



COMMISSIONER'S OFFICE

: Your Ref

HQ2011/1145 : Our Ref

Mr Jon Bell
Committee Secretary
Parliamentary Joint Committee on Law Enforcement
Parliament House
CANBERRA ACT 2600

Dear Mr Bell

Thank you for your correspondence of 15 July 2011 regarding the Inquiry into Commonwealth Unexplained Wealth Legislation and Arrangements. I apologise for the delay in responding.

In the Northern Territory, organised crime is becoming more aware of asset forfeiture legislation and the following trends have been identified:

- Little or no property is actually being held in the name of the primary offender and difficulty is being encountered establishing 'effective control' of suspected crime derived assets.
- People are divesting property if they become aware that an investigation into proceeds of crime is occurring, or likely to occur.
- Businesses and trust funds are being used to launder money.
- Crime derived monies are being moved off-shore into foreign economies.
- Large amounts of cash are being kept out of financial institutions to avoid AUSTRAC reporting and monitoring.
- Caveats or registered interests by third parties are being placed over properties that are likely to be the subject of proceeds of crime proceedings.

In respect to the specifics of an Unexplained Wealth Declaration, Northern Territory legislation does not have a predicate offence provision and therefore it is not necessary to convict a person prior to commencing proceedings. This simplifies the pursuit of third parties and receivers of crime derived assets. Further, it has been used successfully to target asset rich spouses, family members and close associates of targets where there is no apparent lawful income evident to support their wealth position.



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An example of this situation is a husband and wife who were the sole traders in an unsuccessful business. The husband was growing cannabis to substitute income for the failure of the business and using the funds to purchase property, the majority of which was in the wife's name. The husband was later arrested and charged in relation to the drug offending. Although there was no evidence that the wife was involved in the illicit drug activity, an Unexplained Wealth Declaration provided a legal platform to have the majority of the property forfeited.

I trust that this contribution has provided some useful information for your Committee to consider. If you require any further information, please do not hesitate to contact Detective Superintendent Tony Fuller of the Drug and Specialist Crime Division on (08) 8922 3156.

Yours sincerely

Shayne Maines
Acting Commissioner of Police

/ 23 September 2011