



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

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Submission Cover Sheet

Inquiry into Crime Legislation Amendment Bill 2023

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AFPA

Australian Federal
Police Association

Inquiry into the Crimes Legislation Amendment Bill 2023

Standing Committee on Justice and Community Safety

Submission by the Australian Federal Police Association

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Acknowledgments

The AFPA welcomes and thanks the Standing Committee on Justice and Community Safety (the Committee) for the opportunity to provide information into the *inquiry into the Crimes Legislation Amendment Bill 2023*.

The AFPA approves for this submission to be made publically available at the discretion of the Committee.

Overview of the AFPA

The AFPA is a registered organisation and an autonomous sub-branch of the Police Federation of Australia. The AFPA represents the industrial, political, and professional interests of members of the Australian Federal Police (**AFP**) and ACT Policing (**ACTP**), law enforcement officials in the Australian Criminal Intelligence Commission, and members of the Department of Parliamentary Services.

Our members provide an essential service to Australia and the Australian Capital Territory (**ACT**). They are the backbone of the ACT and the Commonwealth's principal law enforcement agency, performing crucial investigative, intelligence and national security functions.

The AFP is responsible for the following:

- ✿ providing community policing services to the Australian Capital Territory and other territories, including Christmas Island, Cocos (Keeling) Islands, Norfolk Island and Jervis Bay,
- ✿ enforcing Commonwealth laws that combat complex, transnational, serious and organised crime, child exploitation, fraud, corruption, and cybercrime,
- ✿ protecting Australians and Australian interests from terrorism and violent extremism,
- ✿ removing illegally obtained assets and property from criminals,
- ✿ protecting Commonwealth infrastructures such as designated airports, Parliament House, and embassies,
- ✿ protecting domestic and foreign dignitaries, including the Governor-General, Prime Minister, and ambassadors,
- ✿ protecting at-risk individuals,
- ✿ representing Australian policing and law enforcement at an international level, and
- ✿ developing unique capabilities and employing advanced technology to support Australia's national interests.

On top of providing industrial relations support, the AFPA provides welfare support for its members. Support takes on many aspects, including mental health and living support for our members injured mentally and physically in the workplace while executing their lawful duties in protecting Australia and its many communities.

Crimes Legislation Amendment Bill 2023

The AFPA has reviewed the *Crimes Legislation Amendment Bill 2023* and can provide the following responses:

Part 2 – Bail Act 1992 – Right of review of bail decisions – prosecution – Section 44 (5) (b)

The AFPA has reviewed this amendment and **notes** the changes to *Section 44 (5) (b)* of the *Bail Act 1992*. The AFPA has no further advice in relation to this amendment.

Part 3 – Confiscation of Criminal Assets Act 2003 – Review of unexplained wealth provisions – Section 258A

The AFPA has reviewed this amendment and **supports** the insertion that the Minister must review the operation and effectiveness of the unexplained wealth provisions, along with presenting a report of the review to the ACT Legislative Assembly.

Unexplained wealth legislation is an effective way of fighting organised crime and large-scale criminal enterprises. Crime is continuously changing and becoming more complex, and legislation must be regularly reviewed to ensure it is still workable and current in tackling crime and criminal behaviour.

Part 4 – Destroying or damaging property – Section 116 (3) (d)

The AFPA has reviewed this amendment and **supports** the omission of *Section 116 (3) (d)* of the *Crimes Act 1900*, which will eliminate the current \$5000 monetary cap on the damage done to property.

Part 5 – Crimes (Sentencing) Act 2005 – Fines – Orders to Pay – Section 14 (1)

The AFPA has reviewed this amendment and **notes** the omission of *Section 14 (1)* of the *Crimes (Sentencing) Act 2005*. The AFPA has no further advice in relation to this amendment.

Part 5 – Crimes (Sentencing) Act 2005 – Definition of Excluded Sentence of Imprisonment – Paragraph (e) - Section 64 (2)

The AFPA has reviewed this amendment and **notes** the omission of *Section 64 (2), paragraph (e)* of the *Crimes (Sentencing) Act 2005*. The AFPA has no further advice in relation to this amendment.

Part 5 – Crimes (Sentencing) Act 2005 – Dictionary – Note 2 – Definition of Corrections Officer

The AFPA has reviewed this amendment and **supports** the insertion of ‘corrections officer’ to the *Dictionary, Note 2* and the omission of the definition of ‘corrections officer’. The AFPA has no further advice in relation to this amendment.

Part 6 – Crimes (Sentencing) Regulation 2006 – Criminal Justice Entities – Section 136 (4) definition criminal justice entity – Paragraph (i) – Section 3 (1) (i) and (j)

The AFPA has reviewed this amendment and **strongly supports** the substitution of the Domestic, Family and Sexual Violence Coordinator-General to *Section 3 (1) (i) and (j)* of the *Crimes (Sentencing) Regulation 2006*.

