

Civil Recovery Unit

Annual Report 2011/12



Foreword by the Lord Advocate

I very much welcome this second annual report from the Civil Recovery Unit, the operational responsibility for which falls within my remit as a Scottish Minister.

The CRU plays an important part in the overall disruption of crime in Scotland and reflects our commitment to using the full scope of the Proceeds of Crime Act 2002.

This has been another exceptional year for the CRU, with significant developments made in the way we recover property from those who seek to benefit from crime. It is through continuing to seek opportunities for development that we will continue to progress towards achieving the excellence which we strive for in this area.

The total value of cash and assets recovered by the CRU during 2011-2012 amounted to more than £3.5m, representing around a third of the total £10.5m gathered through the use of Proceeds of Crime legislation in that time. I am pleased that this money has been taken out of the criminal chain and is now being re-invested into good causes through the Cashback for Communities programme.

As important as the monetary value of the cash and assets recovered is the disruption to crime which results from POCA. Research continues to show that depriving people of their assets and cash is particularly effective in achieving this aim.

We continue to apply the best minds to this task, and our team of lawyers, forensic accountants, financial investigators and administrators are second to none in this regard.

Lastly, the continuing co-operation we receive from other law enforcement agencies is vital to us, and we thank them for this and look forward to future collaboration in this area.

**Rt. Hon. Frank Mulholland QC
Lord Advocate
May 2012**

Foreword by the Head of the Civil Recovery Unit

I have great pleasure in presenting the Lord Advocate with the Second Annual Report of the Civil Recovery Unit (“CRU”).

During the course of this year, the CRU has transformed the way in which it investigates asset recovery cases. This transformation is reflected in the dramatic rise in the number of disclosure notices issued by the CRU. Increased use of disclosure notices is just one of the ways in which the CRU is maximising the disruptive impact of the investigative process upon those who seek to benefit from crime.

The nature of civil recovery proceedings is such that the full impact of this new approach on the amount of property recovered will only be felt in the years to come. Just as importantly, the renewed vigour with which investigations are being tackled has already resulted in significant intelligence gains for law enforcement and continues to have a disruptive effect on organised crime groups.

The cash forfeiture team has had another very successful year. The CRU is increasingly seeing cash forfeiture referrals from prosecutors within the Crown Office and Procurator Fiscal Service. This is undoubtedly linked to efforts to increase awareness within COPFS of the opportunities afforded by the Proceeds of Crime Act 2002.

Further investment has taken place into the systems and processes operated by the CRU. This year has seen the successful installation of an electronic case management system which will complement the existing electronic document management system leading to cost efficiencies and an increasingly consistent and robust approach to investigation and litigation in future years. The CRU has enhanced its forensic capability with regard to computers and other electronic devices. The CRU continues to examine its processes with a view to providing even better value for money.

This year we have collected new data concerning the impact of CRU referrals for taxation. The figures suggest that CRU investigations resulted in the identification of potential tax liabilities of over £2 million.

As ever, the achievements of the CRU during this year were only possible because of continuing assistance and co-operation of the Serious Organised Crime Division within COPFS, the police forces of Scotland, the Scottish Crime and Drug Enforcement Agency, Her Majesty’s Revenue and Customs, the Serious Organised Crime Agency and other law enforcement agencies.

