



Asset Seizure / Forfeiture

“Re-investment of forfeitures to reduce crime in Ontario”

OACP 2010 Conference



June 13 – 16, 2010



Introduction

- **Profit motivation** is the driving force behind most criminal activities
- **Depriving criminals** of their wealth is an efficient crime reduction strategy
- 1989 – Introduction of proceeds of crime legislative regime (Vienna Convention – 1988)
- Evolution of the legislative regimes and the justice sector stakeholders
- Provincial AFU and TPS AFU
- OACP / Asset Forfeiture Sub-Committee
- 2005 -09: **\$155 million** taken out of criminal economy & **\$25.8 million** forfeited
- Opportunity to **re-invest** POC / ORP into law enforcement activities.



OACP Asset Forfeiture Sub-Committee

Sub-Committee of the OACP Organized crime Committee

- Created in 2005 - 2006
- **Vision:** *Voice of Ontario's police leaders on matters related to asset seizure and forfeiture as an effective tool to mitigate crime.*
- **Mission** *Provide a unified Ontario Law Enforcement Police Services approach in the development and the maintenance of a coordinated provincial asset seizure and forfeiture strategy that is effective in reducing crime in our communities.*
- **Objectives**
 - raise **awareness** about the extent and impact of crime for profit and organized criminal activity on our society.
 - **maximize community impact** against criminal activity with the removal of proceeds of crime and property used to commit criminal offences from the criminal economy i
 - **Educate and encourage** Ontario Law Enforcement Services to incorporate an asset seizure and forfeiture tactic as a crime reduction strategy
 - **work with government officials** to ensure that asset forfeiture sharing through existing grant programs are providing a **transparent but fair return** to law enforcement and justice sector stakeholders.
 - ensure all Ontario Law Enforcement Services are **aware of the processes by which they may apply to access the proceeds of forfeited assets for the purposes of crime prevention, law enforcement, and the administration of criminal justice.**



Objectives of the day

- POC Grant Programs available to police services
- Key grant application components that will improve chance of getting grant application approved



The benefits of an asset seizure / forfeiture strategy ?

1. Primary - Effective investigative strategy to reduce crime

- Primary driver for application of provisions

2. Secondary - Re-investment forfeitures into law enforcement

- Although it is never the motive, there is an added financial benefit to seizing and forfeiting illicit assets. Property or money that is not used to compensate victims or is not returnable to an innocent third party will be forfeited to the Crown. Pursuant to the applicable sharing regimes these forfeited assets are converted to funds and can be re-invested in law enforcement activities.



Re-investing forfeitures into policing Grant Programs

1. ***Front-Line Policing Program***

- Administered by MCSCS / External Relations Branch
- Sources: Federal & Provincial Forfeitures
- Crime Prevention & Asset Forfeiture Enhancement initiatives.

2. ***Law Enforcement Grant Program***

- Administered by MCSCS / CISO
- Sources: Federal & Provincial Forfeitures
- Criminal Investigations & Specialized Training
- Committed to wire rooms

3. ***Civil Remedies Grant Program***

- Administered by MAG / CRIA Office
- Sources: CRIA Forfeitures
- Prevent victimization, prevent unlawful activity that results in victimization
- Justice on Target



Re-investment into policing

Statutory Sharing Regimes

Federal Forfeitures

- ✓ ***Seized Property Management Act & Forfeited Property Sharing Regulations***

HIGHLIGHTS

- ❖ *MOU must be in place (share with provinces only)*
- ❖ *Sharing formula (10-50-90) (determined by prosecutor)*
- ❖ *Foundation regarding “use”: crime prevention, law enforcement, criminal justice, property management and victim restitution*
- ❖ *Timing of sharing: once per year*



Re-investment into policing

Statutory Sharing Regimes

Provincial Forfeitures



CRIMINAL: *Forfeited Proceeds of Crime Sharing Agreement / Principles for Allocation of Funds in Ontario (MAG – MCSCS)*

