



Act nets \$12m. from crime

The Proceeds of Crime Act is just two years old but it is already proving to be a formidable weapon in the fight against organised crime in Australia.

In the 18 months it's been operating the Proceeds of Crime unit in Eastern Region has placed restraining orders on more than \$12 million worth of assets involving 31 proceeds of crime actions.

Taxation assessments issued in conjunction with the POC action are expected to at least treble that figure.

"Given the short time the POC unit has been in existence, it has been remarkably successful and what you are seeing in this area is the nucleus of the way that organised crime will be attacked in the future," the Officer in Charge of the Region's Fraud and General Crime Branch, Acting Commander Alan Sing, said.

"I think POC action will grow and probably assume greater importance than the actual criminal investigation, because if you are going to really hit organised crime then the only permanent and effective way is to attack the criminals through their pockets. That's what POC legislation is all about."

The objects of the Proceeds of Crime Act 1987 are: to deprive people of the proceeds and benefits of crime; to provide for the forfeiture of property used in committing a crime; to enable authorities to trace the proceeds, benefits and property; and to help foreign countries with tracing and forfeiting the proceeds of crime.

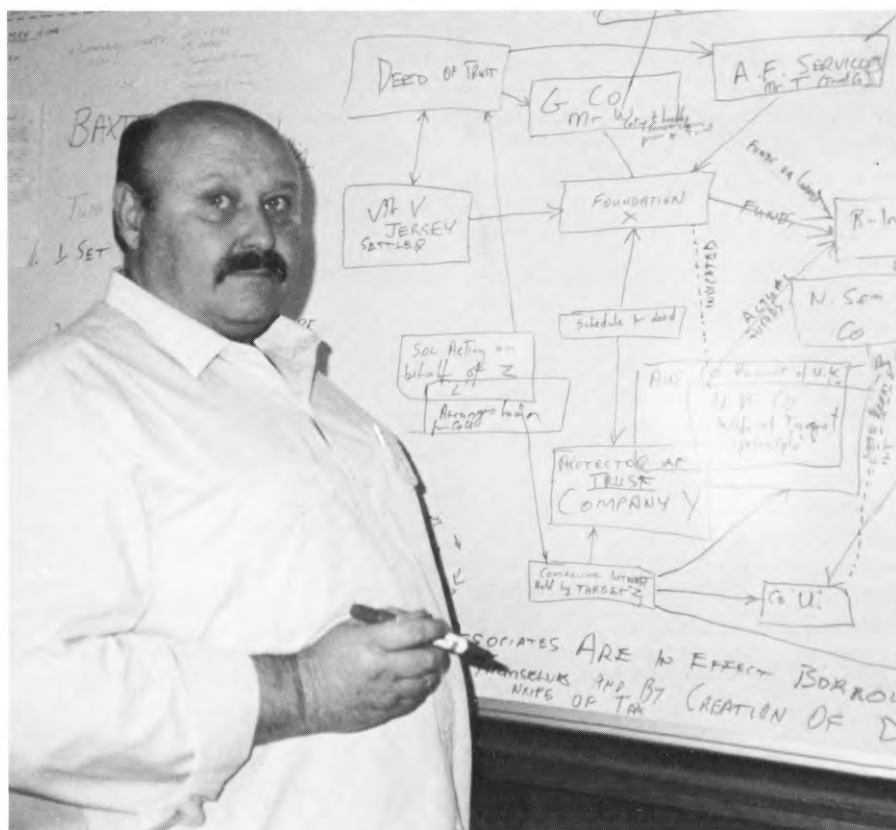
Officer Appointed

In Eastern Region, the POC unit began in February 1988 with the appointment of Sergeant Dave Clarke. The unit now has six members; two each handling drug matters, fraud matters, and matters from other Commonwealth government departments.

"Before the POC Act it was difficult for the government to recoup money from an offender, particularly if that person had been clever in hiding it," Sgt. Clarke said.

Prosecution Action

"The government could only take civil action, but the POC Act gives us the power to lift the corporate veil and get into the companies, the trusts and the assets of the criminals."



Sgt. Dave Clarke.

Most of the POC unit's work comes from prosecutions involving drug offences and social security fraud. The unit has also acted following prosecutions initiated by the Australian Customs Service, the Department of Social Security, the Department of Immigration and Ethnic Affairs, the Department of Employment, Education and Training, the Department of Defence, and Australia Post.

Sgt. Clarke says the onus is on every AFP case officer to involve the POC unit in investigations. The POC unit also monitors all occurrence entries in the Region to keep a check on arrests.

POC action is administratively very expensive and is not taken unless it is economically viable, although the Director of Public Prosecutions ultimately decides whether an action should proceed. He also meets the cost of any action.

