

Submission regarding the recent Serious and Organised Crime Legislation Amendment Bill 2016

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I wish to make a submission regarding several aspects of the proposed amendments outlined in the above Bill.

I will refer to the Explanatory notes to make my points consecutively.

***Government initiative – extending the prohibition on wearing or carrying prohibited items***

The document states that the **“colours of OMCGs, and in particular the ‘1%’ patch, identify that OMCG and the member wearing them, as operating outside the law and having a propensity to be involved in criminal activities”**

I disagree entirely with this assertion. The colours of any club simply identify to other members that I am a member as well and am proud to be so. This is not unique to the Motorcycle Clubs and can be witnessed at many sporting and cultural events where different tribes are in attendance.

The wearing of the colours is not designed to “create a climate of fear and intimidation among members of the general community with an implicit threat of violence in the event of any confrontation with the wearer”. That is police and media hype. I have asked many people, do they feel intimidated by this, and many have said they feel more intimidated when being followed or pulled over by the police.

The media and police are constantly referring to the clubs as “Gangs”. **Not correct!**

They are “Clubs” and many have been in existence for around 50 years. Many thousands of men have, at some stage of their life, been a member of a club and have not been converted to any degree of criminality by their membership over the years. Like most clubs, people come and go but the club remains, bound together by common interests, and is identified by distinctive insignia in our patch. The Lions club also proudly wear their very distinctive yellow shirts when they are selling burgers outside Bunnings on a Saturday morning.

Following cyclone Yasi, my property was badly damaged. The first people to arrive to offer assistance were club brothers, not the police or emergency services. Such is the strength of our brotherhood which you are trying to tear apart with unfair and discriminatory laws.

To place this further in context, some Motorcycle Clubs in Queensland have seen the emergence and demise of the Australian Democrats, the emergence of the Greens, the demise of the Liberal and the National Party in Queensland and the subsequent formation of the LNP, and the emergence of the One Nation party and the Palmer United Party along

with various other “ratbag” parties that have come and gone. All the entities mentioned above have had, or attempted to have, some influence on the making of laws in this state. Only the ALP have been as consistent as the motorcycle clubs, perhaps the motorcycle clubs should be consulted more when laws are framed and enacted, unfairly and discriminatory, with severe impacts on our club life.

The explanatory notes offer examples of cases where public acts of violence have occurred but were restricted to mention of 4 clubs over a 10-year period, hardly a national emergency.

The list of proposed amendments is extensive and the notes cover some 50 pages. I will try make a brief comment on as much of this as I feel is relevant.

### **Amendments related to the recommendations of the Commission**

**Section 60A,60B,60C of the 2013 suite of amendments** are repealed and rightfully so. There is a strong community feeling that these sections were repugnantly infringing on the civil liberties of individuals and indefensible in a court of law. To date in QLD, 42 charges were laid and 0 convictions recorded to the best of my knowledge.

It is proposed to replace these with –

### **Creation of new objects for the Peace and Good Behaviour Act**

#### **Public Safety Orders**

The problem I have with the new offences is the manner in which the warning is issued. There is no procedural fairness when a police officer can pre-emptively issue a warning to any person and the appeal calls for a reverse onus of proof for it to be defended. It is also troubling to read that certain sections will be exempt from this offence due to cultural reasons in the case of ATSI groups and political reasons for the case of advocacy, dissent, industrial action or protest. Once again, justice is being served depending on who you are or what you wear rather than what you have done or failed to do.

#### **Restricted Premises Orders**

The police can make application to the Magistrate courts to have a property declared as a restricted premise where “disorderly conduct” is “reasonably suspected”. One stated definition of “disorderly conduct” is when a recognised offender or associate is at the premises in question. This could easily be my private residence if I have my friends around for a BBQ. I cannot find anything which exclude private residences. Police are empowered to search this restricted premise, without warrant, at any time. Once again, could be my family home. I find this invades my civil liberties.

