S.C.C. File No. 36472

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

BETWEEN:

BRENDAN PATERSON

APPELLANT
(Appellant)

and

HER MAJESTY THE QUEEN

RESPONDENT
(Respondent)

and

THE ATTORNEY GENERAL OF ALBERTA
THE ATTORNEY GENERAL OF ONTARIO
THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

INTERVENERS
(Interveners)

FACTUM OF THE INTERVENER, THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

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PART I: OVERVIEW OF ARGUMENT

1. A fair trial necessarily includes the right to be tried, not only on evidence that is reliable, but also through a process in which the admission of incriminatory evidence cannot be secured by state reliance on inherently unreliable and potentially false evidence. The British Columbia Civil Liberties Association ("BCCLA") submits that an involuntary statement should not be admitted in a *Charter voir dire* for the purpose of securing the admission of other evidence against the accused at trial.

2. In this appeal, the Court should also define the proper scope of the "exigent circumstances" exception to one of the most fundamental principles in our legal system—that individuals have the right to be free from state intrusion or interference in the sanctity of their own homes. In a proposed "no case" seizure, in which police wish to seize a controlled substance with no intention of pursuing charges or relying on that substance as evidence of a crime, there can be no exigency justifying warrantless intrusion into a person's home under section 11(7) of the *Controlled Drugs and Substances Act* (the "*CDSA*").

PART II: POINTS IN ISSUE

3. The BCCLA's submission is focused on two of the issues raised by the Appellant. First, the BCCLA addresses the admissibility of involuntary statements in a *Charter voir dire*. The BCCLA argues that a rule permitting the admission of involuntary statements in a *Charter voir dire* does not adequately protect an accused's rights to choose whether to speak to authorities. A two-pronged approach is required, consisting of a prohibition on the admission of involuntary statements in *Charter voir dires*, as well as the application of the abuse of process doctrine in certain circumstances.

4. Second, the BCCLA addresses the issue of how to determine whether exigent circumstances exist justifying the warrantless search of an accused's home for purposes of s. 11(7) of the *CDSA*. The meaning of "exigent circumstances" in the context of s. 11(7) of the *CDSA* is unambiguous; it does not permit the warrantless search of a private dwelling to effect a "no case" seizure. Alternatively, if the meaning of "exigent circumstances" in section 11(7) is considered ambiguous, the "*Charter* values" presumption supports an interpretation that does not permit warrantless searches for the purpose of conducting a "no case" seizure.

PART III: ARGUMENT

A. The Admissibility of Involuntary Statements in a *Charter Voir Dire*

(i) The Problems Posed by Admitting Involuntary Statements in a Charter Voir Dire

5. Involuntary statements should not be admitted in a *Charter voir dire*. The confessions rule is a long-established rule of evidence that "no statement by an accused is admissible in evidence against him unless it is shewn by the prosecution to have been a voluntary statement, in the sense that it has not been obtained from him either by fear of prejudice or hope of advantage exercised or held out by a person in authority."[1] The rules of evidence (including the confessions rule) are no less applicable at a *voir dire* than they are at trial.

6. The confessions rule is primarily concerned with protecting certain rights of an accused person. The first is an accused's right to exercise free will in choosing whether to speak to police or remain silent.[2] The second is an accused's right to fairness in the criminal process.[3] Permitting the admission of involuntary statements in a *Charter voir dire* weakens the law's protection of these important and widely-recognized rights. Moreover, it calls into question the repute and integrity of the justice system as a whole, in which all Canadians have an interest.

7. The traditional *raison d'être* of the confessions rule is concern regarding the reliability of confessions.[4] Involuntary confessions are more likely to be false or unreliable.[5] Although an involuntary statement is not admitted in a *Charter voir dire* to prove the guilt of the accused at trial, it is tendered to justify the admission of derivative evidence against the accused at trial. In determining the effect on the repute and integrity of the justice system, there should be no distinction between using derivative evidence against an accused and using the statement from which that evidence is derived. Whether it is the involuntary statement or evidence derived therefrom which is sought to be admitted at trial, in the eyes of the general community the detrimental effect on the accused's case is the same. Trial fairness is compromised and the repute of the justice system is likely to be diminished if the Crown secures the admission of evidence at

[1] *Ibrahim v. The King*, [1914] A.C. 599 (P.C.), at p. 609.
[2] *R. v. Hebert*, [1990] 2 S.C.R. 151, at p. 175.
[3] *R. v. Whittle*, [1994] 2 S.C.R. 914, at p. 932; *R. v. Hebert*, [1990] 2 S.C.R. 151, at p. 171.
[4] *R. v. Whittle*, [1994] 2 S.C.R. 914, at p. 932; *R. v. Singh*, [2007] 3 S.C.R. 405, at para. 29.
[5] *R. v. Singh*, [2007] 3 S.C.R. 405, at para. 29.

the trial of an accused by relying on statements which were not voluntary and are therefore likely to be false or unreliable.

