proceedings in the Province of British Columbia, and requires certain information, including Personal Information, in the control of the VPD to fulfill its mandate. For clarity and certainty, the Secondee will only review VPD related asset forfeiture referrals and accordingly will only need to review VPD records as part of the position mandate.

4. Both parties acknowledge that there is an existing Information Sharing Agreement (ISA) between the Province of British Columbia and the VPD, a copy of which is attached as Appendix "A".
5. Notwithstanding the ISA, Personal Information in the custody and/or control of the VPD may be disclosed to the CFO, and thus collected indirectly by the CFO, under the authority of section 27(1)(b) of FIPPA, specifically about the following provisions of FIPPA, one or more of which applies to all Personal Information that is disclosed by the VPD to the CFO pursuant to this Agreement:
 - a) 33.1(1)(c) [*in accordance with an enactment of British Columbia that authorizes or requires its disclosure*]
 - b) 33.2(i) [*disclosure to public body or law enforcement agency to assist in law enforcement investigation*]
6. Without limiting the scope of the foregoing, the VPD is authorized to disclose, and the CFO is authorized to collect, Personal Information pursuant to sections 22(3) and 22(4) of the *Civil Forfeiture Act*, SBC 2005, c 29.
7. It is acknowledged that while the VPD and CFO may continue to share information pursuant to the ISA, this Agreement neither authorizes nor addresses information sharing between the VPD and CFO. Rather, this Agreement addresses the secondee relationship pursuant to which the Secondee shall be assigned to the VPD, wherein all the work product generated by the Secondee shall remain in the possession, custody, power and control of the VPD, including all work product generated directly or indirectly due to direct access to PRIME-BC.
8. When assessing VPD information for potential referral to the CFO for forfeiture of criminal assets, the VPD may use personal information for a use consistent with the purpose for which it was compiled pursuant to section 32 (a) of FIPPA. For the purpose of this Agreement, and as a service provider to the VPD, the Secondee shall access and use information pursuant to section 32(2) of FIPPA.
9. As the Secondee shall not disclose any information, including personal information, pursuant to this Agreement, no reference to disclosure provisions are necessary for the purpose of this Agreement.

OBJECTIVE

10. The objective of the VPD's informally assembled asset forfeiture team (AFT) is to work together in an integrated environment to deprive organized crime members of their criminally obtained assets. The role of AFT members includes, but is not limited to: Endeavoring to identify, seize and recommend the forfeiture of criminal assets throughout the Province of British Columbia, and recommending for prosecution the persons associated therewith and co-operating with other jurisdictions for such purposes.

11. The objective of the CFO is to make crime unprofitable, capture resources tainted by crime, and to help compensate persons for the costs of past crimes. The CFO receives referrals from enforcement agencies such as the VPD, and based upon a consideration of the evidence, public interest and financial viability of the referrals, commences actions through forfeiture proceedings against property only. The VPD is the second largest referral agency to the CFO.

APPOINTMENT

12. The VPD retains the Seconded to provide the services in accordance with this Agreement.
13. The Seconded will be assigned to the VPD for an indefinite period unless cancelled by either party.
14. Consistent with the principles of this Agreement, the Seconded is considered and shall be treated as a service provider as set out in the Definitions of FIPPA. Specifically, the Seconded is a person retained by the VPD under a contract to perform services for the VPD.

DUTIES

15. The Seconded will provide services exclusively to the VPD for the Term of this Agreement to carry out the duties necessary to achieve the objectives of this Agreement. Specifically, the Seconded's work shall be for a lawful purpose and directly related to VPD investigations being conducted insofar as reviewing and assessing potential referrals by VPD members to the VPD's AFT. For clarity the Seconded's work will commence from file review of VPD files forwarded to the VPD's AFT Team for potential referral to CFO. The Seconded will not browse police information, including PRIME, for potential file referrals to the CFO. Specific duties of the Seconded shall be to:
 - Review investigations referred to the Seconded from sworn VPD members who believe that there is the potential for any assets seized or identified to be referred to the CFO for forfeiture.
 - Evaluate referred investigations and decide if the potential exists for assets to be referred to the CFO for forfeiture.
 - Identify if other related and similar fact incidents exist in addition to the referred investigation.
 - Confirm if all or some of the identified assets are suitable for referral.
 - Identify if assets may be referred to the CFO and refer that investigation to the assigned member of the AFT in OCU1 to make a referral recommendation to the CFO for forfeiture of some or all the identified assets.
 - Act as a resource and subject matter expert for asset forfeiture referral to the CFO

- Develop and deliver training to VPD staff and the staff of other municipal police departments in making asset forfeiture recommendations to the CFO.
 - Assist other municipal police departments in developing a system of asset forfeiture referrals like the VPD's.
16. The CFO will be responsible for all training that is relevant and related to this assignment and will be financially responsible for any training the VPD deems mandatory as part of this assignment.
17. The Seconded is not a peace officer and will not be trained in firearms, impact devices, defensive sprays, conducted energy weapons, or any other equipment and procedures approved for use by the VPD.
18. The CFO is responsible for conducting annual performance reviews required by the BC Government Public Service Agency (PSA), who manage all provincial human resources. These reviews identify training that may be available/required of the Seconded as well as allow the Seconded to develop his/her own training plan.
19. For all administrative purposes beyond the scope of this Agreement the Seconded will report directly to the CFO on behalf of the PSA.
20. During the period of this assignment, the Seconded will work at the VPD office located at:
- 3585 Graveley Street
Vancouver BC V5K 5J5
(VPD)
21. The VPD will be responsible for providing the Seconded with the following to complete their assignment:
- a) work accommodation (desk, chair and cabinet) and secured access to the VPD building or other VPD buildings, as required;
 - b) office materials and supplies including a computer terminal configured in accordance with VPD's internal standards;
 - c) systems access to PRIME (read-only), and such VPD information that is deemed necessary to perform their assignment.
22. With reference to paragraph 21(c), the level of access granted to the Seconded shall be commensurate to the duties assigned or expected of the Seconded. The Seconded must work under the supervision of a person of appropriate rank from the VPD and shall only access PRIME under the specified supervision. For the purpose of this Agreement, the Seconded shall work under the supervision of an officer appointment for this purpose by the VPD.