#### **Fortification Removal Orders**

These orders may be made by a police issued stop and desist order for a temporary period or by a Magistrate for a permanent removal if they determine the fortification to be “fortified to an extent that is excessive for the lawful use of those premises”

This is entirely subjective and infringes on my common law right to defend myself, my family and my property at all times. The notes state “**which could include a private residential home**”

I should be the one that can determine the degree of fortification required to protect myself. The police or the magistrate are in no position to determine the reason for the fortification to my property.

### **New offence extending the prohibition on wearing or carrying prohibited items to all public places**

I wear my colours with pride and my motorcycle has my club colours painted on it, as have many other bikes from various clubs.

I have already touched on my feeling regarding the police belief that this is to intimidate but a very concerning factor of this proposal is the automatic forfeiture proposal. Our bikes are our pride and joy and we risk losing \$35,000 worth of property if these laws are enacted. I have displayed my bike with pride over the years both in Australia and internationally and I’m still flattered every day when people come up to me and request a photo of me and the bike. This is hardly the actions of intimidated people.

### **When was the government, advised by the QPS, ever given the mandate by the electors to tell people what they can and can’t wear, or face a possible prison term?**

The QPS are advising the government that the prohibition on wearing or displaying of any club insignia will stop public acts of violence. I have seen miniskirts cause more acts of public violence on any Friday or Saturday night than any bikies in colours ever will. Will the government move to ban miniskirts? I hope not, that would be an infringement on a person’s civil liberties to wear what they want as long as it does not fall into the realms of indecency. This offence is a ridiculous proposal and should be removed from the suite of amendments immediately.

### **Access information orders**

These orders are proposed to empower police officers to gain legal access to any passwords or codes necessary to access stored electronic data contained in the machine.

This is a complete invasion of my privacy. The information and images stored on my device are mine.

The new offence could result in 5 years in prison for failing to comply. Really! Ridiculous, invasive, unnecessary laws.

### **Amendments related to the recommendations of the Taskforce about occupational licensing**

This is a welcome change to the existing legislation. Nobody should be excluded from their chosen occupation based on their association with other humans.

## **Serious Organised Crime circumstance of aggravation**

The repeal of the VLAD provisions by the Newman government regarding mandatory sentencing of 15 to 25 years extra, based on who you were or what you were wearing is welcome, but it is proposed to replace it with a lesser version that still calls for a period of mandatory detention (7years) that can only be reduced by cooperating with police investigations. Once again, we are proposing to sentence people based on who they are, who they associate with or what they wear. This is totally unfair and discriminatory.

## **General Comments**

When I read the explanatory notes, I notice that in almost every section is an admission that **“The amendment is a potential infringement of the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals (section 4(2)(a) of the Legislative Standards Act 1992)”**

but then goes on to say

**“The potential breaches are justified to protect the community from fear and intimidation and to reduce the likelihood of public disorder and acts of violence in public places”**

As I have already mentioned, no-one I have spoken to feels threatened or intimidated by groups of bikers wearing their colours. There have been occasions when people may have been intimidated by the behaviour or actions of individuals but we already have laws that are sufficient to deal with that.

This attack on Motorcycle Clubs has come about due to the government of the day requiring a perceived threat to the population that only the government can save you from. This is used to deflect attention from the shortcomings of the government at the time.

The reason that the motorcycle clubs were selected for this attention is their long term reluctance to speak publicly to the government, the police or the media due to a history of being miss-quoted to their detriment.

This has led to the media being fed information from the government and the QPS for about 50 years without fear of the facts being refuted in any way due to the silence from clubs. Can you imagine how strong a case you could mount under these circumstances? Can you imagine how dark a picture you could paint under these circumstances?

I would like to take you for a ride on my bike and let you experience the thrill of a ride in a pack of motorcycles, but we no longer have that right.

I would like to take you to my clubhouse and let you experience the brotherhood with the boys, but we no longer have our clubhouses.

All we can do now is sit alone in our houses and write submissions regarding unfair and discriminatory laws in the hope that the decision makers will hear our concerns, balance their thoughts, and think very carefully prior to enacting the amendments.

Thank you for your time.

