



AFPA

Australian Federal
Police Association

Proposal Paper:
***Banning of OMCG and criminal organised
crime syndicates colours and insignias***

Proposal by the Australian Federal Police Association

Prepared by Mr Troy Roberts – Government Relations Manager

Level 3/53 Blackall Street

Barton ACT 2600

Tel: (02) 62851677

Email: afpa@afpa.org.au

Introduction

Outlaw Motorcycle Gangs (OMCG's) have long been associated with organised crime, violence, and public intimidation in Australia.

In response, various state and territory governments have introduced legislation to ban the public display of OMCG insignia, commonly known as 'colours.' These laws aim to disrupt criminal networks, reduce gang visibility, and enhance public safety. However, implementing these laws has sparked debates regarding their effectiveness, legal implications, and potential infringement on civil liberties. This proposal explores the rationale behind banning OMCG colours in Australia, the legislative approaches across different states, and the broader social and legal consequences of these measures.

The ACT, while smaller in population, is not immune to OMCG activities. Recent reports indicate the presence of OMCG's in the territory, with their visible symbols contributing to community fear and gang visibility. Introducing legislation to ban these symbols aligns with national efforts to combat organised crime and protect public safety.

Proposed Legislative Framework

The proposed legislation, tentatively titled the *Organised Crime Symbols Prohibition Act*, would define outlaw motorcycle gangs as organisations declared by the ACT Government or recognised under national frameworks as criminal entities. It will specify that "colours and insignias" include patches, logos, tattoos, clothing, or other symbols explicitly associated with declared OMCG's and organised crime syndicates.

The legislation will prohibit the wearing or public display of OMCG and organised crime syndicate colours and insignias in public places, including streets, public venues, and licensed premises. Exemptions may be permitted for private property with the owner's consent or for legitimate purposes, such as media, education, or law enforcement activities.

To ensure effective enforcement, the legislation will empower ACT Policing to issue warnings, confiscate prohibited items, or arrest individuals for non-compliance. Penalties for breaches will include fines of up to \$2,000 for individuals and potential imprisonment of up to 6 months for repeat offenders. The law will allow for the immediate removal of symbols or items in public settings to prevent escalation.

Safeguards will be included to protect freedom of expression, ensuring the law targets only symbols linked to declared OMCG's or organised crime syndicates. A review process will be established for individuals or groups claiming their symbols are unrelated to OMCG's.

The Rationale Behind Banning OMCG Colours

Concerns about public safety, organised crime, and gang-related intimidation primarily drive the banning of OMCG and organised crime colours and insignias in Australia.

The Australian Criminal Intelligence Commission (ACIC) has identified OMCG's as key players in illicit activities such as drug and firearm trafficking, extortion, money laundering, and violent crime. These groups often use their insignia to assert dominance, intimidate rivals, and reinforce gang identity, making the display of colours a significant issue in law enforcement efforts.

By prohibiting the public display of OMCG insignia, governments aim to:

1. **Reduce Public Intimidation:** OMCG members frequently wear their colours to assert their presence and control in public spaces, particularly in nightlife districts, shopping centres, and community events. The display of gang patches can deter the public from reporting crimes and create an atmosphere of fear.
2. **Disrupt Criminal Networks:** Banning colours is part of a broader strategy to dismantle the influence of OMCG's. By restricting their ability to publicly display their affiliations, authorities seek to weaken gang cohesion and recruitment efforts.
3. **Assist Law Enforcement:** The visibility of gang insignia often allows law enforcement to monitor OMCG activities. However, by banning colours, police can prevent gang members from openly gathering in groups that may engage in criminal planning or intimidation.
4. **Align with National and International Efforts:** Many countries, including Canada and New Zealand, have introduced similar measures to curb OMCG influence. Australia's approach follows global trends in suppressing organised crime through legal restrictions on gang insignia.