PAYMENT

23. The CFO is responsible for covering all costs associated with this assignment including, but not limited to:
- a) Salary, benefits and other entitlements;
 - b) Travel expenses;
 - c) Training courses;
 - d) Mobile communication devices and service costs;
 - e) Computer terminals and necessary office equipment; and
 - f) Software licenses.

SECURITY

24. The Seconded may be subject to a security screening process if deemed required by the VPD for carrying out his/her duties under this Agreement. The Seconded shall comply with the necessary security screening requirements during this assignment.
25. The Seconded shall comply, always, with the principles provided in the VPD's security policies and procedures. The VPD shall brief the Seconded on the security requirements upon their arrival and provide updates as are deemed necessary.
26. The Seconded shall sign the VPD's Handling of Classified and Sensitive Information undertaking [currently Form VPD 458] before being granted access to VPD databases, including PRIME.

CONTRACTUAL RELATIONSHIP

27. The Seconded will, always, remain the employee of the CFO and not a servant or employee of the VPD. The CFO will, always, be responsible for and will pay and/or remit all taxes, Employment Insurance premiums, Canada Pension Plan premiums or contributions and any other statutory payments or assessment of any kind that are payable as a result of this Agreement.
28. Neither the VPD nor the Seconded may commit or purport to commit the CFO to any expenditure or financial or other liability without the express written permission of the CFO.
29. The CFO may, from time to time, give such instruction to the Seconded as it considers necessary relating to the provision of the Services.

OWNERSHIP

30. All material that is produced, received or acquired by, or provided by the VPD to the Seconded as a result of this Agreement, whether complete or otherwise, including all findings, data, specifications, drawings, working papers, reports, tapes, films, documents and, without limiting the generality of the foregoing, computer software and other computer materials of whatsoever nature (herein called the "Material"), and any equipment, machinery or other property provided by the VPD to the Seconded as a result of this Agreement will be:

- a) the exclusive property of the VPD;
- b) considered to always be in the custody or control of the VPD for the purposes of FIPPA; and
- c) forthwith delivered by the Seconded to the VPD upon the VPD giving notice to the Seconded requesting delivery of same, whether such notice is given before or upon termination of the Agreement.

31. Without prejudice to any rights which may exist in the VPD by any prerogative rights and powers, including those conferred by the *Copyright Act (Canada)*, as amended from time to time, the Seconded agrees that all present and future rights in the copyright in the Material are vested absolutely and immediately in the VPD.

CONFIDENTIALITY

32. The Seconded shall keep confidential, always, any classified and/or confidential information that is disclosed to him/her or made accessible to him/her during the assignment, and only use such information for purposes of carrying out his/her duties under this Agreement. Disclosure of such information to any person or organization (including the CFO) shall be subject to the express prior written consent of the VPD, unless required by law.

33. The Seconded shall not disclose, during the assignment, or retain, after the assignment, any classified and/or confidential documents or copies thereof received from the VPD, and only use such documents for purposes of carrying out his/her duties under this Agreement. Disclosure of such documents to any person or organization (including the CFO) shall be subject to the express prior written consent of the VPD, unless required by law.

34. The CFO and the VPD shall keep confidential, always, any classified and/or confidential information or documents exchanged during the assignment, take reasonable and necessary steps to securely store such information or documents, and only use such information or documents for purposes of carrying out the objectives of this Agreement. Disclosure of such information or documents to any person or organization shall be subject to the express prior written consent of the VPD, unless required by law. The CFO and/or the VPD shall provide notice to the other Party before any such disclosure.

ASSIGNMENT AND SUBCONTRACTING

35. The Seconded and the VPD will not assign, either directly or indirectly, this Agreement or sub-contract any obligation of the Seconded or the VPD under this Agreement.

CONFLICT

36. The Seconded will not, during the Term, perform a service for or provide advice to any person, firm, corporation, school board/district, college, provincial institute or university where the performance of the service or the provision of the advice may or does, in the reasonable opinion of the VPD, give rise to the conflict of interest between the obligations of the Seconded to the VPD under this Agreement and the obligations of the Seconded to such

other person, firm, corporation, school board/district, college provincial institute or university.

TERMINATION

37. Notwithstanding any other provision of this Agreement, if the Seconded is unable to provide the Services for any reason or fails to comply with any provision of this Agreement then, in addition to any other remedy or remedies available to the VPD, the VPD may, at its option, terminate this Agreement with the CFO by giving written notice of termination to the Seconded and the CFO.
38. If the option described in paragraph 37 or 39 is exercised, the VPD will be under no further obligation to the CFO or to the Seconded.
39. Notwithstanding any other provision of this Agreement, either party may terminate the Agreement at any time upon thirty (30) days written notice delivered to the parties at the addresses shown, or at such shorter time and in such a manner as may be mutually agreed upon by the parties.
40. Notwithstanding any other provision of this Agreement, the VPD may terminate the Seconded's access to VPD information at any time as considered necessary by the VPD.