8. Permitting the admission of involuntary statements also negatively affects the integrity of the justice system because it increases the risk of abusive police conduct. The confessions rule is intended to prevent such misbehaviour.[6] This Court has previously expressed concern about any rule which "would encourage police to improperly obtain statements that they know will be inadmissible, in order to find derivative evidence which they believe may be admissible."[7] This is precisely the conduct which is encouraged by permitting the admission of involuntary statements in a *Charter voir dire*. Regardless of whether a confession is admissible at trial, the Crown may rely on that confession to provide the reasonable grounds for a warrantless search and to justify the seizure of evidence discovered during that search. With such a rule, there is a foreseeable risk that police will resort to unacceptable tactics to induce an involuntary confession for the purpose of justifying a warrantless search and seizing real evidence that may be admitted against the accused at trial.

9. Lastly, a rule permitting the admission of involuntary statements impacts trial fairness and an accused's right to choose to remain silent. It would allow the Crown to seek admission of self-incriminatory evidence against the accused when the accused's involuntary assistance was vital to the discovery of that evidence. This Court has held that derivative evidence which could not have been obtained but for prior compelled testimony should generally be excluded in the interests of trial fairness. Although not created by the accused, derivative evidence "is self-incriminatory nonetheless because the evidence could not otherwise have become part of the Crown's case."[8] The admission of evidence derived from an involuntary statement gives rise to a similar concern. An accused who makes an involuntary confession not only has no choice whether to confess, but also has no choice whether to incriminate himself by providing information to authorities that leads to the discovery of other evidence that may be used against the accused at trial. An accused's right of choice, as well as her right not to assist the Crown in creating a case to meet, is not properly protected if the Crown can rely on an involuntary

[6] *R v. Hart*, [2014] 2 S.C.R. 544, at para. 79.
[7] *R. v. Grant*, [2009] 2 S.C.R. 353, at para. 128.
[8] *R. v. S. (R.J.)*, [1995] 1 S.C.R. 451, at 561.

statement to secure the admission of self-incriminatory derivative evidence that would not have been obtained but for the accused's involuntary assistance.

(ii) The BCCLA's Proposed Solution

10. A principle of fundamental justice, such as the principle embodied in the confessions rule and the common-law privilege against self-incrimination,[9] can be relied on to address gaps in the law and provide legal protection in a specific context.[10] The BCCLA's proposed solution involves a two-pronged approach that (1) recognizes the application of the confessions rule in a *Charter voir dire* where the accused seeks to exclude evidence derived from a potentially involuntary statement, and (2) relies on the doctrine of abuse of process to address potential residual concerns.

<u>Application of the Confession Rule in a *Charter Voir Dire*</u>

11. The confessions rule should apply equally to evidence admitted at a *Charter voir dire* as at trial. The trier of law must determine the voluntariness of any potentially involuntary statement sought to be admitted in a *Charter voir dire* prior to addressing any issue relating to breach of the *Charter*. Any statements ruled involuntary are not admissible in the *Charter voir dire*.

12. Where an allegedly involuntary statement is also the evidence sought to be excluded under section 24(2), this Court has already held that the proper procedure is for the voluntariness inquiry to be held first, followed by a *voir dire* on the alleged *Charter* breaches.[11] The same process should be followed in circumstances where the evidence which the accused seeks to exclude under section 24(2) of the *Charter* is not the accused's statement, but rather some other evidence.

13. One consequence of this process is that involuntary statements may not be relied upon to provide the reasonable and probable grounds for conducting a warrantless search. That result is consistent with other rules of evidence recognized by this Court. For example, informant tips or other hearsay with no proven indicia of reliability cannot provide the reasonable and probable

[9] *R. v. Hebert*, [1990] 2 S.C.R. 151, at p. 175.
[10] *R. v. Hart*, 2014 SCC 52, at para. 123; *R. v. S. (R.J.)*, [1995] 1 SCR 451, at p. 514; *R. v. White*, [1999] 2 S.C.R. 417, at para. 45.
[11] *R. v. Grant,* [2009] 2 S.C.R. 353, at para. 90; *see also R. v. Singh*, [2007] 3 S.C.R. 405, at para. 8.

grounds for conducting a warrantless search.[12] An involuntary statement is equally unreliable and therefore should be given no greater status.