Benefits of the Legislation

The legislation will help reduce public intimidation by restricting the display of OMCG symbols, limiting their ability to threaten or unsettle residents and businesses. It will also make gangs less visible in the community, weakening their recruitment efforts and brand recognition.

By providing a clear legal framework, the law will give police the tools they need to take firm action against OMCG activity. It will also boost community confidence by showing that the ACT Government is taking organised crime seriously.

Importantly, the legislation would also deter OMCG's and organised crime syndicates from choosing the ACT as a location for national gatherings.

Legislative Approaches Across Australia

Each Australian state and territory has taken a slightly different approach to banning OMCG colours, reflecting variations in crime rates, gang activity, and political priorities.

Queensland

Queensland has some of the strictest anti-OMCG laws in the country. Under the *Criminal Organisation Act*, members of identified OMCG's are prohibited from wearing their colours in public. The government has also shut down clubhouses and imposed restrictions on members associating with each other. Police have broad powers to issue Public Safety Orders to prevent gang gatherings.

New South Wales

NSW has banned the display of OMCG insignia in public spaces, including tattoos, patches, and other visible markers of gang affiliation. The *Crimes (Criminal Organisations Control) Act* allows police to enforce these laws, with penalties including fines and imprisonment.

Victoria

Victoria's *Criminal Organisations Control Amendment Act 2024* introduced a ban on gang insignia, aligning with similar laws in other states. The legislation also expanded police powers to issue unlawful association notices, preventing known criminals from gathering or communicating.

South Australia

The *Serious and Organised Crime (Control) Act 2008* prohibits gang members from wearing colours in public and allows law enforcement to dismantle fortified clubhouses. Police can issue exclusion orders to prevent members from attending specific locations or events.

Western Australia

Western Australia's *Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021* bans the display of gang insignia, including tattoos. Members caught displaying insignia face heavy fines or jail time. The law also prohibits gang members from associating in public.

Northern Territory

In the NT, laws focus on restricting the presence of OMCG members in licensed venues. Police can ask individuals to remove their colours or leave the premises. Failure to comply may result in fines or police intervention.

Tasmania

Tasmania passed the *Police Offences Amendment (Prohibited Insignia) Bill 2018*, banning the wearing of OMCG colours in public. Police actively enforce these laws to prevent gang activity from gaining a foothold in the state.

Current ACT Position

The Australian Capital Territory (ACT) has taken a different approach to dealing with Outlaw Motorcycle Gangs (OMCG's) and organised crime compared to other states and territories.

Unlike jurisdictions such as Queensland, New South Wales, and South Australia, the ACT does not have specific laws banning OMCG colours, anti-consorting provisions, or firearm prohibition laws targeting organised crime and/or gang members.

Several factors contribute to this legal stance, including the territory's legal philosophy, crime statistics, and law enforcement strategies.

Legal and Human Rights Considerations

The ACT has a strong commitment to human rights, largely influenced by the *Human Rights Act 2004*. This law requires that legislation be compatible with fundamental rights, including freedom of expression and association.

- **Freedom of Expression:** Banning gang colours could be seen as restricting an individual's right to express their identity, even if it is associated with a criminal organisation.
- **Freedom of Association:** Anti-consorting laws in other jurisdictions have been controversial because they criminalise associations rather than specific criminal actions.

The ACT Government has expressed concerns that such laws could infringe on civil liberties by penalising individuals with whom they associate rather than for illegal activities they commit.

Crime Rates and Gang Activity in the ACT

The ACT records fewer incidents of OMCG-related violence than states like Queensland and New South Wales.

While groups such as the Rebels, Comancheros, and Nomads are active in the territory, their activity hasn't led to the same level of public violence or intimidation seen elsewhere.

The ACT Government maintains that existing laws covering assault, drug trafficking, and firearms are enough to deal with gang-related crime, and that new, more restrictive legislation isn't necessary.