**Ruaraidh Macniven
Head of Civil Recovery Unit
May 2012**

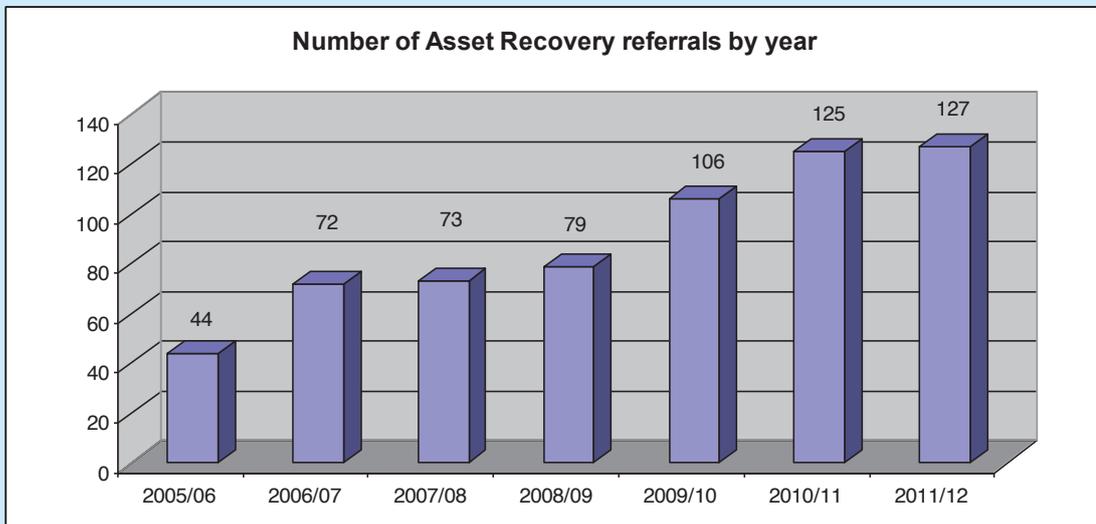
Introduction

- 1. This is the Second Annual Report of the activities of the Civil Recovery Unit (“CRU”) and covers the period from 1 April 2011 to 31 March 2012.**
- 2. The CRU was established in 2003 to act on behalf of the Scottish Ministers to recover property and cash which have been acquired through crime. The CRU reports to the Law Officers (the Lord Advocate and the Solicitor General) who are the Scottish Ministers with delegated operational responsibility.**
- 3. The aim of the CRU is:-**

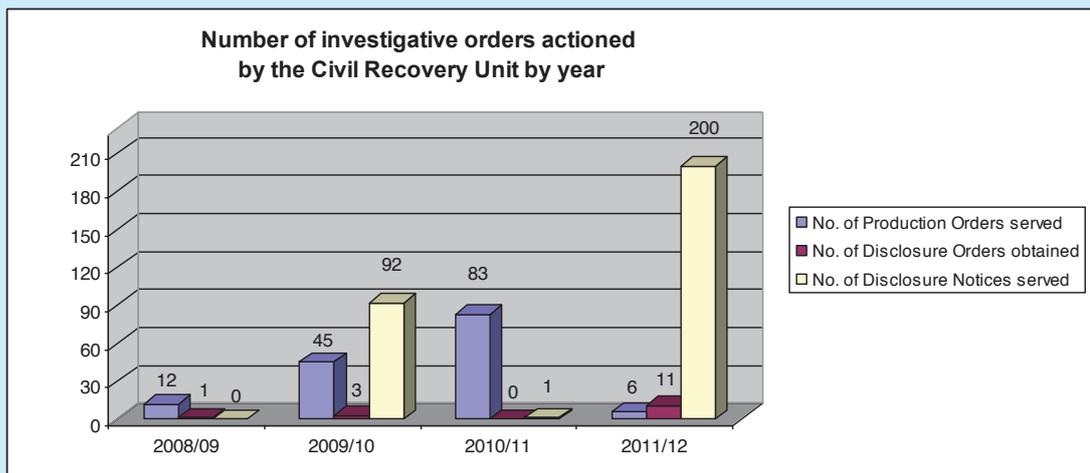
to use civil court proceedings to disrupt crime and to make Scotland a hostile environment for criminals.
- 4. The CRU is a multi-disciplinary team of lawyers, forensic accountants, financial investigators, and administrative staff. Its primary role is to act on behalf of the Scottish Ministers as the enforcement authority for Scotland under Part 5 of the Proceeds of Crime Act 2002 (“the 2002 Act”). This involves investigating and seeking to recover criminal assets and cash.**

Civil recovery: asset recovery

5. The 2002 Act allows the Scottish Ministers to bring civil proceedings in the Court of Session to recover any property which has been obtained through crime. If the proceedings are successful, the recovered property is transferred to a court-appointed trustee who sells the property and pays the proceeds to the Scottish Consolidated Fund.
6. Most referrals for asset recovery are received by the CRU from the police, Her Majesty's Revenue and Customs, or the Department for Work and Pensions. All asset recovery referrals are considered by the Serious and Organised Crime Division of the Crown Office and Procurator Fiscal Service to ensure that consideration is first given to criminal prosecution.