14. This application of the confessions rule does not preclude police from relying on an involuntary statement to justify a warrantless search in situations where it would be reasonable to do so – because there are no such situations.

15. Contrary to the Respondent's suggestion otherwise,[13] a statement made by an accused who is drunk or who suffers from a mental illness may well be deemed voluntary. The fact of drunkenness or mental illness is not determinative of admissibility.[14] The "operating mind" test "requires only that the accused possess a limited degree of cognitive ability to understand what he or she is saying and to comprehend that the evidence may be used in a proceeding against the accused."[15] It is only "if such incapacity is shown that the accused, for example, is so devoid of rationality and understanding, or so replete with psychotic delusions, that his uttered words could not fairly be said to be his statement at all, then it should not be held to be admissible."[16]

16. Indeed, this Court has held that a schizophrenic suffering from auditory hallucinations had an operating mind for purposes of the confessions rule and ruled his inculpatory statements voluntary.[17]

17. But if the statement is not the product of an operating mind—if it is devoid of rationality—then by any credible definition, it cannot form "reasonable and probable" grounds for a warrantless search. To hold otherwise would denude those words of meaning and give police a free pass to conduct a warrantless search.

18. There also should be no concern that the application of the confessions rule in a *Charter voir dire* alters the current practice of criminal law. Trial judges routinely hold "blended" *voir dires* requiring differing burdens of proof, including *voir dires* to address both the voluntariness

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[12] *R. v. Greffe,* [1990] 1 S.C.R. 755, at pp. 791-2, citing *R. v. Debot* (1986), 30 C.C.C. (3d) 207 (Ont. C.A.), at pp. 218-219.
[13] Respondent's Factum, at para. 57.
[14] *Nagotcha v. The Queen*, [1980] 1 S.C.R. 714, at p. 716.
[15] *R v. Whittle*, [1994] 2 S.C.R. 914, at p. 939.
[16] *Nagotcha v. The Queen*, [1980] 1 S.C.R. 714, at pp. 716-17, citing *R. v. Santinon* (1973), 11 C.C.C. (2d) 121 (B.C.C.A.).
[17] *R v. Whittle*, [1994] 2 S.C.R. 914, at pp. 941-947.

of statements and *Charter* breaches. Indeed, in both *R. v Singh* and *R. v. Whittle*,[18] the trial judge dealt with voluntariness and *Charter* issues in a single *voir dire*.

19. The application of the confessions rule in *Charter voir dires* addresses the problems involving the reliability of involuntary statements and the conscription of the accused into involuntarily assisting the Crown in making its case. It also partially addresses the concern regarding police misconduct by barring the Crown from relying on an involuntary statement to provide the reasonable and probable grounds for a warrantless search.

<u>The Role of the Doctrine of Abuse of Process</u>

20. The doctrine of abuse of process guards against state conduct that society finds unacceptable, and which threatens the integrity of the judicial system. The principle grants a trial judge wide discretion to formulate an appropriate remedy, including excluding evidence.[19] In *R. v. Hart*, this Court recognized the role of the abuse of process doctrine in addressing concerns regarding police misconduct in Mr. Big operations.[20]

21. A warrantless search may still be found to be reasonable despite the inadmissibility of an involuntary statement if there is other evidence sufficient to provide reasonable and probable grounds for the search. In such circumstances, there is no assessment under section 24(2) of the admissibility of other evidence discovered during the search.

22. The BCCLA submits that the doctrine of abuse of process should be considered in such circumstances, where the Crown seeks to admit other evidence discovered during the search. Like Mr. Big operations, these particular circumstances create a significant risk of abusive state conduct such as physical intimidation, coercion and other misconduct which takes advantage of a person's particular vulnerabilities (for example, mental health problems, substance addictions or youthfulness).