The Domestic, Family and Sexual Violence Coordinator-General provides strategic leadership and whole-of-government collaboration and coordination of the government's response to domestic and family violence. Any entity improving service and coordination in this environment should be supported in an effort to assist victims.

Part 7 – Evidence Act 2011 – Exclusion of Evidence of Reasons for Judicial etc decisions – Section 129 (5) (a) (ii)

The AFPA has reviewed this amendment, and **notes** the changes to *Section 129 (5) (a) (ii)* of the *Evidence Act 2011*. The AFPA has no further advice in relation to this amendment.

Part 8 – Juries Act 1967 – Offences against Act – Application of Criminal Code etc – New Section 4

The AFPA has reviewed this amendment and **supports** the introduction of a proposed *Section 4*, Offences against the Act, that specifically introduces *Section 42BA*, improper inquiry by juror about matters relevant to trial.

Part 8 – Juries Act 1967 – Definitions – Pt 8 – Majority verdict sufficient for offences against territory laws at certain criminal trials – Section 38

The AFPA has reviewed this amendment and **notes** the substitution to *Section 38* of the *Juries Act 1967*, which introduces definitions of majority and unanimous verdicts and outlines the conditions of a majority verdict of a jury at a criminal trial. The AFPA has no further advice in relation to this amendment.

Part 8 – Juries Act 1967 – Discharge of jury where no verdict likely to be reached – Section 39

The AFPA has reviewed this amendment and **supports** the inclusion of *Section 39* to the *Juries Act 1967*. This amendment will give the judge flexibility and may expedite the time juries spend deliberating.

Part 8 – Juries Act 1967 – Adjournment of trial on discharge of jury for disagreement – Section 40

The AFPA has reviewed this amendment and **notes** the omission of *Section 38* and substitution of *Section 39* of the *Juries Act 1967*. The AFPA has no further advice in relation to this amendment.

Part 8 – Juries Act 1967 – Improper inquiry by juror about matters relevant to trial – New Section 42BA

The AFPA has reviewed this amendment and **strongly supports** the insertion of *Section 42BA* to the *Juries Act 1967*.

Trials are an expensive process in the criminal justice system, and measures must be implemented to keep jurors accountable. Unlike other states and territories across Australia, the ACT currently has no criminal offences for a juror causing a mistrial. *Section 42BA* will address this issue.

The AFPA would also support the possibility of a financial penalty added to the maximum penalty of imprisonment for two years.

Part 8 – Juries Act 1967 – Confidentiality of jury deliberations and identities – Section 42C (111) – New Definition of offence relating to jury deliberations

The AFPA has reviewed this amendment and **supports** the insertion of offences related to jury deliberations, including an offence against *Section 42BA (1)*.

Part 8 – Juries Act 1967 – Dictionary – New Definitions

The AFPA has reviewed this amendment and **notes** the insertion of new definitions describing a majority and unanimous verdict. The AFPA has no further advice in relation to this amendment.

Part 9 – Magistrates Court Act 1930 – Extension of time to pay penalty – Section 124 (1) (a)

The AFPA has reviewed this amendment and **notes** the insertion of ‘infringement notice’ in *Section 124 (1) (a)*. The AFPA has no further advice in relation to this amendment.

Part 9 – Magistrates Court Act 1930 – New Section 124 (3)

The AFPA has reviewed this amendment and **notes** the proposed new *Section 124 (3)*. The AFPA has no further advice in relation to this amendment.

Part 9 – Magistrates Court Act 1930 – Effect of payment of infringement notice penalty – Section 125 (3)

The AFPA has reviewed this amendment and **notes** the insertion of ‘and section 131ACB (infringement notice management plan – effect of cancellation)’. The AFPA has no further advice in relation to this amendment.

Part 9 – Magistrates Court Act 1930 – New Section 131ACA (Cancellation of Infringement Notice Management Plan) and 131ACB (Infringement Notice Management Plan – Effect of Cancellation)

The AFPA has reviewed this amendment and **supports** the introduction of new *Section 131ACA* and *131ACB* to the *Magistrates Court Act 1930*.

Part 10 – Magistrates Court Regulation 2009 – New Sections 3B and 3C

The AFPA has reviewed this amendment and **supports** the introduction of new *Section 3B* and *3C* to the *Magistrates Court Regulation 2009*

Part 11 – Victims of Crime Act 1994 – Membership of Board – Section 22C (c)

The AFPA has reviewed this amendment and **strongly supports** the substitution of the Domestic, Family and Sexual Violence Coordinator-General to *Section 22C (c)* of the *Victims of Crime Act 1994*.

The Domestic, Family and Sexual Violence Coordinator-General provides strategic leadership and whole-of-government collaboration and coordination of the government's response to domestic and family violence. Any entity improving service and coordination in this environment should be supported in an effort to assist victims.



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