

ANNUAL REPORT OF THE ATTORNEY GENERAL OF ONTARIO RESPECTING SECTIONS 83.28, 83.29 AND 83.3 OF THE CRIMINAL CODE OF CANADA

REPORT FOR THE CALENDAR YEAR 2004

The Parliament of Canada passed Bill C-36, the *Anti-terrorism Act* (now S.C. 2001, C.41) on December 18, 2001. Part of that legislation included a number of amendments to the *Criminal Code of Canada*. One section, 83.31, requires the Attorney General to publish, or otherwise make available to the public, an annual report for the previous year on the operation of section 83.28 (investigative hearing), section 83.29 (arrest warrant) and section 83.3 (recognizance with conditions). These sections came into force on December 24, 2001.

1. Section 83.28

Under s.83.28, a peace officer may apply to a judge for an order that a person attend at an examination to answer questions put to that person. The application can be made where a peace officer has reasonable grounds to believe either that:

- (a) a terrorism offence has been committed and that information concerning the offence or the whereabouts of a person suspected of committing the offence is likely to be obtained from the order, or
- (b) a terrorism offence will be committed and that a person has information about the possible offence or the whereabouts of an individual who may commit the offence and that efforts have been made to obtain this information from that person. The peace officer must obtain the consent of the Attorney General before making the application.

2. Section 83.29

Under s.83.29, a judge who makes an order pursuant to s.83.28 may issue a warrant for the arrest of the person to be subject to an examination where the person:

- is evading service of the order
- is about to abscond, or
- did not attend the examination or remain in attendance as required.

3. Section 83.3

Under s.83.3, a peace officer may lay an information before a judge to obtain a recognizance with conditions to be imposed on a person where the peace officer believes on reasonable grounds that:

- a terrorist activity will be carried out and
- the imposition of the recognizance is necessary to prevent the carrying out of the terrorist activity.

The peace officer must obtain the consent of the Attorney General before laying the information, except in exigent circumstances.

For the period January 1, 2004 to December 31, 2004:

1. Number of consents sought under s.83.28(2) and number of consents given under s.83.28(3): **NIL**
2. Number of orders made under s.83.28(4): **NIL**
3. Number of arrests made with a warrant under s.83.29: **NIL**
4. Number of consents sought under s.83.3(1) and number of consents given under s.83.3(2): **NIL**
5. Number of cases where summons or warrant issued under s.83.3: **NIL**
6. Number of cases where person not released pending a hearing under s.83.3(7): **NIL**
7. Number of cases where recognizance was ordered under s.83.3(8)(a) and types of conditions imposed: **NIL**
8. Number of times a person failed or refused to enter into a recognizance and term of imprisonment imposed under s.83.3(9): **NIL**
9. Number of cases where conditions in recognizance were varied under s.83.3(13): **NIL**