



SURREY POLICE - PAPER FOR PCC MANAGEMENT MEETING

Seizure of Criminal Assets

Purpose

The purpose of this paper is to inform the Police and Crime Commissioner on the work that Surrey Police is doing to part criminals from the proceeds of their criminal acts, including the work of the teams engaged in this specialist area, and how seizures are and will be used to support the Police and Crime Plan. The paper also provides background in terms of key powers available.

The Legislative Framework

The Proceeds of Crime Act 2002 (POCA)

POCA is a civil remedy but can have penal outcomes for both the criminal and those who seek to assist them, including legal and financial professionals. Applications can be made under POCA to retain seized cash exceeding £1000 and it is not necessary to secure a criminal conviction in order to make a claim. As it is a civil remedy, the burden of proof is the lower 'balance of probabilities'. Claiming does, however, come at a cost as the Court application fees are £200 plus a further £300 should the matter be listed for a contested hearing. In addition to this, there are the solicitor and barrister fees necessary should the matter be contested.

POCA can also be used to seize cash or assets such as property or vehicles belonging to a convicted criminal, where these have been bought with the proceeds of crime. The proceeds of confiscation orders are shared by many agencies according to the following ratio: Police 1/6, Her Majesty's Courts and Tribunals Service 1/6, the Crown Prosecution Service 1/6 and the Government 1/2. This money is claimed back from the Home Office and should be used to fund recovery work, crime reduction projects or community projects. Surrey Police continues to use this money to pay for five permanent Accredited Financial Investigators and two temporary Financial Intelligence Officer posts, who carry out wider financial investigation work beyond securing funding for their unit, to the greater benefit of Surrey Police and the wider community. Whilst the majority of seized assets are taken up with these funding arrangements, there is a small surplus for which options are being explored for visible operational policing.

Over the course of the 2013/14 financial year, the Force has used POCA to recover assets to the value of £1,221,386. Whilst the final total is not yet known, the receipts from the Home Office for Q1 – Q3 stand at £335,524.56, which is an increase of over 45% on the receipts for the whole of the financial year 2012/13.

Misuse of Drugs Act 1971

Section 27 (1) of the Misuse of Drugs Act 1971 permits the court to order the forfeiture of property, such as cash, drugs, smart phones, weapons or vehicles found in the possession of the convicted person and used to commit offences under the Misuse of Drugs Act 1971. An application is made upon conviction for the Judge to order that all the seized assets be forfeited; this allows for the sale of assets and the proceeds, together with any cash seized, to be retained by the Force. Surrey Police has successfully secured the forfeiture of an Aston Martin used by a convicted drug dealer; this was subsequently sold and the proceeds retained.

This Act has the advantage over POCA of having no 'de minimis' rule, so it can be used to seize small amounts of cash. In addition, the Force retains the full value of the seized cash and assets, and an application for forfeiture incurs no extra costs such as court fees and legal fees, but it is reliant upon securing a criminal conviction. Monies received under this Act are retained and ring-fenced to be used for capital purchases that assist the Force in the fight against drug-related crime.

Recent purchases from Misuse of Drugs Act funds include £55,000 on Home Office approved machines - one to test for drugs in custody and one to test for traces of drugs on bank notes. The former can currently only be used to test for ketamine, but avoids the cost of routinely sending all substances away for testing, which costs between £80 and £100 per sample and adds delay. Funds have also been used to purchase three thermal imaging cameras to help detect cannabis production sites; previously this could only be done from a helicopter, which was more expensive and not always available.

S143 Powers of the Criminal Court (Sentencing) Act 2000

Section 143(1) of the Powers of the Criminal Court (Sentencing) Act 2000 allows a Court to deprive an offender of property used, or intended to be used, to commit or facilitate the commission of any offence – this is not necessarily the offence for which the offender has been convicted. This section works in a similar way to the Misuse of Drugs Act power above. An application can be made upon conviction for the Judge to order that all the assets seized by the Police be forfeited and sold, and the proceeds be retained by the Force. Monies received under this act are retained and held in a dedicated account; there is currently a minimal amount held in this account.

Raising Awareness of Cash Seizures

POCA

The Economic Crime Unit (ECU) provides all probationer officers with training on POCA issues. The ECU also provides more in-depth training as part of the Detective development programme, and for new analysts and researchers working in the Intelligence Operations Hub. In addition, training is provided upon request to other parts of the business and partners in Her Majesty's Courts and Tribunals Service.

To ensure continuing staff understanding of POCA, the Surrey ECU ran an article in the March edition of the staff magazine, Offbeat, that emphasised the importance of cash seizures and provided relevant links to information. More recently, the Sussex ECU has embarked on an ambitious programme to train divisional managers at Inspector level in

Proceeds of Crime Management. This bespoke course has been developed with the City of London Police and National Crime Agency (NCA), and is due to be delivered in Surrey over the next quarter.

A second strand of training improvement is to create greater resilience within the Financial Intelligence function by up-skilling existing research staff within their Intelligence Units to become adept at financial crime enquiries. This is relevant and important work that supports the case investigations of divisional Criminal Investigation Department (CID) staff as well as providing resilience for more serious and complex organised crime operations and major crime events. Surrey Police is looking to follow Sussex Police in doing this once it has been assessed.

Misuse of Drugs Act 1971

The Force has a team of three Drugs Liaison Officers (DLOs), one per division, who provide training to all probationers as well as other teams, such as Safer Neighbourhood Teams.

Operational overview of the Economic Crime Unit (ECU)

The ECU is essential to POCA seizures. A key area of their work is the management of Suspicious Activity Reports (SARS). These are received in high volumes but do not necessarily contain any actionable intelligence. Surrey Police are currently assessing how SARS are managed, and adjusted the review and action criteria so they follow current crime trends rather than the generic bulk category reporting. There is also now an emphasis on information that strongly indicates involvement in large-scale money laundering, investment fraud, romance fraud and boiler room scams and key recent successes include:

- The arrest of a suspect who had created 500 false bank accounts to defraud e-Bay and PayPal of at least £200,000. This total may increase as the investigation continues.
- The conviction in March 2014 of four people in the first trial for Operation Callahan, which began in 2009 and concerned the fraudulent use of sim cards and stolen credit cards from South East Asia. The process has now started to identify and confiscate criminal assets from these crimes. So far, transactions of up to £1.1m have been identified and will be reviewed for suitability for another money laundering investigation.

36 Organised Criminal Groups (OCGs) are currently subject of police operations. 17 of these are also subject of POCA enforcement. Six OCGs are being tackled by the Surrey-Sussex Economic Crime units.

Future Use of Seized Assets

The Chief Officer Group recognise the importance of maximising visible operational activity by using seized assets to fund this, and it remains a priority for them and the PCC. Assistant Chief Constable Gavin Stephens and Assistant Chief Constable Stuart Cundy are currently working up options to achieve this, and it is anticipated that plans will be presented to the PCC before the summer.