- ❖ *Pursuant to Crowns Attorney's Act*
- ❖ *Special purpose Accounts*
- ❖ *40 – 60 split (MCSCS & MAG) / provincially prosecuted forfeitures*
- ❖ *75-25 split (MCSCS & MAG) / federally prosecuted forfeitures*
- ❖ *Establishes 3 POC Grant Programs (2 in MCSCS & 1 in MAG)*
- ❖ **GENERAL PRINCIPLES:**
 - *Effective Law enforcement*
 - Potentials for revenue cannot be allowed to jeopardize investigation, prosecution, officer safety, the integrity of ongoing investigations or prosecutions, or the constitutional rights of individuals.
 - No direct benefit
 - Cannot supplement resources
 - Financial control & accountability
 - Cannot be extravagant or wasteful expenditures



Re-investment into policing

Statutory Sharing Regimes

Provincial Forfeitures



CRIMINAL: *Forfeited Proceeds of Crime Sharing Agreement / Principles for Allocation of Funds in Ontario (MAG – MCSCS) (continued)*



PERMISSIBLE:

- **Training** (police, prosecutors) specific to specialized criminal investigation functions (search & seizure, money laundering, proceeds of crime, etc.)
- **Equipment:** support law enforcement activities/investigations
- **Specialized services** (forensic accounting, translators, interpreters, experts, etc. to support investigations / prosecutions)
- **Asset management**
- **Organized / Serious Crime initiatives;** cost associated to **inter-jurisdictional initiative** aimed at **organized and profit-motivated crime**
- **Victim Programs**
- **Drug Education Programs**



Re-investment into policing

Statutory Sharing Regimes

Civil Forfeitures



CRIMINAL: *Forfeited Proceeds of Crime Sharing Agreement / Principles for Allocation of Funds in Ontario (MAG – MCSCS) (continued)*

❖ **NOT PERMISSIBLE:**

- **FTEs** (cost related to secondment permissible with understanding of end date)
- Salaries (O/T permissible or cost related to backfill or other activities in relation to existing position used in POC initiative)
- **Non-law enforcement purposes**



CIVIL: **Civil Remedies for Illicit Activities**

- Any initiative aimed at assisting victims of crimes, preventing victimization, and justice on target



Grant Applications – Key Notes

Eligibility Criteria (key component)

- ✓ Front-Line Policing Grant: crime prevention & asset forfeiture
- ✓ Law Enforcement Grant: Criminal investigations (projects)
- ✓ CRIA POC Grant: victims & prevent victimization



Weighed scheme scoring process:

- o Demonstrated need (service gap)
- o Goals & Objectives
- o Activities (to achieve goals & objectives)
- o Outcomes & Benefits
- o Evaluation Strategy
- o Program Logic model
- o Training (in relation to initiative if required)
- o Budget (realistic)



No FTEs



No core budget items



Stick to the rules (i.e. if \$100,000 is max don't go over)

