

**PARLIAMENTARY JOINT COMMITTEE ON THE AUSTRALIAN CRIME
COMMISSION**

**Inquiry into the legislative arrangements to outlaw serious and
organised crime groups**

**Question taken on Notice by AFP during In-Camera hearing 6
November 2008.**

Mr. WOOD – I will just ask a question which follows on from the Senator's. In regard to the amount of money you are putting into resources for the money recovered, do you have some indication? (reference to Project Wickenby)

AFP Response

Project Wickenby:

The AFP has been allocated \$59.6million over five years to investigate tax avoidance and tax evasion matters including the disruption and deterrence of off-shore tax evasion schemes.

AFP monetary allocations consist of:

- \$1.6 million in the 2005/06 financial year for 9.5 Full Time Employees (FTE);
- \$16 million in the 2006/07 financial year for 86 FTE; and
- approximately \$13.5 million for each of the 2007/08, 2008/09 and 2009/10 financial years for 69 FTE.

The staff numbers identified include investigators and support elements including surveillance, technical specialists and computer forensics.

Of the current funded FTE, a total of 42 is for investigators with the AFP supplementing investigations teams where required from core funding. The AFP currently has ten active Project Wickenby investigations utilising approximately 50 investigative personnel. A single AFP operation involves the investigation of the principal promoter/s, a number of domestic intermediaries and many potential participants. In one matter alone, 23 persons are predicted to face court by operation end (17 currently before court) with many additional taxpayers dealt with by way of audit and application of administrative penalties.

Collective Project Wickenby Results (Results to end November 2008):

- twenty eight (28) people have been charged with indictable offences;

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- twenty three (23) criminal investigations involving multiple parties are underway with several defendants indicating that they intend to plead guilty to charges;
- there have been thirty four (34) convictions for summary tax offences;
- three (3) people have been convicted for indictable offences, and two more are to face sentencing hearing on 20 February 2009 with further prosecution results expected as Project Wickenby investigations continue;
- while Project Wickenby is not a revenue raising initiative, Project Wickenby is progressively paying for the initial \$305 million Government funding allocation with the following whole of project results to date:
 - \$265.17 million in liabilities have been raised;
 - \$84.16 million in taxes have been collected;
 - assets alleged to be proceeds of criminal activity with a value in excess of \$75 million have been restrained with in excess of \$2.4 million in proceeds of crime being forfeited to date; and
 - an additional \$74.76 million has been achieved through increased tax collections in subsequent years by those who have been subject to action by the Project Wickenby taskforce.
- collectively, Project Wickenby agencies have been actively focused on detecting, deterring and appropriately treating those involved in abusive tax haven/evasion arrangements.

Money Laundering / Proceeds of Crime

The PoC Act commenced operation on 1 January 2003. Many cases which commenced in the first years of application were strongly defended. With the law very new, the time required to litigate cases was sometimes extensive. There are some cases that are resolved through negotiated settlement in the same year they are commenced, however this is more the exception than the norm.

The process of criminal asset investigations is to locate and secure funds under the effective control of people who are suspected of having committed serious offences in anticipation of seeking a forfeiture order or using the restrained funds to satisfy a pecuniary penalty order. In order to prevent the dissipation of assets during the overt investigation phase assets are restrained at the earliest opportunity with the CDPP providing an undertaking of liability as required under the PoC Act. The outcome is that the time frame from when restraint is sought and assets are realised/forfeited is often up to and even exceeding 2 years. When assets are restrained they may be removed from the possession of the suspect and placed under the control of the official receiver (ITSA) however in many cases houses, businesses and vehicles remain in the possession of the suspect and are only restricted in that they cannot be sold without the approval of the court through a variation in the original restraining order.

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The PoC Act incorporates strong protections to ensure that innocent people and those who have an innocent interest in restrained assets have an opportunity to have their claim heard by the court.

The AFP has dedicated Asset Forfeiture Teams located in each major office staffed by sworn Police members, unsworn support staff, unsworn financial investigators and financial analysts.

In the 2008/09 financial year to date, the AFP has restrained \$16.36 million in assets, with forfeiture orders obtained with respect of assets valued at \$934,722.00. Pecuniary penalty orders to the value of \$492,389.00 have also been obtained.

In the 2007/08 financial year, the AFP restrained \$36.65 million in assets with forfeiture orders obtained with respect of assets valued at \$9.91 million. Additionally, pecuniary penalty orders to the value of \$2.86 million were obtained.

ITSA advise that the value paid into the Confiscated Assets Account for the 2007/08 financial year was **\$19.01M in net ¹receipts** after all ITSA administration and realisation expenditure has been deducted. This amount includes orders made in previous years and money received from other agencies including the ACC.

¹ Net amount is a product of ITSA costs, Court determination of the amount of the restrained funds associated with the crime (restraint is often taken on whole assets where part of the value may be criminally derived), and the realisation of the asset which may be sold for less than it's valuation at the time of restraint. Associated AFP costs, staff and administrative costs, are not deducted.