7. It is the policy of CRU to seek disclosure orders wherever possible in its investigations. Disclosure orders are orders by the Court of Session which enable CRU investigators to issue notices to individuals and organisations requiring them to provide information and/or attend for interview. The dramatic rise in the number of disclosure notices served during the course of this year reflects an increasingly rigorous approach to the process of financial investigation.
8. The full benefit of this new approach is only likely to be reflected in the sums remitted to the Scottish Consolidated Fund in future years. This is because the size and complexity of CRU investigations mean that they can take several years to resolve. However, the CRU has observed immediate benefits in terms of the gathering of valuable intelligence and preparation of cases for court.



Asset recovery - case study 1

The CRU recovered the sum of £1,271,842 following allegations of a large scale VAT fraud perpetrated by Glasgow registered company, Q-Tech Distribution Limited (“Q-Tech”).

Q-Tech was set up in June 2000 and operated until May 2001. Its sole director was Mohammed Sarfraz Sattar, also of Glasgow. Q-Tech imported computer components from the Republic of Ireland. In May 2001, HM Customs & Excise (the predecessor to HM Revenue & Customs), searched the premises of Q-Tech and Mr Sattar, and various assets were frozen.

In 2010, the CRU was asked to consider the activities of Q-Tech. Assisted by HMRC, the CRU conducted a civil recovery investigation and raised proceedings in the Court of Session against Q-Tech and Mr Sattar, personally. The CRU argued that those operating Q-Tech had falsified business records in order to pretend that VAT had been paid on the imported goods. That VAT was then reclaimed, fraudulently, from the tax authorities.

The case settled out of court, with Q-Tech and Mr Sattar agreeing to give up £1,271,842 worth of assets.

Asset recovery - case study 2

On 18 November 2011 at the Court of Session in Edinburgh Lord Brodie made a recovery order under the Proceeds of Crime Act 2002 in respect of the westmost second floor flat at 56 Prince Street, Peterhead and a sum of money held in a bank account.

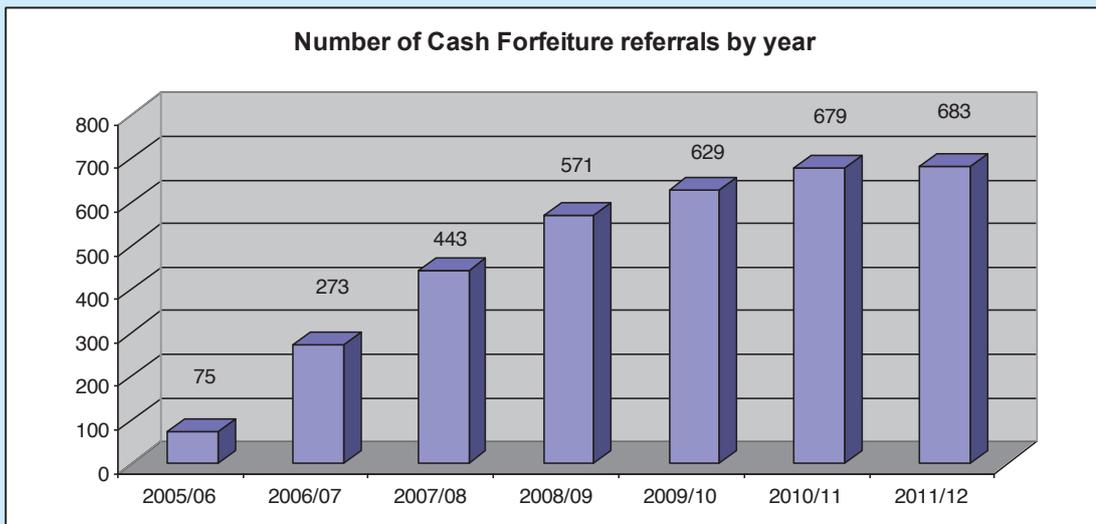
Using evidence and information which had been gathered during its own investigation and by the SCDEA and Grampian Police, the Civil Recovery Unit successfully argued that the flat and the money had been obtained through crime. In particular, it was

argued that Dale John Donaldson had obtained the property through drug dealing.

A recovery order petition was presented to the Court of Session, and on 18 November 2011 the Court granted the petition and vested ownership of the property and the money in the Trustee for Civil Recovery. The property was sold at auction, and the proceeds of sale together with the sum of money were remitted to the Scottish Consolidated Fund.