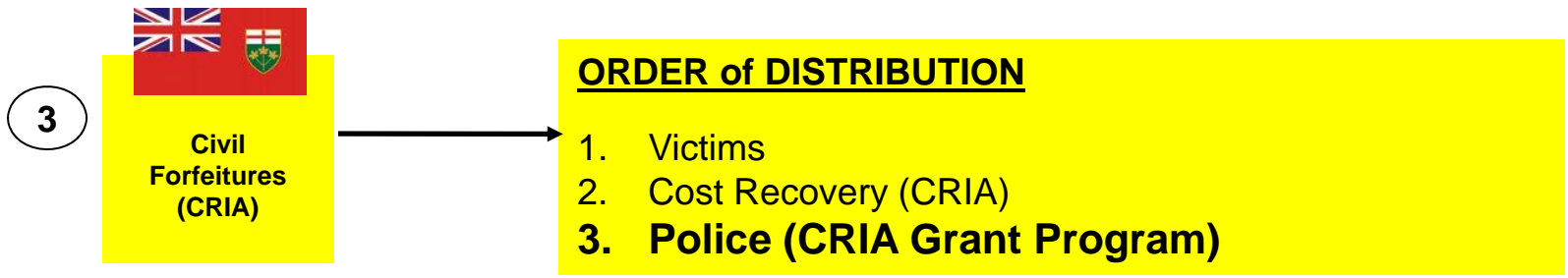
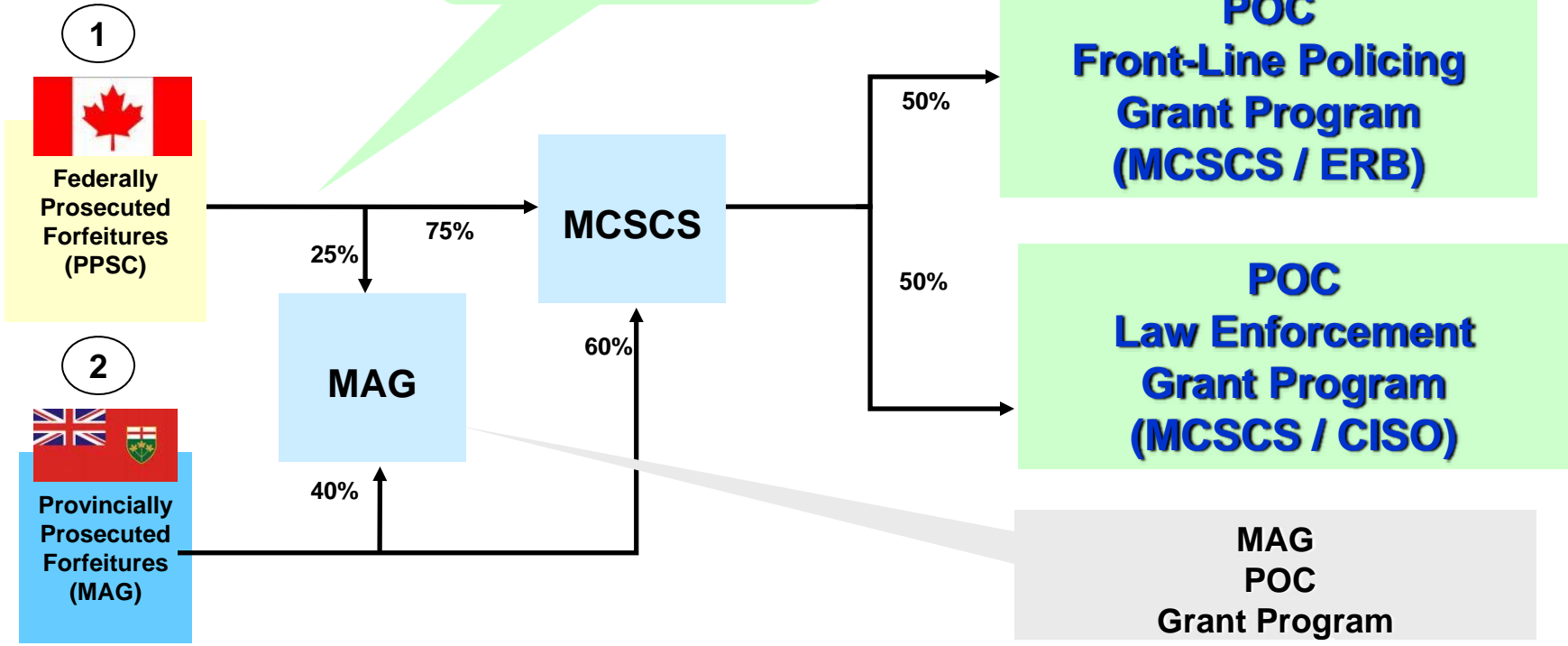


Accountability (performance measures, report backs, agreements)



