

The Inspector
Legislation & Development Review Services
GPO BOX 308
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Dear Sir/Madam

SUBMISSION REGARDING ORGANISED CRIMINAL GROUPS LEGISLATION – POSITION PAPER

Proposal 1

Modernise the existing consorting law in the Police Offences Act 1935 to render it consistent with the legislation in other jurisdictions that is conviction based. This replacement offence will prohibit a person aged 18 years or more, who has been convicted of a serious offence, from habitually consorting with another nominated person, aged 18 years or more, who has also been convicted of a serious offence.

Current academic analysis of this failed legislative approach would suggest that the proposal lacks meaningful insight given the lack of outcomes achieved. It is noted that the current laws already in place are more than sufficient to deal with any issues that may arise. Are we really going to follow the lazy politics instigated by Queensland? It would be political suicide given the past history of what has transpired by the Queensland government to bring in such legislative measures that has little to no effect yet impinges of the fundamental rights and freedoms of every Australian.

Proposal 2

Change the consorting law so that a prohibition on association only applies after that person has been supplied with a written consorting warning notice issued by an Officer of Police (i.e. the rank of Inspector or higher).

Unfortunately for the large group of motorcycle community, the innocent will be caught up in this policing and will be frustrated by these meaningless laws. The good news is that the Tasmanian community have an equal vote and will soon realise that these laws are wasteful of the finite resources. Although these laws may give the Minister his five minutes of publicity, that will soon turn sour given the innocent that will be caught up and will have to defend their actions through the court process. The cost to justify and pursue the States reasoning will ultimately provide politically fatal to those that were involved in the instigation of these already recognised failed laws.

Proposal 3

Allow for review mechanisms when a person is given a consorting warning notice, so that a person issued a notice can seek review from an Officer of a higher rank, and if still aggrieved, may then apply to a Magistrate for a notice to be revoked.

This proposal for review lacks common sense as the costs to the State and the individual will be overwhelming. The time involved of our limited police and court resources is not being considered fully by the Minister. A true accounting of the financial effects of this legislation needs to be conducted to justify the additional police, judicial, prison and clerical resources that will be needed to attend to these recognised failed laws. Given our limited financial resources are we really going to take monies from other crucial areas such as health, education, infrastructure and the elderly to give the Minister his five minutes.

Proposal 4

Create a number of defences to consorting for associating with family members, in the course of other identified lawful activities.

The mere suggestion that someone is consorting as they are part of a State identified criminal group lacks common sense. If someone serves their time after committing a serious offence does that mean that they are to be branded a criminal forever by the State? This seems to be an absurdity. The damage that this legislation will do to our international community may have an adverse effect on the financial position of the State not considered by the Minister. We have recently moved forward by dismantling the previously discriminatory laws against the homosexual community, are we now to go backwards and join the other short sighted police States and damage our international reputation?

Proposal 5

A statutory time limit of five years will apply to the length that a consorting warning notice is valid.

Already covered sufficiently

Proposal 6

Prohibited item legislation similar to Queensland be introduced via amendments to the Police Offences Act 1935. Under such a model, it would be an offence for a person to wear, carry or openly display in a public place (or in/on a vehicle in a public place) clothing, jewellery or other insignia that show the patches, insignia or logo of an 'identified organisation'.

The damage this will cause to our community and visitors coming to this proposed police State will have devastating effects on the Tasmanian small business community that depend on the trade of visitors coming over to Tasmania. It is highly recommended that a study into the long terms effects on the small business community be conducted before we start

arresting people over what they wear in public. Many people in the community like to wear diverse clothing and jewellery, unfortunately, this proposal lacks any real appreciation of the diversity in our community.

Proposal 7

That the Minister for the Department of Police, Fire and Emergency Management has the authority to prescribe by regulations which groups are identified, if they are satisfied that the wearing of the prohibited insignia relating to that organisation may:

- *cause members of the public to feel threatened, fearful or intimidated; or*
- *may otherwise have an undue adverse effect on the health or safety of members of the public, or the amenity of the community, including by increasing the likelihood of public disorder or acts of violence.*

Already sufficiently covered

Proposal 8

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

Members of the clergy, police, trade unions and politicians themselves have engaged in serious criminal activity or have been convicted of an offence involving public acts of violence and/or damage. Are those organisations going to be submitted to the same standard of criteria to judge a prescribed organisation or are they exempt from being targeted by the State? This determination needs to be open and transparent and should be left to the judgement of the Court and not be left in the hands of a Minister given the seriousness effects that such a prescription would have on the freedoms and liberties of individuals.

Yours Sincerely,

Justin Kennedy.