Civil recovery : cash forfeiture

- Section 298¹ of the 2002 Act enables the Sheriff Court to order the forfeiture of cash which has been seized by the police or customs officers. The CRU makes applications for forfeiture on behalf of the Scottish Ministers. Forfeiture is granted where it is established on the balance of probabilities that the cash was obtained through crime or was intended for unlawful use. Importantly, it is not necessary for the person from whom the cash has been seized to be convicted of a criminal offence.



Cash forfeiture – case study 1

£34,350 was forfeited at Dumfries Sheriff Court from Andrew Marc Ould from Wrexham. The cash in question was detected on 14th September 2011 by officers of Dumfries and Galloway Constabulary carrying out routine traffic duties on the A74(M) near Lockerbie. Ould was acting as a drugs courier and “cash mule”. It is suspected that the cash found in his car represented payment for a consignment of controlled drugs that he had earlier delivered to persons unknown in the Glasgow area.

The A74(M) forms part of the arterial motorway network connecting the West of Scotland with Merseyside and the rest of England. The motorway network is used on a daily basis by drugs couriers.

Andrew Marc Ould did not contest the forfeiture of his cash.

¹ <http://www.legislation.gov.uk/ukpga/2002/29/section/298>

Cash forfeiture – case study 2

£36,840 was forfeited from Emmanuel Akuany at Dumfries Sheriff Court. This was yet another example of the A74(M) motorway being used by a “cash mule”. Akuany (who lives in Leeds) was believed to have been a “clean skin” recruit to an organised crime group involved in the trafficking of controlled drugs from England into Scotland. Akuany did not contest the forfeiture order that was made on 15th March 2012.

Cash forfeiture – case study 3

\$58,000 US Dollars and £703.50 was forfeited from William Woodburn Reid. Reid was stopped by officers of British Transport Police at Glasgow Central Railway Station on 3rd December 2010. His luggage was stuffed with bundles of US \$100 bills. When questioned about the cash Reid claimed that he was “delivering it to a guy in Glasgow for a card game”. Reid was well known to the Scottish Police and to law enforcement agencies in Spain. In 2005 he was targeted as part of the international law enforcement operation codenamed “Operation Folklore”. During the course of “Operation Folklore” Reid was detected on board a trawler carrying a shipment of cannabis worth £24,000,000. He later was convicted in Spain for drug trafficking and was imprisoned.

The forfeiture of this cash from Reid in December 2010 demonstrated his undoubted ongoing involvement in high level criminality.

Cash forfeiture – case study 4

£9,880 was forfeited at Aberdeen Sheriff Court from Glenroy Basil Griffiths of Enfield in Middlesex. Griffiths was part of an organised crime group based in London which had links to Jamaican “Yardie” gangs. Aberdeen has been targeted by such groups since it is perceived to offer a lucrative market for the sale of high value controlled drugs such as diamorphine and “crack” cocaine. Griffiths had been sent to Aberdeen in order to orchestrate the sale of controlled drugs in the city.