NON-WAIVER

41. No provision of this Agreement and no breach of any provision of this Agreement by the Seconded or CFO will be deemed to have been waived unless such waiver is in writing and signed by the VPD.
42. A written waiver by the CFO of any breach under paragraph 41 shall not be considered a waiver of the provision itself, which shall remain in full force and effect. Similarly, such a waiver is not a waiver of any subsequent breach of the provision of any other provision of this Agreement.

REFERENCES

43. Every reference to the CFO in this Agreement will include the Minister, the Deputy Minister and any person designated by either of them to act for or on their respective behalf with respect to any provision or provisions of this Agreement.

NOTICE

44. Any notice, payment, or Material that either party may be required or may desire to give or deliver to the other will be conclusively deemed validly given or delivered to and received by the addressee, if delivered personally on the date of such personal delivery or, if mailed, on

the third business day after the mailing of the same in British Columbia by prepaid post addressed,

if to the CFO:
Civil Forfeiture Office
PO Box 9234 Stn Prov Govt
Victoria, BC V8W 9J1

if to the VPD:
Vancouver Police Department
3585 Graveley Street
Vancouver, BC V5K 5J5

MISCELLANEOUS

45. The parties agree that the individual assigned as Seconded may change during the term of this Agreement, and agree that such change will be made in compliance with this Agreement. Notwithstanding any term in this agreement, it is understood that the VPD shall always have the opportunity and right to refuse to agree to have a specific individual assigned as the Seconded pursuant to this agreement, including the first Seconded or any subsequent individual who may be assigned as the Seconded. As part of this decision the CFO agrees that the VPD is entitled to and may review the application package, employment history, references, and any other necessary information necessary to exercise this clause as it pertains to potential Secondeds.
46. Any party may, from time to time, advise the other by notice in writing of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified will, for the purposes of 24, be conclusively deemed to be the address of the party giving such notice.
47. The CFO confirms that a Compliance Representative exists within the Ministry of Public Safety and Solicitor General, who is responsible for, and who has authority to ensure, privacy compliance generally and compliance with this Agreement, specifically.
48. The VPD may conduct annual audits of the use of the PRIME system by the Seconded to ensure the integrity of the system.
49. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.

50. This Agreement embodies the entire Agreement between the parties and no understanding or Agreement, verbal or otherwise, exists.
51. The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and do not define, limit or enlarge the scope of any provision of this Agreement.
52. No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the parties.
53. This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original and all such counterparts may be delivered by facsimile transmission and such transmission shall be considered an original.

The parties hereto have executed this Agreement on the day and year as set out above.

SIGNED AND DELIVERED on
behalf of the VPD by an authorized
representative of the VPD.

STEVEN A. I

(Print Name of Authorized
Representative)

Dec [Signature]

(Signature)

SIGNED AND DELIVERED on
behalf of the CFO by an authorized
representative of the CFO.

Phil Tawtel

(Print Name of Authorized
Representative)

[Signature]

(Signature)

Appendix A

INFORMATION SHARING AGREEMENT

**IN ACCORDANCE WITH THE
CIVIL FORFEITURE ACT (SBC 2005 c. 29)**

dated the 25th day of August, 2006

BETWEEN:

**The Director of Civil Forfeiture,
Ministry of Public Safety and Solicitor General
(the "Director")**

AND:

**Abbotsford Police Department
as represented by the Chief Constable**

AND:

**Central Saanich Police Service
as represented by the Chief Constable**

AND:

**Delta Police Department
as represented by the Chief Constable**

AND:

**Nelson Police Department
as represented by the Chief Constable**

AND:

**New Westminster Police Service
as represented by the Chief Constable**

AND:

**Oak Bay Police Department
as represented by the Chief Constable**

AND:

**Port Moody Police Department
as represented by the Chief Constable**

AND:

**Saanich Police Department
as represented by the Chief Constable**

AND:

**Vancouver Police Department
as represented by the Chief Constable**

AND:

**Victoria Police Department
as represented by the Chief of Police**

AND:

**West Vancouver Police Department
as represented by the Chief Constable**

AND:

**Greater Vancouver Transit Authority Police Service
as represented by the Chief Officer**

(hereinafter referred to as the "*Municipal Police Departments*")

WHEREAS

- A. The Director has authority under the *Civil Forfeiture Act* (the "CFA") to commence civil proceedings to forfeit property that is either proceeds of unlawful activity or instruments of unlawful activity, to assess whether it is appropriate to commence such proceedings, including whether it is in the public interest to do so, to conduct civil forfeiture proceedings in accordance with the CFA, its regulations and other applicable laws, and to administer the CFA including the administration of the payment of victim compensation.
- B. The Municipal Police Department, pursuant to the *Police Act*, is mandated to generally maintain law and order in the municipality, prevent crime and offences against the law, and perform the duties and functions respecting the administration of justice.
- C. The CFA authorizes the Director to enter into information-sharing agreements with public bodies in order to exercise his or her powers or perform his or her functions and duties under the CFA.
- D. It is in the public interest that the parties cooperate for the purposes of disclosing information to the Director and on related matters.
- E. The Director and the Municipal Police Department wish to enter into an agreement for the purpose of disclosing information to the Director, and to cooperate for that purpose.

THE PARTIES AGREE AS FOLLOWS:

1.0 PURPOSE

- 1.1 The purpose of this Agreement (the "Agreement") is to provide the framework for the disclosure of records, information and personal information that is reasonably required by the Director in order to exercise his or her powers or perform his or her duties under the CFA as noted in paragraph 'A' above, and to ensure compliance with the *Freedom of Information and Protection of Privacy Act* ("FOIPPA"), the CFA, and other applicable legislation.