SOURCE AND DISTRIBUTION OF FORFEITURES

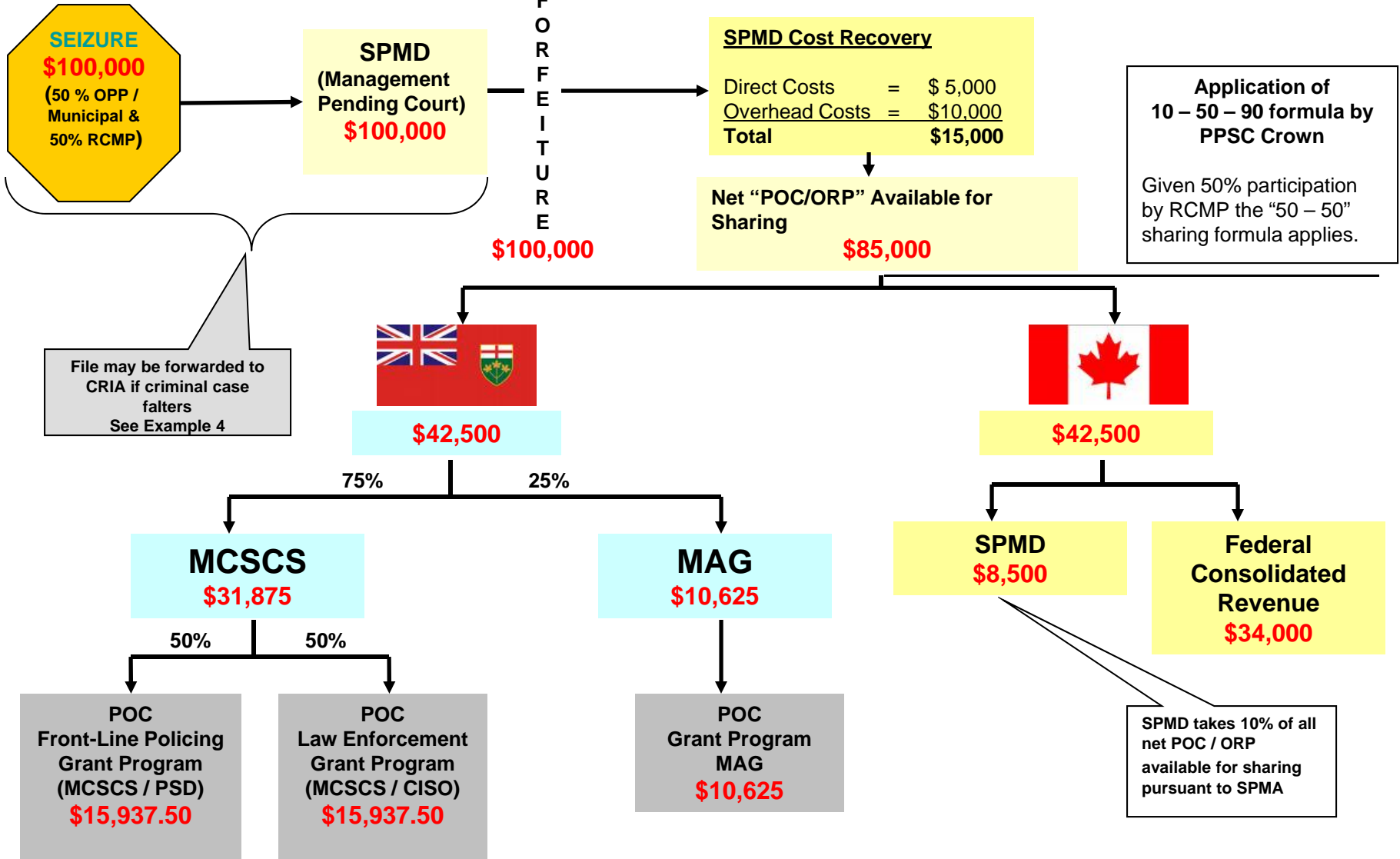
SHARING OF NET PROCEEDS
 ✓ Pursuant to sharing Regs. of SPMA
 ✓ SPMD: 10%
 ✓ 10-50-90 formula



Example 1:

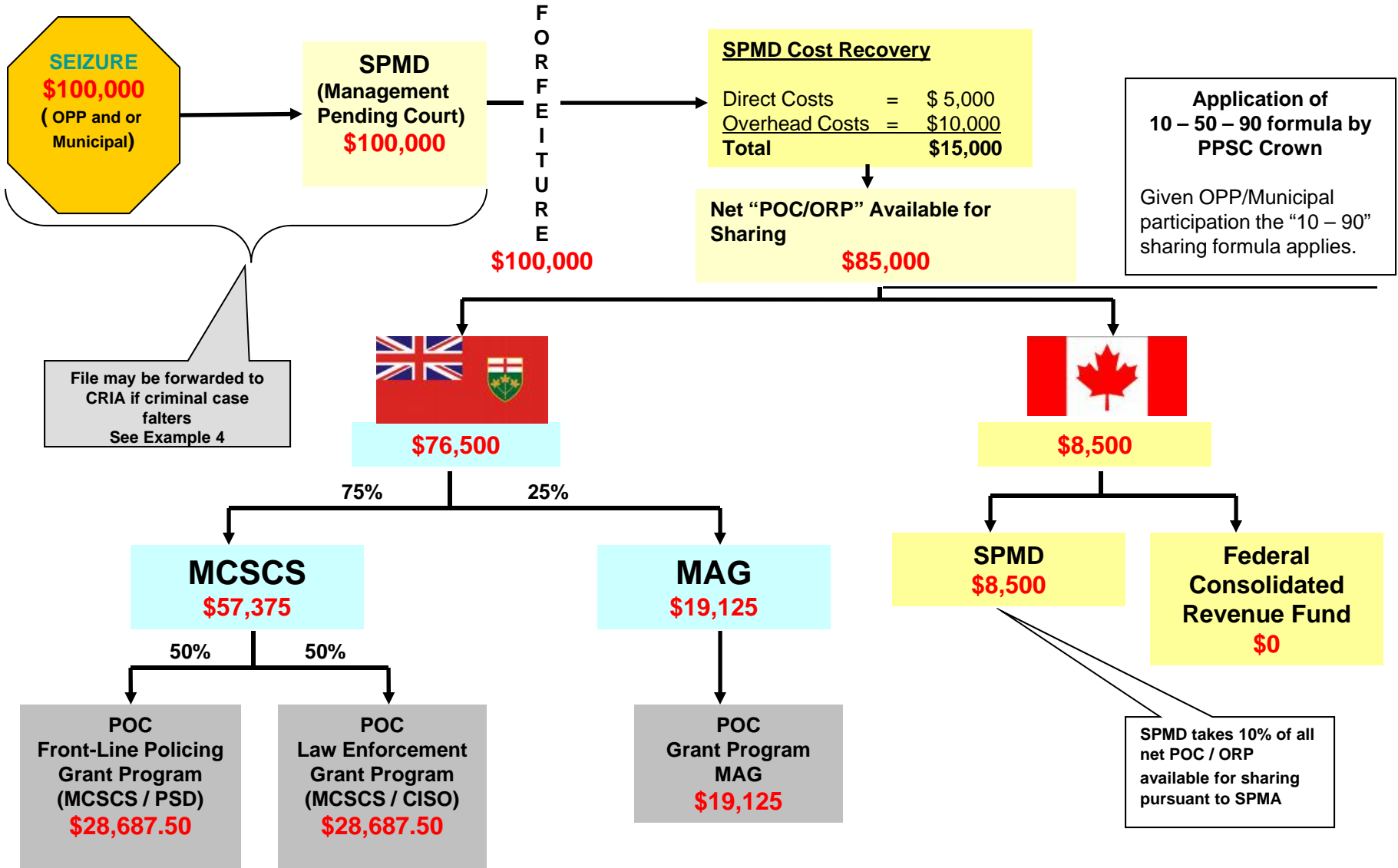
Distribution of a \$100,000 cash forfeiture seized from CDSA JFO investigation (50% OPP/ Municipal & 50% RCMP). Federal Prosecution