The POC unit in Sydney has an excellent relationship with the DPP. "When I bring an affidavit before the court, the DPP's analytical accountants put the information together in a way that can be easily understood, particularly with flow charts that set out business and company relationships," Sgt. Clarke said.

"The information is set out on my affidavit but if the court asks detailed questions, the accountant can answer."

All POC actions are taken before the Supreme Court with the exception of search warrants which are applied for in a Magistrates' Court.

When someone has been, or is about to be, charged with an indictable offence, the POC unit gets details for an affidavit for a DPP application to the Supreme Court for a restraining order prohibiting the disposal of specified property.

Similarly, the POC unit can apply to the court for a production order requesting banks, building societies, accountants, solicitors and family members and associates to produce documents about the person's financial affairs.



These documents, examined by the POC unit and the DPP's analysts, may in turn reveal more information and further production orders or search warrants can be sought.

Monitoring orders are also used by the POC unit to trace property and assets. Under this system the POC unit asks the court for an order directing a financial institutions to give information periodically about the person's financial transactions.

The monitoring orders often provide the POC unit with valuable information about the criminal activities of people under investigation.

All affidavits to the courts for such orders have to be extremely accurate.

"In the case of a person who has not been convicted of an offence, we, in effect, need to show a prima facie case against them," Sgt. Clarke said, pointing to a 20 page affidavit with 43 annexures on his desk which took several weeks to compile.

Specialists

The POC unit is a specialist area.

"It is virtually essential for an officer to have a good knowledge of the banking system, otherwise he won't know what documentation is relevant and what should be requested," Sgt. Clarke said.

"Two of our officers have worked in the special prosecutions section of the Fraud and General Crime Branch, dealing with taxation fraud. Another officer has had a lot of experience in bankruptcy cases and all of us have had at least six years experience in fraud investigations."

The value of the DPP's analytical and legal officers was manifold.

"I like to work with an analyst who is not a police officer because police, through our training, tend to look at information in terms of whether or not it is evidence," Sgt. Clarke said.

"The analysts at the DPP have a different way of looking at information or documentation and they can often point us in a different direction."

"I like to take an analyst with me when I'm executing a POC search warrant in the larger and more complicated matters."

Members of the POC unit try to accompany investigating teams, particularly the Drug Investigation Section, on their searches.

Investigations

"The drug squad is looking for drugs, money and probably bank books on a raid. We are looking further down the track at property details, shareholdings, overseas payments, names of accountants and solicitors and so on," Sgt. Clarke added.

The POC unit members spend a lot of time at the Corporate Affairs Commission doing company searches, and at the Registrar General's Office checking on property ownership and mortgage details.

Action

Those sources provide a start for building information about a person's property and assets because one detail or document will usually lead to another. The difficulty arises in deciding what information is relevant.

POC action can be taken up to six months after conviction.

"We may not have found any assets or property when a person was convicted but if they have received a long gaol sentence they may decide after a while to sell their house or dispose of shares etc, that were previously hidden," Sgt. Clarke said.

"If we find out, we can act."

All POC actions being conviction-based, the time taken to complete an action, and ultimately the forfeiture of assets or proceeds of crime, is lengthy. Only two actions have been completed in the Eastern Region POC unit so far.

"We can expect most convicted offenders to challenge our POC actions in the courts," Sgt. Clarke said, "because they are losing everything they have 'worked' for, and that's what really hurts them."

Recruitment

Acting Commander Sing called for the recruitment of financial analysts to complement the accounting experts used from the DPP and the Tax Office.

He also said the Tax Office experts should be given analytical training so they could chart investigations to make the information more accessible to police investigations.

He added that it would be an advantage to have legislation — similar to that used by the US Secret Service and the US Drug Enforcement agency — under which seized assets such as cars, boats and aircraft could be used by the AFP operationally.

As the assets became redundant they could be sold and the proceeds used to buy other equipment to enhance operational capabilities.

He said the Customs Act would allow the AFP to use seized narcotic-related goods, such as motor vehicles, for its own purposes but administrative problems had stopped this happening. At present the AFP had to pay to maintain and store seized assets, but the proceeds from auction went to public revenue.

SAILOR

Acting Sergeant Dieter Tietz of the Tuggeranong Station only started sailing in the 1989 season after completing a sailing course in small dinghies at the beginning of 1988.

Shortly afterwards he bought his first boat and began racing at the Canberra Yacht Club.

Dieter recently took out the CYC award for the Most Improved Skipper.



Dieter gets his award from Rear Commodore (Training) Robert Redfern at the Canberra yacht Club.