2.0 INTERPRETATION

2.1 In this Agreement:

"information" includes personal information as defined by the FOIPPA, and any record that contains information,

"Director" means the Director of the Civil Forfeiture Program designated/appointed under section 21(1) of the CFA,

"Municipal Police Department" means the municipal police department established under section 26 of the *Police Act*,

"record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by any means whether graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records.

3.0 STATUTORY AUTHORIZATION

- 3.1 The Director is authorized under Section 22(4)(b) of the CFA to enter into information-sharing agreements that are reasonably required by the Director in order to exercise his or her powers or perform his or her functions and duties under the CFA, with public bodies as defined in the FOIPPA.
- 3.2 The Municipal Police Department is authorized under Section 33.1(1)(d) of the FOIPPA to disclose personal information in accordance with a provision of an agreement that is made under an enactment of British Columbia.
- 3.3 The Municipal Police Department is authorized under Section 33.2 (a) of the FOIPPA to disclose personal information for a use consistent with the purpose for which it was obtained or compiled, where that use is necessary for performing the statutory duties of the Municipal Police Department.
- 3.4 Sections 26 and 34 of the *Police Act* set out the statutory duties of the Municipal Police Department which include the prevention of crime and the administration of justice.

4.0 DISCLOSURE OF INFORMATION TO THE DIRECTOR

4.1 A Municipal Police Department may disclose information to the Director:

- (a) on the initiative of the Municipal Police Department; or
- (b) in response to a request for information made by the Director.

- 4.2 Any disclosure of information from the Municipal Police Department to the Director under this Agreement will be at the discretion of the Municipal Police Department, whose discretion will be exercised taking into consideration the public interest and in consultation with the Director.

- 4.3 A request for information made by the Director to the Municipal Police Department shall, wherever practicable, be made in writing and include the nature and scope of the information being requested, and the required form and manner of transmission of the information.
- 4.4 Prior to disclosing any records to the Director, the Municipal Police Department will identify and/or sever any information from the records that, if disclosed during the course of CFA proceedings, would:
- (a) harm a law enforcement matter;
 - (b) prejudice the defence of Canada or of any foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;
 - (c) harm the effectiveness of investigative techniques and procedures currently used, or likely to be used, in law enforcement;
 - (d) reveal the identity of a confidential source of law enforcement information;
 - (e) reveal information subject to solicitor-client privilege;
 - (f) reveal information protected from disclosure by the *Youth Criminal Justice Act* (Canada); or
 - (g) reveal information protected from disclosure under a court order, another information-sharing agreement binding on either party, of any other law of Canada or British Columbia.

5.0 USE OF INFORMATION

- 5.1 Information provided pursuant to this Agreement is provided and is to be used solely for the purpose of the Director to exercise his or her powers and perform his or her duties or functions, including:
- (a) Determining whether or not to commence forfeiture proceedings;
 - (b) Commencing and conducting forfeiture proceedings;
 - (c) Administering and disposing of property forfeited under the CFA; and
 - (d) Administering the CFA and its Regulations.
- 5.2 The Director may disclose information as required to perform his or her functions and duties under the CFA, including disclosure during civil forfeiture proceedings.
- 5.3 The Director will not disclose the records and information received from the Municipal Police Department except in accordance with section 5.2 of this Agreement, and will transfer any request received pursuant to the FOIPPA to the

Municipal Police Department that produced the records and information requested.

6.0 COMMUNICATIONS

- 6.1 Where the Municipal Police Department is conducting an ongoing investigation and where the Director is conducting civil forfeiture proceedings at the same time, the Director and the Municipal Police Department will consult and coordinate on all communications with any victim, members of any victim's family or the media.

7.0 ACCURACY OF INFORMATION

- 7.1 The Municipal Police Department will make every reasonable effort to ensure the records and information that it provides pursuant to this Agreement are accurate, complete and up-to-date.
- 7.2 The Municipal Police Department will advise the Director of the existence of further or updated records and information related to previously forwarded records and information when they come to the attention of the Municipal Police Department.

8.0 SECURITY

- 8.1 The information disclosed pursuant to this Agreement is to be used exclusively for the purposes set out herein.
- 8.2 The Director, in accordance with s. 30 of the FOIPPA, will make reasonable arrangements to maintain the security of the information in the Director's custody, by protecting it against such risks as unauthorized access, collection, use, disclosure or disposal.
- 8.3 Each party will advise the other immediately of any circumstances of unauthorized use of information or events which to the party's knowledge may have jeopardized or may in future jeopardize:
- (a) The privacy or security of individuals;
 - (b) The security of any computer system that is used to access records or information; or
 - (c) a law enforcement matter.
- 8.4 The parties will retain and dispose of documents in compliance with the *Document Disposal Act*, R.S.B.C. 1996, c. 99, and the FOIPPA, as applicable to each party.

9.0 COMPLIANCE MONITORING AND INVESTIGATIONS

- 9.1 Each party will record and monitor requests made for, and the disclosure of, information pursuant to this Agreement.
- 9.2 The Director will investigate all of the following types of incidents which come to the Director's attention, in relation to any information received from a Municipal Police Force:
- (a) Unauthorized access to or modification of the information;
 - (b) Unauthorized use of the information;
 - (c) Unauthorized disclosure of the information; or
 - (d) Breaches of privacy or security with respect to the information or with respect to any computer system in its custody that is used to access the information.
- 9.3 The Director will report the results of any investigation conducted pursuant to Section 9.2 of this Agreement and the steps taken to address any remaining issues or concerns about the security of the information or computer systems, or the privacy of individuals to whom the information relates, to the Municipal Police Department whose information was the subject of the incident.