23. A determination that police conduct amounts to an abuse of process should warrant the exclusion of evidence discovered during an otherwise reasonable search. Otherwise, there is a great risk that the police will resort to unacceptable tactics to secure an involuntary confession,

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[18] *R. v. Singh*, [2007] 3 S.C.R. 405, at 411-412; *R. v. Whittle*, [1994] 2 S.C.R. 914, at 926-928.
[19] *R. v. Hart*, [2014] 2 S.C.R. 544, at para. 113.
[20] *R. v. Hart*, [2014] 2 S.C.R. 544, at paras. 111-125.

knowing that although the statement may be excluded, evidence discovered during a reasonable warrantless search may still be admissible.

24. Application of the abuse of process doctrine in these circumstances ensures that unacceptable police conduct resulting in an involuntary statement by an accused is not rewarded with admissible evidence that could contribute to the accused's conviction. However, it leaves open the possibility that other evidence discovered during a reasonable search may be admitted in the absence of abusive state conduct. In this way, it provides a clear and effective deterrent to police misconduct while ensuring that effective policing is not unduly inhibited.

25. Taken together, the proposed application of the confessions rule in *Charter voir dires* and the abuse of process doctrine properly protect the rights of an accused in the specific context raised by this case. They also strike the appropriate balance between the twin public interests in effective policing and fair trial procedures.

B. Exigent Circumstances and "No Case" Seizures

(i) Exigent Circumstances in the Context of the Charter

26. The privacy interest of residents within the sanctity of their homes is a basic and long-recognized principle.[21] It has been described as "a fundamental precept of a free society" and "a bulwark for the protection of the individual against the state."[22] Indeed, this Court has recognized that "[f]ew things are as important to our way of life as the amount of power allowed the police to invade the homes…of members of Canadian society without judicial authorization."[23] The importance of privacy in the home has significantly increased in the *Charter* era.[24]

27. One of the few exceptions to this ancient principle is that a warrantless search will be permitted in exigent circumstances which make it effectively impossible to obtain a warrant. The existence of exigent circumstances is the constitutional threshold according to which a warrantless search will be permissible.[25] Warrantless searches of private dwellings conducted under any other circumstances are considered unreasonable and violate section 8 of the

[21] *Eccles v. Bourque*, [1975] 2 S.C.R. 739 at p. 743; *R. v. Godoy*, [1999] 1 S.C.R. 311, at para. 19.
[22] *R. v. Silveira*, [1995] 2 S.C.R. 297, at para. 41 (La Forest J, dissenting).
[23] *R. v. Tessling*, [2004] 3 S.C.R. 432, at para. 13.
[24] *R. v. Feeney*, [1997] 2 S.C.R. 13, at para. 43.
[25] *R. v. Grant*, [1993] 3 S.C.R. 223, at p. 241.

Charter.[26] Section 11(7) of the *CDSA* reflects this threshold: warrantless entry into private dwellings is not permitted absent exigent circumstances.

28. Exigent circumstances have been held to exist if a person's life or safety is in danger;[27] in cases of hot pursuit;[28] or if there is imminent danger of the loss, removal, destruction or disappearance of evidence.[29] The intrusion into the sanctity of a person's home is justified in each of these situations on the basis that they are exceptional circumstances requiring immediate action. As such, the state interest in ensuring safety and adequate police protection of the community outweighs an individual's significant privacy interest in their home.

(ii) A "No Case" Seizure Does Not Constitute Exigent Circumstances

29. A "no case" seizure occurs when a controlled substance is seized by police in circumstances where the police have no intention of pursuing charges against the person for possession of that substance. "No case" seizures have been described as "an extra legal concept which flies in the face of the *Charter* and cannot be condoned."[30] Indeed, the trial judge in this case rightly recognized that "no case" seizures "carry with them the potential for abuse."[31]

30. The meaning of "exigent circumstances" in the *CDSA* is clear and unambiguous. Both at common law and in the post-*Charter* era, this Court has consistently found that exigent circumstances justifying a warrantless search of a private dwelling exist only in exceptional situations requiring immediate police action to prevent serious harm. It is only at that point that an individual's heightened expectation of privacy in his home is outweighed by society's interest in harm prevention and effective policing.

31. In a "no case" seizure, the police seize a controlled substance solely to destroy it. It will never become evidence. This Court has recognized rare exceptions to the basic principle that a person's home is inviolable, and "no case" seizures do not fall within any of them: clearly, no one's life is in danger, and there is no hot pursuit. Further, there is no justification on the basis that "evidence" is in danger of being destroyed since, first, the police do not intend to use the

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[26] *R. v. Grant*, [1993] 3 S.C.R. 223, at p. 241.
[27] *R. v. Godoy*, [1999] 1 S.C.R. 311, at paras. 19-23.
[28] *R. v. Feeney*, [1997] 2 S.C.R. 13, at para. 47.
[29] *R. v. Grant*, [1993] 3 S.C.R. 223, at pp. 241-242.
[30] *R. v. Lam,* 2003 BCCA 593, at para. 32.
[31] *R. v. Paterson*, 2011 BCSC 1728, at para. 79.

seized item as evidence of a crime, and second, the authorities intend to destroy the item in any event.