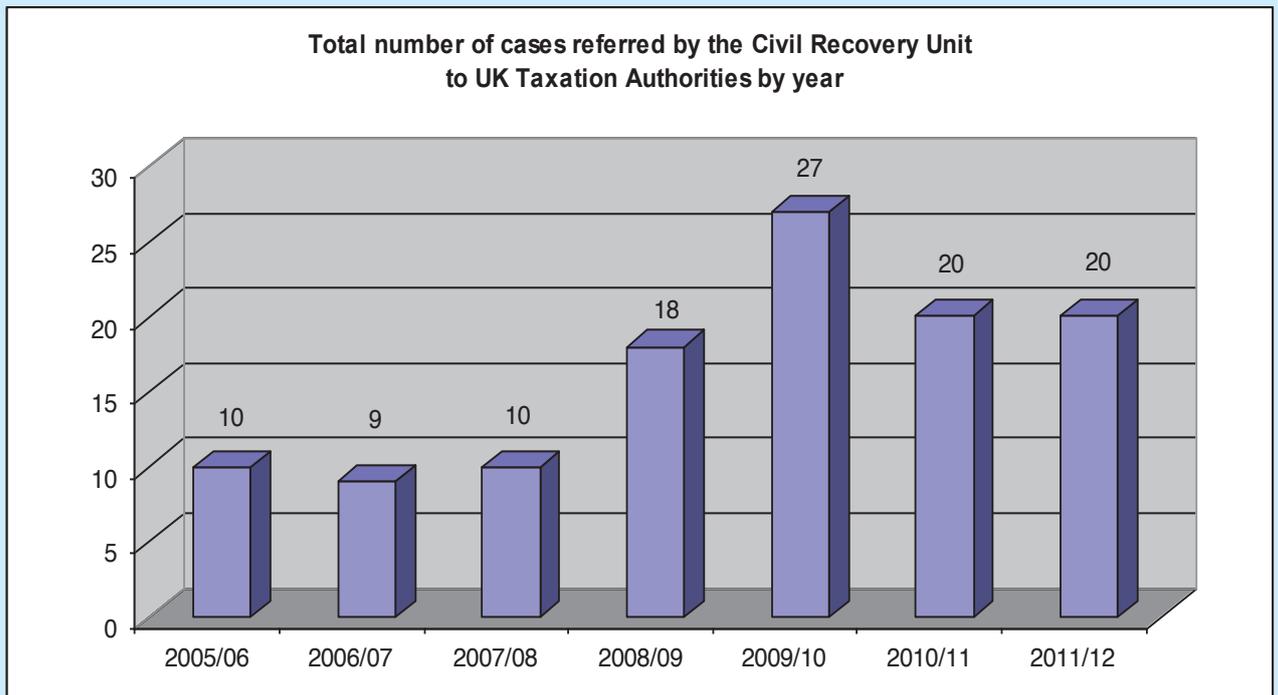
Cash forfeiture – case study 5

£8,786.54 was forfeited from Stephen Anthony Cunningham. Cunningham was a member of an organised crime group based in London which had targeted Aberdeen for the supply of controlled drugs. The disruptive effect that such organised crime groups have on life in and around Aberdeen cannot be overstated. Cunningham's cash was forfeited from him at Aberdeen Sheriff Court.

Referrals for taxation

10.Part 10 of the Proceeds of Crime Act 2002 enables the CRU to share information with other law enforcement agencies. In exercise of those powers, the CRU is continuing to develop its close links with the Serious Organised Crime Agency (SOCA) and Her Majesty's Revenue and Customs (HMRC).

11.In some cases where the CRU is unable to take action, SOCA or HMRC are able to raise tax assessments in respect of unpaid tax by persons who are suspected to be involved in crime.



12.The CRU will continue to refer cases to the taxation authorities and, where appropriate, enter into joint working arrangements in order to ensure that the best means of disrupting crime is used.

13.Information from SOCA and HMRC establishes that the referrals by CRU and joint working this year have led to the identification of over £2million in potential tax liabilities.

Liaison and training

- 14. During the course of the year, the CRU has provided more training than ever on asset recovery and cash forfeiture across Scotland. In particular, standing invitations were accepted to provide inputs to the Scottish Police Financial Investigation and Economic Crime Courses. Other *ad hoc* training was provided to police forces and other agencies.**
- 15. The CRU is represented on the Scottish Asset Recovery Group and has taken up an invitation to sit on the Scottish Tactical Tasking and Co-ordination Group. These efforts are designed to ensure that civil recovery opportunities are considered when strategic decisions are taken as to how best to tackle organised crime in Scotland.**
- 16. The CRU has also hosted the representatives of other jurisdictions which are considering or have decided to establish non-conviction based asset recovery schemes.**
- 17. The CRU continues to discuss matters of common concern with colleagues in the Serious Organised Crime Agency in England, Wales and Northern Ireland.**

Cashback for Communities

18. Since its creation in 2003, the CRU has recovered over £26 million in cash and assets. The Scottish Government has invested this money back into communities through the 'Cashback for Communities' scheme. Cashback for Communities is a programme of activities for young people to increase the opportunities they have to develop their interests and skills in a supported way, using funds recovered from criminals.
19. It includes a range of partnerships with Scottish sporting, cultural and youth organisations to provide activities for young people in Scottish communities. The initiatives provided have been aimed primarily at 10-19 year olds, with resources focused on areas of deprivation and/or high crime. The initiatives address both participation and diversion and aim to increase the likelihood of positive long-term outcomes for those who take part.
20. The total amounts remitted by the CRU to the Scottish Consolidated Fund since 2005/6 are shown below:-