10.0 COSTS

- 10.1 The parties will review the copying and documentation costs associated with providing information to the Director pursuant to this Agreement on a file-to-file basis and agree upon any such reasonable costs.

11.0 EFFECTIVE DATE OF AGREEMENT AND AMENDMENTS

- 11.1 This Agreement is effective from the date in which both the Director and the appropriate Municipal Police Department authority has signed the Agreement, as between the Director and that Municipal Police Department.
- 11.2 This Agreement may be amended at any time by the written consent of the parties and any such amendments will be dated and signed by both parties and attached to this Agreement as a Schedule.

12.0 REVIEW AND TERMINATION OF AGREEMENT

- 12.1 The parties agree to review this Agreement on an annual basis, however this Agreement shall remain in effect unless terminated in accordance with Section 12.2.
- 12.2 This Agreement shall remain in effect unless terminated by either party upon the giving of 30 days written notice to the other party.

13.0 NON-DEROGATION

- 13.0 Nothing in this Agreement is in any way intended to disturb any obligation that either Party is bound to or required to perform by operation of law.

14.0 NOTIFICATION

- 14.1 All notices or communications provided for in this Agreement will be in writing and will be mailed or delivered. For the purposes of delivery of notice, the addresses for delivery are:

For the Municipal Police Departments:

Chief Constable
Abbotsford Police Department
2838 Justice Way
Abbotsford, British Columbia
V2T 3P5

Chief Constable
Central Saanich Police Service
1903 Mt. Newton X Road
Saanichton, British Columbia
V8M 2A9

Chief Constable
Delta Police Department
Clarence Taylor Crescent
Delta, British Columbia
V4K 3E1

Chief Constable
Nelson Police Department
606 Stanley Street
Nelson, British Columbia
V1L 1N4

Chief Constable
New Westminster Police Service
511 Royal Avenue
New Westminster, British Columbia
V3L 1H9

Chief Constable
Oak Bay Police Department
1703 Monterey Avenue
Oak Bay, British Columbia
V8R 5V6

Chief Constable

Port Moody Police Department
3051 St. John's Street
Port Moody, British Columbia
V3H 2G4

Chief Constable
Saanich Police Department
760 Vernon Avenue
Victoria, British Columbia
V8X 2W6

Chief Constable
Vancouver Police Department
2120 Cambie Street
Vancouver, British Columbia
V5Z 4N6

Chief of Police
Victoria Police Department
850 Caledonia Street
Victoria, British Columbia
V8T 5J8

Chief Constable
West Vancouver Police Department
1330 Marine Drive
West Vancouver, British Columbia
V7T 1B5

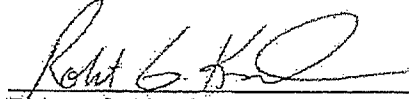
Chief Officer
GVTAPS
307 Columbia Street
New Westminster, BC
V3L 1A7

For the Civil Forfeiture Program:

Director, Civil Forfeiture Office
P.O. Box 9234
Stn Prov Govt
Victoria, BC V8W 9J1

- 17.02 Any such notice or communication given by mail will be deemed to have been delivered 72 hours after having been deposited in the mail service with first class postage prepaid. If given by personal delivery, then such notice or communication will be deemed effective when delivered.

Signed on behalf of the Civil Forfeiture Office, Ministry of Public Safety and Solicitor General:



Robert G. Kroeker
Director, Civil Forfeiture Office

Date 06/08/25

Signed on behalf of the Abbotsford Police Department;

Chief Constable Ian MacKenzie
Abbotsford, British Columbia

Date

Signed on behalf of the Central Saanich Police Service;

Chief Constable Paul Hames
Central Saanich, British Columbia

Date

Signed on behalf of the Delta Police Department;

Chief Constable Jim Cessford
Delta, British Columbia

Date

Signed on behalf of the Nelson Police Department;

Chief Constable, Dan Maluta
Nelson, British Columbia

Date

Signed on behalf of the New Westminster Police Service;

Chief Constable Lorne Zapotichny
New Westminster, British Columbia

Date

Signed on behalf of the Oak Bay Police Department;

Chief Constable Ben Anderson
Oak Bay, British Columbia

Date

Signed on behalf of the Greater Vancouver Transportation Authority Police Service;

Chief Officer Bob Kind
Vancouver, British Columbia

Date

Signed on behalf of the Port Moody Police Department;

Chief Constable Paul Shrive
Port Moody, British Columbia

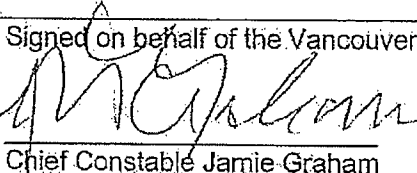
Date

Signed on behalf of the Saanich Police Department;

Chief Constable Derek Egan
Saanich, British Columbia

Date

Signed on behalf of the Vancouver Police Department;



Chief Constable Jamie Graham
Vancouver, British Columbia

06-8-25

Date

Signed on behalf of the Victoria Police Department;

Chief of Police Paul Battershill
Victoria, British Columbia

Date

Signed on behalf of the West Vancouver Police Department;

Chief Constable Scott Armstrong
West Vancouver, British Columbia

Date

Appendix G

Civil Forfeiture Office – Royal Canadian Mounted Police Memorandum of Understanding

Protected "A"