32. Nor should this Court recognize a new exception permitting warrantless searches of private dwellings for a "no case" seizure. This Court has affirmed that exceptions ought to remain "exceedingly rare" in the face of the strong rule against warrantless intrusions onto private property.[32] To be exigent, the circumstances must require immediate action by police for purposes of securing and protecting a person's safety or evidence of a crime.[33] A "no case" seizure does not give rise to any need for immediate police action. Indeed, the worst outcome which could eventuate from the delay in getting a warrant is the very result which the seizure of the controlled substance was intended to achieve—the destruction of that substance. This simply cannot give rise to an exigency which justifies dispensing with the requirement of a warrant.

33. Moreover, although section 11(1) of the *CDSA* permits a search of private premises to seize and destroy a controlled substance, it requires that a warrant be issued first. This provision would be rendered largely useless if the desire to seize and destroy a controlled substance could constitute exigent circumstances, and thus also could be achieved without a warrant under section 11(7).

34. Consequently, the BCCLA submits that it is clear from a plain reading of the Act that the *CDSA* does not permit the warrantless search of a private dwelling to effect a "no case" seizure.

35. However, if the meaning of "exigent circumstances" in section 11(7) of the *CDSA* is considered ambiguous, it should not be interpreted to permit warrantless searches for the purpose of conducting "no case" seizures of controlled substances, because such an interpretation does not accord with *Charter* values.[34] The reasonableness of a search is evaluated by balancing an individual's reasonable expectation of privacy against the state's interest in law enforcement.[35] The decision by police to conduct a "no case" seizure within a person's private dwelling cannot be a situation in which an individual's significant right of privacy is outweighed by the need for effective law enforcement.[36] The apparent reason for not obtaining a warrant in this context is the

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[32] *R. v. Grant*, [1993] 3 S.C.R. 223, at p. 239.
[33] *R. v. Feeney*, [1997] 2 S.C.R. 13, at para. 52.
[34] *Bell ExpressVu Limited Partnership v. Rex*, [2002] 2 S.C.R. 559, at paras. 61-66.
[35] *Hunter v. Southam*, [1984] 2 S.C.R. 145, at para. 25.
[36] This is consistent with this Court's finding in *Colet v. The Queen,* [1981] 1 S.C.R. 2, at p. 9, that it would be dangerous to permit "the private rights of the individual to the exclusive enjoyment of his own property...to be

inconvenience to police officers in arresting the person, preparing the papers and presenting the evidence to a magistrate, when the police consider the offence relatively trivial. Requiring a warrant in such circumstances cannot have such an impact on effective law enforcement that it outweighs a person's right to privacy in her home.[37] At most, it would impose the additional "inconvenience" on police of securing a warrant prior to effecting a "no case" seizure.

36. Consequently, the danger of the loss or destruction of that controlled substance does not, and should not, constitute exigent circumstances for purposes of justifying a warrantless search of a private dwelling.

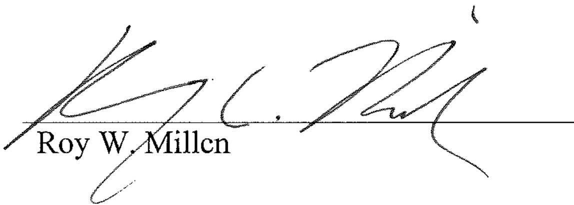
PART IV: SUBMISSIONS CONCERNING COSTS

37. The BCCLA does not seek costs, and asks that no award of costs be made against it.

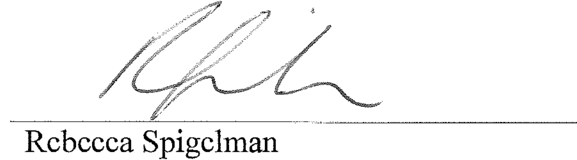
PART V: REQUEST FOR ORAL ARGUMENT AND POSITION

38. The BCCLA seeks leave to make oral argument for up to 10 minutes at the hearing of the appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 2nd day of September, 2016.



