

TASMANIAN MOTORCYCLE COUNCIL Inc.



7 May 2018

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Tasmanian Motorcycle Council Inc.

Representing all 50,000 licensed motorcycle riders and their associates.

Submission

Into

Organised Criminal Groups Legislation

**The TMC is totally against the
proposed Legislation**

468 Westbury Road, Prospect, Tasmania 7250

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ABN: 89 799 173 079



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The laws that Tasmania has is sufficient for any crime that is committed by anyone.

- The TMC is supportive of any law that dissuades any person of breaking the law.
- If a person is found to break the law, we support the use of the established legal process.
- We support laws along with courts in the fight against crime.
- We do not support a minister or a police officer being placed in the proposed process.
- Consorting orders should only be given by the court, and through the court process.

**Review of police use of powers under the Crimes (Criminal Organisations Control) Act 2012
NSW Ombudsman November 2016.**

Chapter 6. Conclusion

The scheme established by the Crimes (Criminal Organisation Control) Act 2012 (the Act) promised police a new and novel approach to dealing with crime of this nature. By restricting members of criminal organisations from associating with each other and recruiting new members, the legislation aimed to disrupt their activities and, in doing so, prevent crime.

The model appealed to Parliaments in six of the eight states and territories around Australia, with all passing similar legislation in the space of four years. This was in the climate of rising concern about the threats posed by organised crime and in particular, the activities of Outlaw Motor Cycle Gangs.

Despite high expectations, however, in practice no police force in Australia has been able to successfully utilise the legislation.

The NSW Police Force made a decision to direct resources to using tools that are more practicable to implment, and more effective in policing the activities of organised criminal groups, appears reasonable. Conteinuing to devote resources to the process of seeking declaration would not be in the public interest.

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Conclusion

The Crimes (Criminal Organisations Control) Act 2012 should be repealed.

I have made this the only recommendation in my report.

Professor John McMillan

Acting Ombudsman

NSW

Queensland

In a review of the Queensland's organised crime control legislation in 2015 by Alan Wilson SC (the Wilson review) it was observed that the Finks application must for the QPS (Queensland Police Service), have been frustrating and ultimately dispiriting. Numerous appearances in Queensland's Supreme Court as well as the High Court, and expenditure in excess of \$1.9 million on staffing alone.

Serious doubts in the Wilson review about whether the Commissioner of Police could have relied upon the declared criminal intelligence to any significant extent in the subsequent criminal organisation application, had the application proceeded

The experience in Queensland highlights difficulties associated with the focus of criminal organisations control legislation upon an organisation.

Queensland Premier Anastacia Palaszczuk announced she would abolish her state's Vicious Lawless Association Disestablishment act, or VLAD laws.

South Australia

In May 2009, under the South Australian Serious and Organised Crime (Control) Act 2008.

The Commissioner of Police then applied to a magistrate for control orders in relation to 12 alleged members of the Finks to prevent them from associating with each other (amongst other restrictions). Two of these alleged members initiated Court proceedings that resulted in a majority of the High Court deciding that relevant sections of the South Australian Act were constitutionally invalid.

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Northern Territory

In the Northern Territory, it has been reported that Northern Territory Police devoted considerable effort to developing an application against the Darwin chapter of an OMCG under the Serious Crime Control Act 2009 (NT). However the operation was reviewed after six months and discontinued, possibly in light of the significant additional resources that would have been required to progress the application. At the time of writing the Northern Territory Act remains unused.

WESTERN AUSTRALIA

Western Australian Police have not exercised any powers under their 2012 criminal organisations control legislation.

Tasmania

The evidence from across Australia is that the proposed legislation is a failure.

The advice from the police on this serious matter should be questioned.

Why would and one want to implement a proven failed policy?

Regards

Paul Bullock
President

Simon Hrycyszyn
Vice – President

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