**MEMORANDUM OF
UNDERSTANDING**

BETWEEN

**THE BRITISH COLUMBIA
CIVIL FORFEITURE OFFICE**

AND

**THE ROYAL CANADIAN
MOUNTED POLICE
"E" DIVISION**

**CONCERNING THE ASSIGNMENT
OF THE CFO RCMP PROGRAM
MANAGER POSITION WITHIN
THE RCMP'S
OPERATIONS SUPPORT GROUP
FEDERAL SERIOUS AND
ORGANIZED CRIME**

Protected "A"

**MEMORANDUM OF
UNDERSTANDING**

**ASSIGNMENT OF CFO RCMP PROGRAM MANAGER POSITION
WITH THE RCMP'S OPERATIONS SUPPORT GROUP
FEDERAL SERIOUS AND ORGANIZED CRIME**

BETWEEN:

**THE BRITISH COLUMBIA
CIVIL FORFEITURE OFFICE
AS REPRESENTED BY THE DIRECTOR
("CFO")**

AND:

**THE ROYAL CANADIAN
MOUNTED POLICE
AS REPRESENTED BY
THE OFFICER IN CHARGE
OPERATIONS SUPPORT GROUP
SERIOUS AND ORGANIZED CRIME
("RCMP")**

1. PURPOSE AND OBJECTIVES

- 1.1 The purpose of this Memorandum of Understanding (MOU) is to record the understanding of the arrangement between the CFO and the RCMP pertaining to the assignment of the CFO RCMP Program Manager within the RCMP's Federal Serious and Organized Crime (FSOC) Operations Support Group (OSG) Asset Forfeiture Unit (AFU). This MOU represents the good faith and spirit of cooperation between the CFO and the RCMP. The MOU is not intended to be and is not in any way legally binding on either party or any related governments in Canada or British Columbia.

- Protected "A"
- 1.2 The objective of FSOC AFU in British Columbia is to work together in an integrated environment to deprive organized crime members of their criminally obtained assets. The role of FSOC members includes, but is not limited to:
 - (a) Endeavouring to identify, seize and forfeit criminal assets throughout the Province of British Columbia, recommending for prosecution the persons associated therewith and co-operating with other jurisdictions for such purposes;
 - (b) Gathering of intelligence and identifying, developing and managing human sources.
 - 1.3 The objective of the CFO is to disrupt criminal organizations and reduce crime by removing the instruments and proceeds of unlawful activity and provide funding to communities in support of crime prevention initiatives. The CFO receives referrals from enforcement agencies such as the RCMP, and based upon a consideration of the evidence, public interest and financial viability of the referrals, commences actions through civil forfeiture proceedings against the property only. The RCMP is the single largest referral agency to the CFO.

2. AUTHORITY

- 2.1 This MOU is entered into by both parties pursuant to an existing Information Sharing Agreement (ISA) between the Province of British Columbia and the Federal Government of Canada a copy of which is attached as Appendix "A".

3. TERMS OF THE ASSIGNMENT OF THE CFO RCMP PROGRAM MANAGER ("The CFO PM")

- 3.1 The CFO PM shall be assigned to the RCMP OSG for an indefinite period and this assignment may be cancelled by either party at any time with notice to the representatives identified within the MOU.
- 3.2 The CFO PM shall at all times during the assignment remain a member of the CFO and an employee of the BC government.
- 3.3 The CFO PM will be receive salary, benefits and other entitlements pursuant to their employment agreement with the BC government.
- 3.4 The CFO PM shall neither become a member, nor an employee of the RCMP, and shall return to the CFO at the expiry of their assignment.
- 3.5 The CFO PM will not be required to work in any language other than English,

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but they may work in other languages if they choose and are able to do so effectively in the circumstances of this assignment.

- 3.6 The CFO will be responsible for all training that is relevant and related to this assignment and will be financially responsible for any training the RCMP deems mandatory as part of this assignment.
- 3.7 The CFO PM is not a peace officer and will not be trained in firearms, impact devices, defensive sprays, conducted energy weapons, or any other equipment and procedures approved for use by the RCMP.
- 3.8 The CFO is responsible for conducting annual performance reviews of the CFO PM and will consider using feedback from the RCMP OSG in conducting this appraisal.
- 3.9 For all administrative purposes beyond the scope of this MOU the CFO PM will report to the BC government Human Resources/Public Service Agency.
- 3.10 The CFO PM will report directly to the CFO but will be responsible for working in coordination with the RCMP OSG and will abide by all RCMP policies and procedures that are deemed relevant to their assignment.
- 3.11 During the period of this assignment, the CFO PM will work at the RCMP OSG office located at:

RCMP
14200 Green Timbers Way
Surrey, B.C.
- 3.12 The RCMP will be responsible for providing the CFO PM with the following in order to complete their assignment:
 - a) work accommodation (desk, chair and cabinet) and secured access to the RCMP building;
 - b) office materials and supplies including a computer terminal configured in accordance with BC government Information Technology security standards which allows for the CFO PM to access BC government internal websites;
 - c) systems access to PRIME, CPIC and such police databases that are deemed necessary to perform their assignment.
- 3.13 The RCMP is not responsible for any costs arising from this assignment. Any and all costs arising from this assignment shall be paid by the CFO.

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4. DUTIES OF CFO PM

- 4.1 The CFO PM shall carry out all the duties necessary to achieve the objectives of this MOU in accordance with the policies and procedures of the RCMP, including any applicable federal government policies, and the policies and procedures of the CFO, including any applicable BC government policies.
- a) In the event of a conflict between the RCMP and CFO with respect to policies, the CFO PM will bring the conflict to the attention of both the RCMP and CFO management in order to seek a resolution.
- 4.2 At the commencement of the assignment, the RCMP will provide the CFO PM with access to all RCMP policies and procedures which are applicable to the CFO PM performing their assignment.