Roy W. Millen



Rebecca Spigelman

subject to invasion by police officers whenever they can be said to be acting in the furtherance of the enforcement of any section of the *Criminal Code* although they are not armed with the express authority to justify their action."

[37] *R. v. Rao*, 46 O.R. (2d) 80 (O.N.C.A.).

PART VI: TABLE OF AUTHORITIES

Case	Paragraph
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PART VII: LEGISLATIVE PROVISIONS RELIED ON

	Paragraph
Controlled Drugs and Substances Act, s. 11(7)	2, 4, 27, 30, 33, 34, 35

CONSOLIDATION

CODIFICATION

Controlled Drugs and Substances Act

Loi réglementant certaines drogues et autres substances

S.C. 1996, c. 19

L.C. 1996, ch. 19

Current to May 24, 2016

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whom it is endorsed to execute the warrant and to deal with the things seized in accordance with the law.

Search of person and seizure

(5) Where a peace officer who executes a warrant issued under subsection (1) has reasonable grounds to believe that any person found in the place set out in the warrant has on their person any controlled substance, precursor, property or thing set out in the warrant, the peace officer may search the person for the controlled substance, precursor, property or thing and seize it.

Seizure of things not specified

(6) A peace officer who executes a warrant issued under subsection (1) may seize, in addition to the things mentioned in the warrant,

(a) any controlled substance or precursor in respect of which the peace officer believes on reasonable grounds that this Act has been contravened;

(b) any thing that the peace officer believes on reasonable grounds to contain or conceal a controlled substance or precursor referred to in paragraph (a);

(c) any thing that the peace officer believes on reasonable grounds is offence-related property; or

(d) any thing that the peace officer believes on reasonable grounds will afford evidence in respect of an offence under this Act.

Where warrant not necessary

(7) A peace officer may exercise any of the powers described in subsection (1), (5) or (6) without a warrant if the conditions for obtaining a warrant exist but by reason of exigent circumstances it would be impracticable to obtain one.

Seizure of additional things

(8) A peace officer who executes a warrant issued under subsection (1) or exercises powers under subsection (5) or (7) may seize, in addition to the things mentioned in the warrant and in subsection (6), any thing that the peace officer believes on reasonable grounds has been obtained by or used in the commission of an offence or that will afford evidence in respect of an offence.

1996, c. 19, s. 11; 2005, c. 44, s. 13.

Assistance and use of force

12 For the purpose of exercising any of the powers described in section 11, a peace officer may

(a) enlist such assistance as the officer deems necessary; and

Fouilles et saisies

(5) L'exécutant du mandat peut fouiller toute personne qui se trouve dans le lieu faisant l'objet de la perquisition en vue de découvrir et, le cas échéant, de saisir des substances désignées, des précurseurs ou tout autre bien ou chose mentionnés au mandat, s'il a des motifs raisonnables de croire qu'elle en a sur elle.

Saisie de choses non spécifiées

(6) Outre ce qui est mentionné dans le mandat, l'exécutant peut, à condition que son avis soit fondé sur des motifs raisonnables, saisir :

a) toute substance désignée ou tout précurseur qui, à son avis, a donné lieu à une infraction à la présente loi;

b) toute chose qui, à son avis, contient ou recèle une substance désignée ou un précurseur visé à l'alinéa a);

c) toute chose qui, à son avis, est un bien infractionnel;

d) toute chose qui, à son avis, servira de preuve relativement à une infraction à la présente loi.

Perquisition sans mandat

(7) L'agent de la paix peut exercer sans mandat les pouvoirs visés aux paragraphes (1), (5) ou (6) lorsque l'urgence de la situation rend son obtention difficilement réalisable, sous réserve que les conditions de délivrance en soient réunies.

Saisie d'autres choses

(8) L'agent de la paix qui exécute le mandat ou qui exerce les pouvoirs visés aux paragraphes (5) ou (7) peut, en plus des choses mentionnées au mandat et au paragraphe (6), saisir toute chose dont il a des motifs raisonnables de croire qu'elle a été obtenue ou utilisée dans le cadre de la perpétration d'une infraction ou qu'elle servira de preuve à l'égard de celle-ci.

1996, ch. 19, art. 11; 2005, ch. 44, art. 13.

Assistance et usage de la force

12 Dans l'exercice des pouvoirs que lui confère l'article 11, l'agent de la paix peut recourir à l'assistance qu'il estime nécessaire et à la force justifiée par les circonstances.