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To whom it may concern,

I would like to make a submission in relation to the "Organised Criminal Group Legislation" position paper as found on the Tasmanian Police website.

As an Australian Citizen I believe there are several areas of grave concern contained in the above document and every point I make is directly related to the above mentioned document.

Proposal 1, states that it wants to amend the current Tasmanian laws to reflect the conviction based laws of other states to stop alleged consorting of persons **convicted** of a serious offence.

Now to have been "convicted of a serious offence" a person has been found guilty in a court of law, where a suitable punishment was imposed in relation for that offence by the courts. Serious offences usually require a jail sentence. So once the sentence has been served the matter is considered closed. However Proposal 1 wishes to continue the punishment by restriction of whom and when they can associate with based on prior conviction, which is no indication of future offence, therefore making a said person guilty without offence or charge, based solely on a presumption they may reoffend.

It should also be noted that the nature of the term "serious offence" is not defined in this document, and there is no mention of a Statute of limitations in relation to the serious offence in Proposal 1. This means a person convicted of a serious offence 20 or more years ago (without any subsequent charges or convictions in that time) could be supplied with a consorting warning notice under the current proposal, against another person with an unrelated serious conviction from 10 years ago. This is simply unacceptable and extremely vague at best.

On page 15 of the OCGL position paper, under the heading Constitutional Issues, it states that "laws that limit association between people to prevent future harm or crime already exist, including family violence orders and restraint orders" Now while this is true the nature of these laws is very different to the Proposed legislation. In that they are sought from one individual against another and done before the courts, **Not** imposed upon by the police between two or more individuals with no issues between them without rational reason or justification.

Proposal 6 states the intention to ban the wearing of club "colours" in public places as based on the Queensland model already in place. To "limit" the alleged perceived possibility of the public feeling threatened. There is no evidence at all that these measures are in any way effective or even relevant and have nothing to do with public safety. In a stark contrast to the "Banning of the Burqa" where a specific group of people wear items of clothing to hide their identity based on their culture, with a very real public threat of terrorism, Proposal 6 wants a ban on a specific group of people from wearing items of clothing based on their culture that clearly identifies who they are. There is no consistency in these Proposals with current Australian laws across the board and is discriminating in nature. Where is the logic in making any group of people harder to identify, this will cause an increase of harassment by Police as they will be required to check all motorcyclists across the state regardless of being a club member or not, as there will be no other way to check if they are consorting convicted criminals or just two people going for a ride. Laws are made to be enforced, so this will happen! This will be a complete and unnecessary waste of time and tax payer money for both the public and police resources.

On page 20 of the OCGL position paper under the heading South Australia it states "since introduced legislation similar to Queensland in the banning of prohibited items in licenced premises, that the level of violence in the community promulgated **by** motorcycle clubs had decreased". This is the best evidence that the above proposals are nothing but a "Smoke and Mirrors" Legislation. The plan is to take away the identity to "make

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them un-identifiable", and hence seen as a victory. It's the same people visiting the same places just in different clothing. How is this good policy or seen to be effective in reducing the alleged violence? It would only change the nature of any such incident to "between members of the public" instead of "members of a motorcycle club".

Proposal 7, states the Minister for the department of Police, Fire and Emergency Management has the power to prescribe which groups are identified, if they are satisfied the wearing of colours **may**; cause members of the public to feel threatened or intimidated, or **may** otherwise have undue adverse effect on the health of members of the public.

Now given the unstable nature of the Government (over the last 10-15 years), and consistently changing Ministerial roles from all side of politics, it seems quite strange that the Minister at that time should have the power to prescribe by regulations which group are "identified", based on the opinion of the police they are representing. This seems all too convenient for the Police and clearly a conflict of interest. What happens when the Ministerial roles changes and the new Minister has a different view? Do the regulations get removed? How does the Minister determine the mindset of the majority of the public as to whether they may **feel** threatened? We are a democratic state where the laws are based on majority of the population, are we not? Considering we have a legal system with a lot more stability and is non-biased, surely this matter should go before the courts, it is after all a legal matter not a ministerial one.

Proposal 8 states "in determining whether or not to prescribe an organisation, the Minister must have regard whether **any person** has while a member or participant in an organisation, engaged in a serious criminal activity or been convicted of an offence involving public acts of violence".

Once again the Minister has the power to prescribe based on the acts of ANY person in an entire organisation. So the act of a single person will have consequences for the entire organisation. Does this apply only to a Motorcycle club? What about a Football Club? Or a Yacht Club? Or a Golf club? What if they are a member of all these clubs, do they all get prescribed? Or a member of the Police department (as currently before the courts)? What happens if the "Any" person leaves as organisation? Does the Prescription get revoked for the entire organisation?

On page 22 of the OCGL proposal paper, under the heading Prohibited Item Legislation it states, "Jurisdictions across Australia have introduced various pieces of legislation in an attempt to protect the community from fear and intimidation". Yet on the same page it quotes the Australian Crime Commission Report of 2015, "that there has been an escalation in outlaw motorcycle club-driven violence". This report is several years after the base model proposals for Tasmania, were implemented in other states. The Australian crime commission report is quoted several times in this document alongside all the "Examples of violence" listed on pages 9, 10 and 11 of the OCGL position paper, most of which are in the states where the Proposals are already in place. The Organised Crime Groups legislation position paper makes it very clear that the proposals listed in it **DO NOT** and **HAVE NOT WORKED** in the last Decade of Mainland Australian States where the current Proposals are already in place. So why waste Tasmanian taxpayer time and money on a set of regulations that does not work by its own admission???

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This Document intentionally paints the picture that **ALL** members of motorcycle clubs are nothing but drug trafficking thugs, this is clearly not the case especially in Tasmania. The culture is very different to the mainland states. While I can acknowledge there may be individuals who participate in illegal activities of their own accord, and should be held responsible for their individual actions. The fact that they may also be a member of a particular motorcycle club or other organisation, in no way warrants any sort of blanket legislation that punishes the innocent. Motorcycle Club members are also members of the public, fathers, brothers, business owners, tradespeople, retailers, health care workers and so on, who enjoy riding motorcycles with like-minded people.

After reading the "Organised Criminal Groups Legislation position paper" I was really quite appalled at the level of vagueness and inconsistencies that it contains, considering the nature of seriousness that it is supposedly based upon, and would call for the entire document to be scrapped.

Regards

Adam Schmidtke