5. SALARY, BENEFITS AND FINANCIAL OBLIGATIONS

- 5.1 The CFO PM will receive salary, benefits and other entitlements pursuant to their employment agreement with the BC government. This includes but is not limited to:
- a) Annual Leave;
b) Sick Leave;
c) Statutory holidays;
d) Extended health and dental care.
- 5.2 The CFO is responsible for covering all costs associated with this assignment including, but not limited to:
- a) Travel expenses;
b) Training courses;
c) Mobile communication devices and service costs;
d) Software licenses.

6. SECURITY

- 6.1 The CFO PM may be subject to a security screening process if deemed required for carrying out his/her duties under this MOU. The CFO PM shall comply with the necessary security screening requirements during this assignment.

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- 6.2 The CFO PM shall comply, at all times, with the principles provided in the Government of Canada and RCMP security policies and procedures wherever the same do not conflict with BC government policies and procedures. The RCMP shall brief the CFO PM on the security requirements upon their arrival and provide updates as are deemed necessary.

7. **CONFIDENTIALITY OF INFORMATION AND DOCUMENTS**

- 7.1 The CFO PM shall keep confidential, at all times, any classified and/or confidential information that is disclosed to him/her during the assignment, and only use such information for purposes of carrying out his/her duties under this MOU. Disclosure of such information to any person or organization (including the CFO) shall be subject to the express prior written consent of the RCMP, unless required by law.
- 7.2 The CFO PM shall not disclose, during the assignment, or retain, after the assignment, any classified and/or confidential documents or copies thereof received from the RCMP, and only use such documents for purposes of carrying out his/her duties under this MOU. Disclosure of such documents to any person or organization (including the CFO) shall be subject to the express prior written consent of the RCMP, unless required by law.
- 7.3 The CFO and the RCMP shall keep confidential, at all times, any classified and/or confidential information or documents exchanged during the assignment, take reasonable and necessary steps to securely store such information or documents, and only use such information or documents for purposes of carrying out the objectives of this MOU. Disclosure of such information or documents to any person or organization shall be subject to the express prior written consent of the other police force, unless required by law. The CFO and/or the RCMP shall provide notice to the other police force before any such disclosure. This includes, but is not limited to, a request under the *Access to Information Act*, the *Privacy Act*, a court order, a summons or a subpoena especially as related to this MOU.

8. **DISPUTE RESOLUTION**

- 8.1 The CFO and RCMP representatives shall consult each other should there be any disputes arising from the interpretation or implementation of this MOU, and shall attempt, in good faith, to resolve the matter.

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9. REPRESENTATIVES

- a. The CFO is represented by the Director at:

Civil Forfeiture Office
PO Box 9234 Stn Prov Govt
Victoria, BC V8W 9J1
T 250.387.5488

- b. The RCMP is represented by the Officer in Charge Operations Support Group at:

Federal Serious and Organized Crime
14200 Green Timbers Way
Mail Stop #609
Surrey, B.C. V3T 6P3
T 778-290-4426

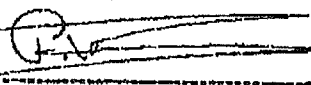
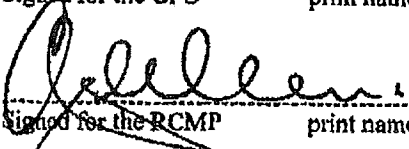
10. GENERAL

- 10.1 This MOU shall commence on the date of the last signature and shall remain in effect unless replaced by another MOU or terminated in accordance with the provisions provided in this MOU.

- 10.2 In compliance with the Ministerial Directive issued by the Solicitor General of Canada to the Commissioner of the RCMP that addresses Agreements entered into by the RCMP, the parties agree:

- a) to reviews, audits and evaluations of any aspect of this MOU;
- b) to amendments that are duly executed by the parties to this MOU; and,
- c) that either party to this MOU may terminate participation in this MOU upon written notice to the other party of their intention to terminate this MOU.

- 10.3 Nothing in this MOU shall be construed as replacing or amending any obligation that either the CFO and/or the RCMP is bound to, or required to perform by law.

	Philip Tawel	6 November 2013
Signed for the CFO	print name	dated
	J. Commey	2014.01.24
Signed for the RCMP	print name	dated

SCHEDULE A

1. Canadian Police Information Central Data Bank
("C.P.I.C.")
2. Automated Criminal Intelligence Information System
Data Bank ("A.C.I.I.S.")
3. Criminal Records Level II ("CR II")

