

**Mick Gentleman MLA**

Manager of Government Business  
Minister for Planning and Land Management  
Minister for Police and Emergency Services  
Minister for Corrections  
Minister for Industrial Relations and Workplace Safety  
  
Member for Brindabella

---

**RESPONSE TO QUESTION TAKEN ON NOTICE**  
**Inquiry into Petition 32-21 (No Rights Without Remedy) 28 April 2022**

Asked by Peter Cain MLA –

THE CHAIR: So related to that, so all your oversight in terms of government agencies is concerned is from the commonwealth?

Mr Gaughan: Well, the ACT Ombudsman does have oversight over us.

THE CHAIR: But in their capacity as the Commonwealth Ombudsman?

Mr Gaughan: Well, they are dual hatted, so they—but you are right, in their capacity as the Commonwealth Ombudsman, that is correct, because we are governed by commonwealth legislation, in that all our powers that exist for arrest, whatever it is, search and seizure, are under commonwealth legislation, whether it be the Crimes Act 1914 or the AFP Act. None of that exists within—I mean, there is a power of arrest under the ACT legislation, but most of the other powers are actually vested in the commonwealth legislation.

**THE CHAIR:** So regarding the Victims of Crime Commissioner and the Human Rights Charter, I mean, legally how does that compel you in any way at all?

**Mr Whowell:** Well, I obviously cannot give you a detailed answer on that. I would have to take that on notice.

**MR GENTLEMAN MLA:** - The answer to the Member's question is as follows:

The Victims Rights Charter provides many safeguards for victims and sets out responsibilities for justice agencies. ACT Policing are compelled under the Victims Rights Charter in a number of ways to uphold victims' rights and are held accountable to those obligations by the available oversight pathways, such as the Victims of Crime Commissioner, Human Rights Commission, Commonwealth Ombudsman and the Australian Commission for Law Enforcement Integrity. Victims and members of the public can make a complaint to any of these bodies if they feel ACT Policing have not met their obligations under the Victims Rights Charter.

The Victims Rights Charter states that ACT Policing must uphold the following.

1. The police must refer a victim to a suitable support service unless they say they do not want to be referred.
2. If the victim asks, police must give information about the criminal justice process that will occur after the victim has made a report.
3. If the victim asks, police must give written confirmation of a report, including the name and contact details of the police officer who took the report and secondary phone number the victim can call about the report.
4. If the victim asks, the police must provide an update about the progress of the investigation:
  - at least every 6 weeks; and,
  - if a person has been charged with the offence or a warrant is issued for the arrest of a person accused of the offence.
5. If a persons property is held by police for the purpose of a police investigation or criminal proceedings, it must be handled and stored in a lawful, respectful and secure manner and returned to the person after it is no longer needed.
6. If a victim tells the police that they need to be protected from violence or harassment by the defendant, the police must tell the victim if the court makes or reviews a decision about bail or if there is a condition of bail to protect the victim or their family member.
7. If a court is considering whether to grant bail or review a bail decision, the police or DPP must ask whether the victim has any concerns about the need for protection from violence or harassment by the defendant. If they express such concerns, the police or DPP must tell the court about those concerns.
8. The police or the prosecutor must advise a victim
  - who can make a victim impact statement;
  - what a victim impact statement should include;
  - that a victim impact statement can be made verbally or in writing;
  - how a victim impact statement can be made verbally or in writing; and,

- how a victim impact statement can be used, including that a copy of it will be given to the offender, that the victim can be cross-examined on its contents and that the court must consider it in deciding how the offender should be sentenced.

ACT Policing's website provides full transparency as to the rights of a victim, requirements of police, and the complaints process. For ease of the victim, it includes the contact details and links to forms of numerous external agencies where a complaint can be made such as the Victims of Crime Commissioner, Human Rights Commission, Commonwealth Ombudsman and the Australian Commission for Law Enforcement Integrity. (<https://www.police.act.gov.au/crime/victims-crime>).

**Approved for circulation to the Member and incorporation into Hansard.**



**Peter Crozier**  
**Acting Chief Police Officer for the ACT**

**Date:** 20/5/22