START



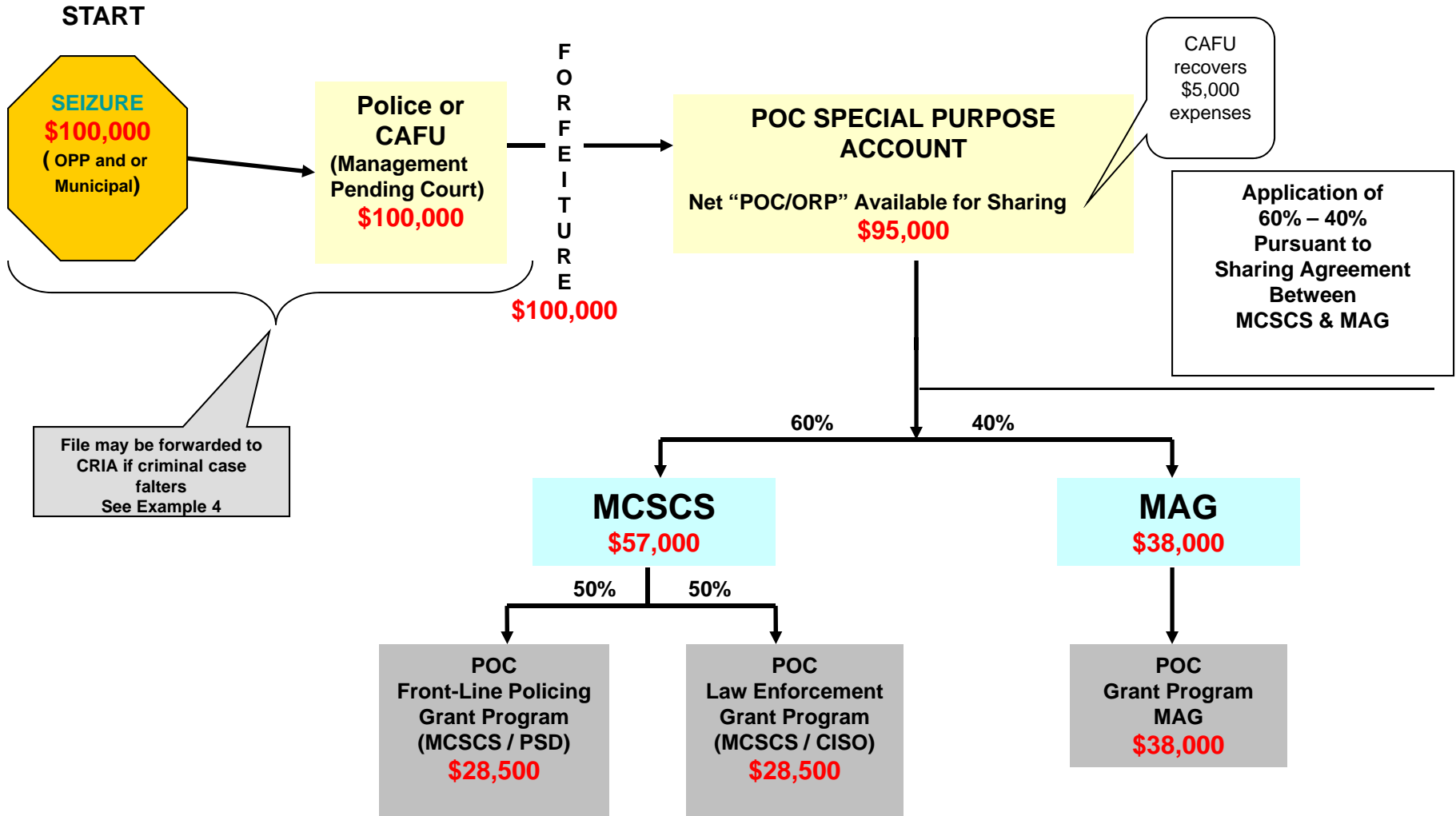
Example 2: Distribution of a \$100,000 cash forfeiture seized from CDSA investigation (OPP and or Municipal). Federal Prosecution