Appendix H

Civil Forfeiture Office File Acceptance Policy



Civil Forfeiture Office - File Acceptance Policy

Objective	This policy sets out the review procedures to be followed by Civil Forfeiture Office (“CFO”) employees when considering the suitability of initiating a forfeiture application based on a file referral received from a public body (the “file”).
Definitions	Words and phrases defined under the <i>Civil Forfeiture Act</i> , SBC 2005, c. 29 (the “Act”) appearing in this policy have the same meaning as set out in the Act. The “Director” refers to the Director as appointed under the Act and his or her delegates.
Application	This policy applies to all CFO employees and specifically applies to the Director’s exercise of discretion under sections 3 and 14.02 of the Act for both civil and administrative forfeiture proceedings.
Guiding Principles	<p>The file review procedure should be guided by the foundational purposes of the Act:</p> <ol style="list-style-type: none"> 1) to take the profit out of unlawful activity; 2) to prevent the use of property to unlawfully acquire wealth or cause bodily injury; and 3) to compensate victims of crime and fund crime prevention and remediation.
General	<p><i>Available Information</i></p> <ol style="list-style-type: none"> 1) Information received from a public body must be received in a manner consistent with the Act, the <i>Freedom of Information and Protection of Privacy Act</i>, and any Information Sharing Agreements (“ISA”) that exist between the CFO and the public body. 2) A file will be assessed according to information available to the Director at the time it is received. 3) The Director will make reasonable efforts to ensure the accuracy and completeness of the file by: <ol style="list-style-type: none"> a. Requesting any available additional information from the referring agency that is likely relevant to the Director’s decision pursuant to this policy; and/or b. Accessing open source information and subscription service information available to the CFO at the relevant time.

Referral Acceptance Factors

- 4) All referrals will be assessed by the Director in accordance with the following criteria:
 - a. Public Interest – public interest factors may include, but are not limited to:
 - i. actual harm or a reasonable prospect of harm to individuals, particularly vulnerable individuals such as children or the elderly;
 - ii. the use of firearms or other weapons;
 - iii. involvement of gangs or organized crime;
 - iv. money laundering;
 - v. presence of hard drugs;
 - vi. financial exploitation of vulnerable individuals;
 - vii. harm or reasonable prospect of harm to law enforcement; and
 - viii. any other factors relevant to the unlawful activity.
 - b. Strength and Adequacy of the Available Evidence –the available evidence is to be assessed based on the likelihood of a successful forfeiture application using a balance of probabilities standard for civil forfeiture files or the reason to believe standard for administrative forfeiture files.
 - c. Financial Considerations – Given the cost recovery nature of the CFO program, the Director's review will be guided by a cost-benefit financial analysis of the file that will consider the estimated cost of obtaining a successful forfeiture against the estimated financial benefit.
 - d. Interests of Justice – The Director must assess the interests of justice in accordance with the Act and relevant judicial precedents by using information reasonably available to the Director at the time a file is received, which includes consideration of the reputation of the administration of justice.
- 5) Each of the above factors may be assigned a different weight based on the circumstances of the particular file under review.

Source of File

- 6) Files arising out of a criminal investigation will be considered where:

- a. The public body has decided not to refer the file to a Crown Prosecutor for charge approval, or;
 - b. Where following charge approval the Crown Prosecutor has decided not to pursue criminal restraint or forfeiture proceedings, or;
 - c. Where criminal proceedings have concluded for any reason without criminal forfeiture.
- 7) Files arising out of a regulatory investigation will be considered where:
- a. The public body has decided not to pursue regulatory enforcement proceedings, or;
 - b. Where a file has been referred to a Crown Prosecutor for consideration and the Crown Prosecutor has decided not to pursue regulatory enforcement proceedings.

Provincial Offences as Unlawful Activity

- 8) The CFO recognizes that provincial offences are, generally speaking, viewed as having less potential for physical harm or financial gain than criminal offences. It is important that forfeiture applications based on provincial offences are seen as being fair, proportional to the degree of actual or likely harm, and above all in the public interest. Therefore, the following special considerations apply where the underlying unlawful activity is a provincial offence, except for:
- a. provincial driving offences which are dealt with separately in this policy; and
 - b. provincial offences related to organized crime and gang activity, including, but not limited to:
 - i. offences under the Armoured Vehicle and After-Market Compartment Control Act [SBC 2010] c.8; and,
 - ii. offences under the Gaming Control Act [SBC 2002] c.14
- 9) Where the unlawful activity associated to a file is a provincial offence, the Director must consider whether existing statutory sanctions by the referring public body have been exhausted. A failure by the public body to exhaust existing statutory sanctions weighs against accepting the file, but is not determinative.
- 10) Where the unlawful activity associated to a file involving a provincial offence is:
- a. Based on the same offence(s) associated to a previously accepted file, a majority of Directors must agree that the files

should be accepted in accordance with the criteria set out in this policy or the file shall be declined; or,

- b. Based on an offence not previously the subject of an accepted civil forfeiture file, all Directors in consultation with legal counsel must agree that the file should be accepted in accordance with the criteria set out in this policy or the file shall be declined.

Driving offences as Unlawful Activity

- 11) The CFO recognizes the existence of a comprehensive regulatory and judicial enforcement regime with respect to driving offences. Generally speaking, a forfeiture application should only be pursued where there are repeated incidents of vehicular unlawful activity notwithstanding regulatory and/or judicial sanctions or where the public interest considerations involved in a single incident, particularly the existence of potential or actual harm, are so egregious as to warrant a forfeiture application.
- 12) When a file involves either a provincial or criminal driving offence as the unlawful activity, the Director must consider the following:
 - a. The driving history of the vehicle operator, specifically, any patterns of repeat behavior with the potential to cause harm;
 - b. Any prior or existing sanctions placed on the vehicle, vehicle owner or operator;
 - c. Compliance or lack thereof with prior or existing restrictions on a vehicle, vehicle owner or operator; and
 - d. The particular circumstances of the unlawful activity and their impact on the reasonable likelihood of bodily harm, including, but not limited to:
 - i. Time of day;
 - ii. Location;
 - iii. Traffic conditions;
 - iv. Weather;
 - v. Presence of pedestrians; and
 - vi. Failure to comply with directions from law enforcement.

Record of Decision

- 13) When a file is received, a unique CFO case number will be generated. The public body will be advised in writing of the CFO decision to either accept or decline the file.

