

Submission to Organised Criminal Groups

Legislation (position paper)

Formal responses to the position paper will be addressed in the order in which they are raised in the document.

The Bandidos Motorcycle Club Australia will be hereinafter referred to as BMC.

This is their formal submission.

Ministers Forward pg3 paragraph 2

The suggestion that BMC are associated with the importation/distribution of Methamphetamine (ICE) is categorically refuted by BMC, and is completely unsubstantiated. Distribution, possession, or use of ICE is and always has been totally prohibited in any way shape or form, and is not tolerated whatsoever. Violation of this rule is met with the minimum penalty of instant dismissal. No existing member of BMC has had ICE related convictions, to the very best of our knowledge.

Proposals pg5 proposal 8

By virtue of its own prescribed determination, and to the very best of our knowledge, no existing BMC member has engaged in serious criminal activities while being a member of BMC in Tasmania.

Introduction part 1 page 8 paragraph 1

While we agree that serious crime touches the lives of all Australians in unprecedented ways. The Australian Crime Commission's estimated cost does not reflect or acknowledge the true percentage of serious crime related to OCMG's is less than 2% nationwide.

Page 8 last paragraph

Clearly the unknown author of this document is suggesting to be privy to BMC's interpretation of the 1% symbol as declaring ourselves to being NON law abiding, this is contrary to our actual view that the 1% represents us as being the Top 1% of Motor Cycle Clubs that is positive and good. And for him/her to suggest that the remaining 99% of motorcyclist's are recreational who gather purely to socialise and ride motorcycles reflects a narrow view, and clearly at odds with reality, while not being prepared to concede that is the basis on which BMC unites.

Examples of Violence page 9, 10, and 11

Due to the complete absence of any BMC participation, in the lengthy report compiled over three decades other than the tragic and regrettable altercation September 2 1984 (34 years ago) at Milperra, we conclude the application of the legislation including BMC is questionable. Suggestion of BMC member's involvement in matters contained in paragraphs 2 and 9 on page 10 is untrue and misleading. The suggestion that BMC is involved in the manufacture and distribution of ICE is unsubstantiated and defamatory, BMC is widely known for its negative view on ICE and is reflected by the fact no current BMC member to the very best of our knowledge has any convictions relating to ICE offences Nationwide.

Part 2 Discussion of Issues.

By virtue of its own definition the International Covenant on Civil and Political Rights (which includes the freedom of association) would render consorting laws invalid. While the High Court determined the legislation reasonably appropriate in the prevention of crime, the burden of proofs must fall on the State to demonstrate such was the purpose for that Association, otherwise that association must be deemed lawful.

While this legislation claims to non-discriminatory it states that consorting with family members be extended to Kinship relationships between Aboriginal people. KINSHIP = close to others due to similar backgrounds or similar feelings or ideas. As defined by Dictionary .com 2018.

Page 15 No Right of Appeal,

It is unclear if this is proposed in this proposed legislation?

Prohibited Item Legislation page 18 paragraph 1

Authorities identify selected Motorcycle Clubs as Declared Criminal Organisations, however to do so is a formal process that has never been undertaken or applied to BMC. No such Act or legislation has been applied and should not be confused with the Taskforce of organised crime legislation 2016.

Wearing or carrying prohibited items in a public place page 19

The enforcement of this alleged offence is fraught with difficulties in that the BMC insignia (patch) is a registered trademark and is therefore subject to the protection that affords. There is no doubt in time that will be put to the test. All Acts referred to in this section clearly refers to various liquor Acts pertaining to licenced premises only, which are reluctantly adhered to as they are not Law.

Page 20 paragraph 1

The Minister is unable to demonstrate that any BMC member in Tasmania has either engaged in or committed a relevant offence of which he has been convicted while being a participant in that entity. Simply due to the fact it has not occurred.

Page 20 Paragraph 2

The change of Declared Criminal Organisation (although is a term that is commonly used) to identified organisations, is due to the legal requirement to exercise proof that the proposed organisations are in fact formed for criminal purposes

Page 21

This page is nothing but unqualified opinion with no statistical merit whatsoever Mr Hunt, Mr Morrison, and Mr Taylors whose qualifications are unclear are at odds with reality. Their inferences are simply unsubstantiated opinions and nothing more than propaganda in our view.

Page 22 paragraph 1,2,3,4

If one member was to become three, this also constitutes a 300% increase. These comments are another example of hysteria being whipped up by this unknown author, under the thinly veiled guise of public concern. No BMC members have moved to Tasmania as stated by AFP acting commander Anthony Hill and no such business model exists that he has referred to. It is commonly known BMC's views on ICE is that we distance ourselves from it in every way shape and form.

Proposal 8 Page 23

In determining whether or not to prescribe an organisation. The Minister must have regard to whether any person has, while been a member of, or a participant in an organisation, engaged in serious criminal activities or been convicted of an offence involving public acts of violence, or damage.

That being the case, he is unable to do so as it simply has not occurred.

In Summary

Based on the criteria necessary for the Minister to determine a Prescribed Organisation (proposal 8) the BMC must be determined = EXEMPT

Examples of OMCG's Violence. In an effort to justify the proposed legislation pages 9,10,11,12, a record of over 3 decades of incidents has been portrayed. None of these demonstrates BMC as being the perpetrator, other than the Historical and regrettable altercation at Milperra on September 2 1984. This being the assessment criteria BMC must be determined = EXEMPT

It is our view that Motorcycle Clubs will never be legislated out of existence. This proposed legislation by State Authorities does not address the issues for which it is claimed to support, and will simply drive Motorcycle Clubs further into obscurity. This creates a negative result.

It is also our view that Motorcycle Clubs and Communities (of which we are a part) should endeavour to cultivate a forum in which we collectively construct initiatives in an effort to address public concern. Given that opportunity the BMC would gladly and sincerely participate.

This Submission For and on Behalf of the Bandidos Motorcycle Club Australia