However, because the ACT doesn't have these tougher laws, it has become a meeting point for OMCGs to host their national runs. These events draw members from across the country, placing extra pressure on ACT Policing to manage the gatherings. They also complicate investigations when crimes occur during these meetings, making it harder to identify offenders and secure prosecutions.

The ACT Government and ACT Policing utilise a targeted approach rather than broad anti-consorting laws or blanket bans on gang colours.

ACT Policing focuses on intelligence-led policing, targeting known offenders through investigations, surveillance, and traditional law enforcement methods.

The police have also relied on federal criminal laws, including anti-organised crime legislation and drug importation offences, to disrupt OMCG activities.

Law Enforcement Challenges

While the proposed bans would give police broader powers to disrupt OMCGs and other organised crime groups, actually enforcing those powers isn't always straightforward. Officers on the ground would need to assess whether a person's clothing or accessories display gang insignia, which can open the door to disputes, misidentification, or legal pushback—especially if the definition of a “prohibited symbol” isn't clear.

These risks can be addressed within the legislation itself. By clearly defining and listing specific insignia, logos, patches, and colours associated with known OMCGs, the law can provide clarity for both police and the public. This kind of detail helps reduce ambiguity, supports more consistent enforcement, and gives officers a stronger footing if decisions are challenged in court.

Impact on Legitimate Motorcycle Clubs

Not all motorcycle clubs are involved in criminal activity, but some law-abiding groups worry these laws could unfairly target them. Non-OMCG member and riders who wear similar styles of clothing or patches might be mistaken for OMCG members, which can lead to unwarranted police attention. This has raised concerns across the wider motorcycle community about discrimination and the need to clearly distinguish between clubs involved in crime and those that aren't.

These concerns can be addressed through careful legislation. By clearly defining and listing the specific insignia, logos, patches, and colours linked to known OMCGs, the law can offer clear guidance for both police and the public. This helps reduce confusion, encourages fairer enforcement, and gives ACT Policing officers a stronger position if their actions are challenged in court.

Conclusion

In summary, banning the public display of OMCG colours in the ACT is not just about removing patches from jackets, it's about reducing the reach and visibility of organised crime in the ACT community.

OMCGs continue to use their symbols as tools of intimidation, to assert dominance in public spaces, and to reinforce criminal identity and cohesion. While the ACT has, to date, taken a more measured and rights-based approach compared to other jurisdictions, there is a growing recognition that the current legal framework may no longer be enough to deal with the evolving tactics of organised criminal groups.

Introducing a targeted ban on OMCG insignia offers an opportunity to close existing gaps, align with national efforts, and send a clear message that the ACT will not be a soft target for gang activity.

The legislation proposed in this paper is designed to be precise, enforceable, and respectful of civil liberties. It draws on lessons from other jurisdictions while recognising the unique social and legal

environment in the ACT. By clearly defining which symbols are prohibited, the law will avoid sweeping generalisations and ensure that only those linked to criminal groups are affected.

Importantly, the legislation will also ease the growing burden on ACT Policing, which is being asked to manage the consequences of national OMCG gatherings without the tools available to their counterparts in other states. Giving police the power to prevent these symbols from being worn in public will make it harder for gangs to project influence or intimidate others, especially in areas like shopping precincts, nightlife venues, and major events.

At the same time, care must be taken to protect legitimate motorcycle clubs and individual riders who are not involved in crime. The law should not cast too wide a net. By including review mechanisms, clear definitions, and education campaigns, the ACT can ensure that lawful association and freedom of expression are not unduly affected. Striking this balance is essential, not just for the sake of legal integrity, but to maintain public trust in law enforcement and government action.

Ultimately, this proposal is about protecting the safety and wellbeing of the ACT community. It is a practical, balanced, and forward-looking approach to dealing with a complex national issue. As organised crime continues to adapt, so too must the laws designed to contain it. Banning OMCG colours in the ACT is a reasonable and necessary step in that direction.