START

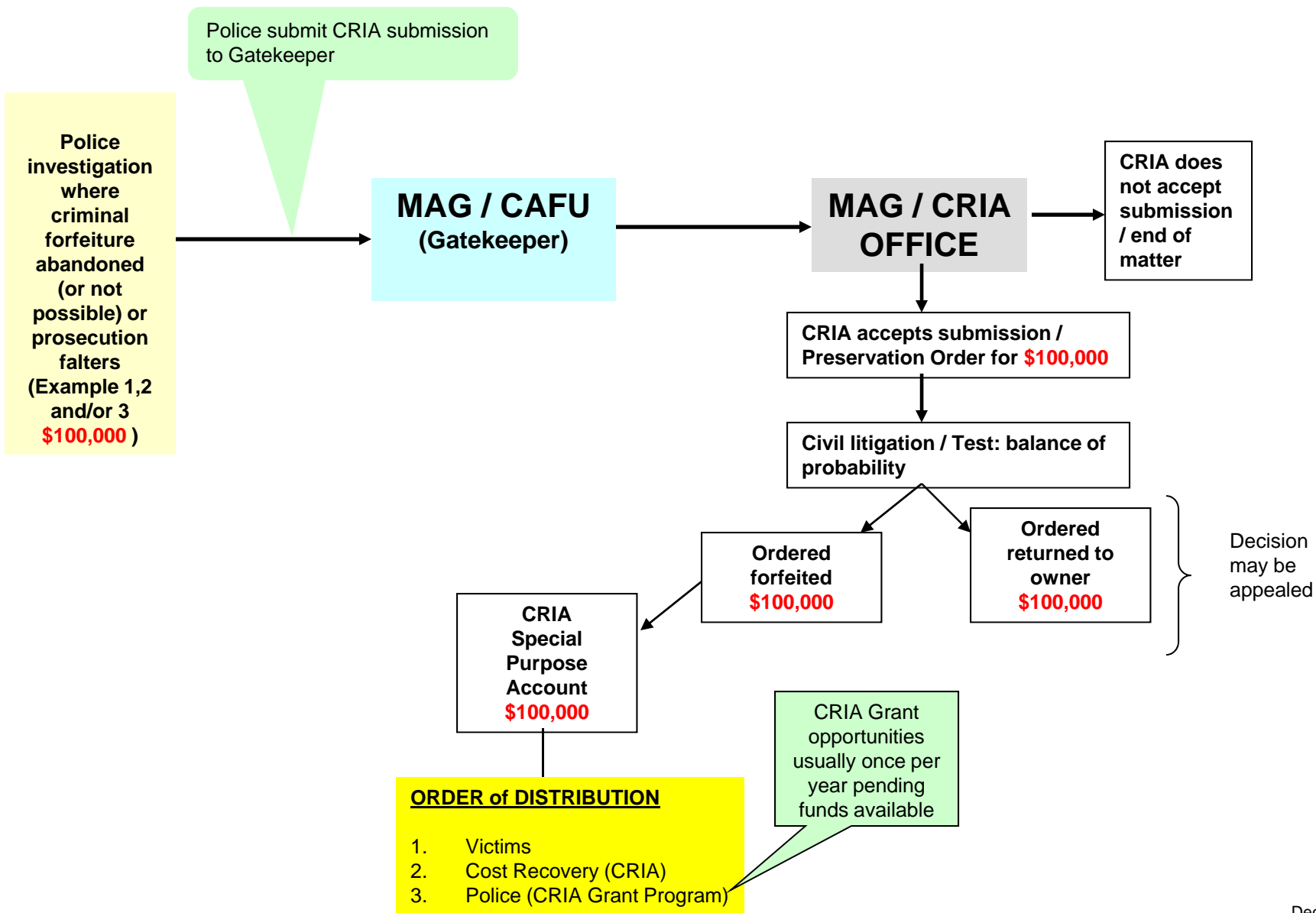


Example 3:

Distribution of a \$100,000 cash forfeiture seized from *Criminal Code* investigation (OPP and or Municipal). Assume \$5,000 expenses incurred by CAFU to secure seized currency. Provincial I Prosecution



EXAMPLE 4: Police CRIA submission of a case where criminal forfeiture not possible.



CONCLUSION

- ✓ Profit-motivation is the primary driver of criminal activity on our communities
- ✓ Crime should not pay ! Removing property that facilitate crime and property derived from crime is an effective strategy to mitigate crime in our communities
- ✓ Although it should **NEVER** be the motive for police there is a secondary financial benefit in seizing / forfeiting POC and ORP
- ✓ The financial benefits can be re-invested into law enforcement activities, accessible through the 3 separate POC Grant Programs we talked about today.
- ✓ Understanding the sharing regime governing the sharing of forfeitures and the edibility criteria, encompassed in a sound and accountable framework, will increase your chances of getting your POC Grant applications accepted by the reviewing bodies.
- ✓ Thank you and invite you to call me anytime if you have any questions regarding the provincial asset forfeiture strategy for the province of Ontario.