

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Sub Program 2.2.1**

**Question No. 65**

**Senator Barnett asked the following question at the hearing on 8 February 2010:**

- a. How much money is in the proceeds of crime Confiscated Assets Trust Fund?
- b. Please provide the balance as at various dates of the last few months.
- c. How much was drawn down for the purposes of trial and surveillance of the Aerial Surveillance Platform?
- d. What projects does it fund?
- e. Where does the money come from?
- f. What other proceeds of crime type funds exist?

**The answer to the honourable senator's question is as follows:**

- a. As at 31 January 2010, the available distributable balance of the Confiscated Assets Account (CAA) was \$13,433,467.02.
- b.

| <b>Date</b>       | <b>Balance of CAA</b> |
|-------------------|-----------------------|
| 31 December 2009  | \$13,331,903.62       |
| 30 November 2009  | \$27,262,881.25       |
| 30 September 2009 | \$24,548,399.84       |
| 31 August 2009    | \$19,026,014.75       |

- c. The Covert Aerial Surveillance project received \$1.146 million from the CAA.
- d. Section 297 of the *Proceeds of Crime Act 2002* (the Act) prescribes the purposes for which monies may be paid from the CAA, including:
  - i. payments under the equitable sharing program
  - ii. programs approved under section 298
  - iii. payments to foreign governments under forfeiture orders and pecuniary penalty orders
  - iv. the costs of ITSA as official trustee

- v. restitution for third party interests
  - vi. the costs of conducting examinations under the Act, and
  - vii. Legal Aid Commission costs.
- e. The Act provides a scheme to trace, restrain and confiscate the proceeds of crime against Commonwealth law. Credits to the Confiscated assets Account are covered by s296 of the Act. In some circumstances the Act can also be used to confiscate the proceeds of crime against foreign law or the proceeds of crime against State law (if those proceeds have been used in a way that contravenes Commonwealth law).

The Act provides for two streams of recovery action: a conviction based stream and a civil based stream under which recovery action can be taken independently of the prosecution process. The Act also includes provisions for the forfeiture of literary proceeds.

Also credited to the CAA are monies paid to the Commonwealth under the *Mutual Assistance Act*, the *Crimes Act*, the *Customs Act*, and equitable sharing arrangements with foreign or state and territory governments

- f. At a Commonwealth Government level, there is one other proceeds of crime fund. This is the Confiscated Assets Special Account (CASA) established under the *Proceeds of Crime Act 1987* which preceded the current Act. Its current balance is \$81.