



Police Federation of Australia

The National Voice of Policing

SUBMISSION to the:

Parliamentary Joint Committee on Law Enforcement

Committee Secretary
PO Box 6100
Parliament House
Canberra ACT 2600

via - le.committee@aph.gov.au

Inquiry into the capability of law enforcement to respond to money laundering and financial crime.

The Police Federation of Australia (PFA) is the national body representing the professional and industrial interests of Australia's more than 65,000 police officers, across all state, territory, and the federal police jurisdictions.

Membership as at: 31 December 2023	
Police Association of South Australia	4,702
Western Australia Police Union of Workers	6,817
Queensland Police Union of Employees	12,335
The Police Association of Victoria	17,623
Police Association of New South Wales	16,372
Police Association of Tasmania	1,478
Northern Territory Police Association	1,656
Australian Federal Police Association	4,037
Police Federation of Australia	65,020

I thank the Committee for the opportunity to make this submission.

The PFA has made submissions to and appeared before a range of Committees and Inquiries over the past 15 years seeking a greater coordinated national effort to attack serious and organised crime and there is no more effective way to attack such an issue as to go after the ill-gotten gains of the criminal element. We therefore applaud the Committee for undertaking this Inquiry.

The PFA has specifically been calling for a nationally coordinated criminal intelligence system and Unexplained Wealth legislation since 2007/08. The first time we raised these issues with was this Committee's predecessor, the Parliamentary Joint Committee on the Australian Crime Commission. Since that time, we have been arguing for the notion of 'joined up' policing, particularly as it relates to tackling serious and organised crime by targeting criminal assets gained illegally.

In a Press Release in September 2007, the PFA called for the introduction of integrated, coordinated and complementary systems and strategies to tackle the issue including the harmonisation of laws and argued, at that time, that crime bosses were exploiting differences in criminal laws in Australia and there was a need to tackle such changes urgently.

On 24 June 2009, then Attorney General, the Hon Robert McClelland in his second reading speech on the Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009, reported on the April 2009, Standing Committee of Attorneys-General (SCAG) meeting, where AG's agreed to a set of resolutions for a national response to organised crime. The Bill was in support of their agreed resolutions, the first of which was 'strengthening criminal asset confiscation and targeting unexplained wealth'.

In his speech the Attorney General said,

"The ability to trace, restrain and confiscate the benefits that criminals derive from their offences is a vital part of an effective justice system".

He further said,

"New unexplained wealth provisions will be a key addition to the Commonwealth criminal asset confiscation regime. These provisions will target people who derive profit from crime and whose wealth exceeds the value of their lawful earnings. In many cases, senior organised crime figures who organise and derive profit from crime are not linked directly to the commission of the offence. They may seek to distance themselves from the offence to avoid prosecution or confiscation action. Unlike existing confiscation orders, unexplained wealth orders will not require proof of a link to the commission of a specific offence and in that sense, they represent a quantum leap in terms of law enforcement strategy".

The PFA had also argued that persons who are subject to an unexplained wealth order, should not be able to draw upon those questionable assets to meet their legal expenses of challenging an unexplained wealth order.

As far back as 1985, the then President of the New South Wales Court of Appeal, Athol Moffitt QC, stated –

"A primary target for attack, if syndicates and their power are to be destroyed, is the money and assets of organised crime. There are many reasons to support this view. The goal of organised crime is money. The financial rewards are very great, and they are greater because the profits are tax-free. Money generates power; it allows expansion into new activities; it provides the motive for people to engage in such crime. It is used to put the leaders in positions, superior to that of others in the community, where they are able

*to exploit the law and its technicalities and so on. At the same time, it is the point at which organised crime is most vulnerable”.*¹

Moffitt also questioned, if it’s accepted that the ATO can call on taxpayers to account for assets which exceed their income, why legislation could not be drafted to provide, in certain circumstances, the holders of money or assets, to be asked to explain how they came by those assets.

While today we are close to the final implementation and roll out of a National Criminal Intelligence System (NCIS), we are still without a nationally harmonised unexplained wealth regime and continue to witness serious and organised crime figures across the country, often assisted by the sophisticated methods of highly skilled professional facilitators in gatekeeper industries, flaunting their ill-gotten gains through drugs, illicit tobacco, prostitution, child exploitation, firearms trafficking, counter terrorism offences and a range of other serious crimes, with almost complete impunity to their illegal wealth.

This is why, in its 2021 submission to the inquiry into the adequacy and efficacy of Australia’s anti-money laundering and counter-terrorism financing (AML/CTF) regime, the PFA strongly supported professions including –

- Lawyers;
- Accountants/Financial Advisors;
- Liquidation/Pre-Insolvency Advisors;
- Offshore Service Providers;
- ICT Professionals; and
- Real Estate Agents.

being subject to the same scrutiny by regulators, as financial institutions.

I note the recent comments by the Federal Attorney General, the Hon Mark Dreyfus KC MP, where he announced the Government’s plans to expand money laundering laws. I subsequently wrote to the Attorney General indicating the PFA’s support for the comments attributed to him where he said, “...opposing these reforms means aiding and abetting the criminal abuse of our financial system by drug traffickers, people smugglers, terrorists and those who exploit and abuse children”. I also indicated that the PFA would be happy to publicly support him in this endeavour.

The Australian community expects a fair and just system with a strong legislative underpinning that targets criminal and anyone that assists them in hiding their ill-gotten wealth. A regime that allows police and other agencies to trace, restrain and confiscate the benefits that criminals and identified facilitators derive from their offences is a vital part of any effective criminal justice system by ensuring that such funds are not able to be used for further criminal activity.

Both major political parties have over time made positive amendments to the Proceeds of Crime Act 2002 and introduced and supported Unexplained Wealth legislation at the Commonwealth level, however a nationally consistent scheme has eluded us. A national scheme would provide law enforcement agencies across Australia with an effective mechanism for information sharing and collaborative investigations and taskforces, to ensure that there is no jurisdiction, within which organised crime could hide. A truly national scheme, we suggested, would also be the solution to the constitutional issues that are consistently raised as an impediment to the Commonwealth’s powers in this area.

¹ Athol Moffitt, *A Quarter to Midnight – The Australian Crisis: Organised Crime and the Decline of the Institutions of State* (Angus & Robertson, 1985)

I encourage the Committee to pursue an outcome that enables the Federal Government to work cooperatively with their state and territory counterparts to develop and enact a nationally harmonised unexplained wealth regime to target the illegitimate wealth of these crime figures and their facilitators with a strategy of putting seized funds into other important crime prevention measures across the country.

I would be happy to appear before the Committee to expand on any aspects of this submission.

Sincerely yours

Scott Weber APM
Chief Executive Officer

30 July 2024