

Civil Forfeiture Office - File Referral Acceptance Policy

Objective This policy sets out how referrals from enforcement agencies will be received by the Civil Forfeiture Office (CFO).

Application and Scope This policy applies to all CFO operations.

Principles The CFO will only accept referrals from enforcement agencies where the information being referred has been collected within the mandate of the referring agency, and referral to the CFO complies with the referring agency's policy and procedures. Where an information-sharing agreement, memorandum or other agreement in relation to information sharing is in place between the CFO and the referring agency, those conditions must be complied with.

Background The CFO will engage in informal consultation from enforcement agencies prior to accepting a formal referral. Providing general advice with regard to proceeding with a civil forfeiture action based on non-specific fact patterns and other circumstances is permitted. Specific advice with regard to program operations, policies and protocols is also permitted.

General Notwithstanding the requirements of a referring agency's policy and procedures, the CFO will require the approval of an NCO i/c, OIC or supervisor for all referrals.

When determining whether a file referral is suitable for acceptance the director will assess the file on the basis of:

1. the public interest factors present;
2. the strength and adequacy of the evidence;
3. the fiscal considerations present; and,
4. interests of justice factors present.

Any information offered for referral that has been collected as a result of activities outside of the referring agency's mandate will not be considered by the CFO in assessing the viability of civil forfeiture proceedings.

Referrals arising out of a criminal investigation will be considered where either:

1. The referring agency has determined that criminal proceedings, including criminal restraint or forfeiture proceedings, are unlikely to succeed and based upon this determination have decided not to refer the matter to a Crown Prosecutor for consideration, or;

2. Where a matter has been referred to a Crown Prosecutor for consideration and the Crown Prosecutor has decided not to pursue criminal restraint or forfeiture proceedings.

Where a referring agency has recommended criminal forfeiture proceedings to a Crown Prosecutor and those recommendations were not approved, the referring agency must provide details regarding the Crown's refusal to proceed. The CFO will then confirm the Crown's position in relation to the property in question.

Where a referring agency has recommended criminal charges to a Crown Prosecutor, the CFO will confirm the status of those charges prior to providing instructions to LSB to commence civil forfeiture proceedings.

Referrals arising out of a regulatory enforcement investigation will be considered where either:

1. The referring agency has determined that regulatory enforcement proceedings, including forfeiture proceedings if available, are unlikely to succeed and based upon this determination have decided not to pursue regulatory enforcement proceedings, or;
2. Where a matter has been referred to a Crown Prosecutor for consideration and the Crown Prosecutor has decided not to pursue regulatory enforcement proceedings.

Where a referring agency has recommended charges under a regulatory statute to a Crown Prosecutor, the CFO will confirm the status of those charges prior to providing instructions to LSB to commence civil forfeiture proceedings.

When a formal referral is received, a CFO file will be generated and a CFO File Referral Form will be completed. The referring agency will be advised in writing of the CFO decision to either accept or decline the referral.

Where the CFO requires additional information from a referring agency, a request for that information will be in writing.

Authorization for the CFO to collect, use and disclose personal information, for the purpose of the *Civil Forfeiture Act* ("the Act") is specifically contained within the Act.

Subsequent Referral of Information

Refer to CFO File Referral Policy

Legislative Authorities

Civil Forfeiture Act, SBC 2005, c. 29

Effective Date

June 1, 2007