



National Motor Vehicle
Theft Reduction
Council

Use of a stolen motor vehicle as a weapon

The offence of ramming a police vehicle

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**Informing Australia
on vehicle crime.**

Report outline

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Title	Use of a stolen motor vehicle as a weapon
Address	National Motor Vehicle Theft Reduction Council Suite 1, 50-52 Howard Street North Melbourne Victoria 3051
Email	info@carsafe.com.au
Type of report	Legislative review
Objectives	To ensure that the serious compound offence of using a stolen motor vehicle as a weapon in the ramming of a police vehicle is identified, recorded and appropriately punished on a national basis.
TRC program	Reducing profit-motivated theft
Key milestones	Final report
Abstract	<p>This report relates to the criminal behaviour of using a stolen motor vehicle as a weapon against police and police vehicles. It:</p> <ul style="list-style-type: none">(a) Establishes how Australian jurisdictions deal with the issue; and(b) Proposes model provisions to establish ramming as an offence throughout Australia, with the use of a stolen motor vehicle in the commission of the offence making the offender liable to higher level penalty.
Purpose	To establish a uniform national response to the compound offence of ramming a police vehicle using a stolen motor vehicle as a weapon.
Key words	stolen motor vehicle, ramming a police vehicle, aggravated offences, circumstances of aggravation

Summary

Use of a stolen motor vehicle as part of a complex mix of offending

Vehicle theft is often associated with other crimes. Importantly, it enables other crimes to occur, including road safety offences, assaults, property crimes and a wide range of fraudulent activity. Increasingly, one of the safety risks is the ramming of a police vehicle using a stolen motor vehicle as a weapon.

Australian legislators have developed a patchwork of responses to compound offences such as this. In several jurisdictions the concept of “aggravating circumstance” or “circumstances of aggravation” has been established. If an offence occurs in circumstances of aggravation another, higher level offence is committed or a higher penalty level is applied. The concept has already been applied to some uses of stolen motor vehicles – evading police pursuit or interception and endangering an emergency worker.

Recent legislative reforms in Victoria and the ACT have introduced the offence of ramming a police vehicle, along with offences of endangering emergency workers. These recognise the discrete criminality of this offending and the occupational vulnerability of emergency workers. The Victorian legislation incorporates the concept of aggravating circumstances. One of the aggravating circumstances for the offences of endangering emergency workers (recklessly or intentionally) is the use of a stolen motor vehicle.

This report recommends a national approach to the use of a stolen motor vehicle as a weapon to ram a police vehicle, with ramming as a basic offence and the use of a stolen motor vehicle as a circumstance of aggravation. Consideration should also be given to the wider application of the concept of “circumstances of aggravation” where the offender makes use of a stolen motor vehicle to commit an offence.

The recommended legislation

It is proposed that new legislation be enacted in all jurisdictions to address the issue of ramming of police vehicles, with the use of a stolen motor vehicle as a weapon being a circumstance of aggravation. The recommended provisions (set out in the Appendix to the Report) are based on the recent Victorian and ACT initiatives, but vary in some details due to the need to integrate the new offences into existing provisions. The central concept in all cases is that it should be an offence to use a motor vehicle to ram a police vehicle, with the use of a stolen motor vehicle for that purpose being an aggravating circumstance.

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1. Background

Vehicle theft is often at the centre of a complex mix of offending. It should be seen as an enabler of other crimes that may involve road safety risks, assaults, property crimes and a wide range of fraudulent activity. One of the safety risks is, increasingly, the use of a stolen vehicle as a weapon. Police services in a number of jurisdictions report rising incidents of “ramming” of police vehicles.

In May 2019 the NMVTRC hosted the Australasian Vehicle Crime Managers’ Network. The forum brought together senior police representatives from all states and territories to exchange perspectives and share information on current and emerging trends in vehicle crime, locally and nationally. A key issue to emerge was increasing incidence of police vehicles being rammed by stolen cars, and the adequacy of legislation to deal with the severity of the crime. This was reiterated at the NMVTRC’s series of Strategic Planning workshops with key stakeholders across Australia in 2020.

1.1 The combination of factors in a crime

Australian criminal law recognises levels of gravity of offences. A principle underlying an increasing body of law is that an offence is more serious if it occurs in combination with other offending behaviour. The combination of factors indicates heightened criminality. An example is the increased penalty in Western Australia applying to the offence of causing grievous bodily harm to another person if the injury is inflicted by the accused while stealing a motor vehicle.¹

1.2 Recent law reform

1.2.1 Victoria

In Victoria in 2017, in response to increasing concerns for the safety of police officers and other road users, the *Crimes Act 1958* (Vic) was amended to include specific offences relating to the use of a motor vehicle as a weapon. The amendments created new specific offences, including the offence of ramming a police vehicle and offences of exposing police and other emergency workers to risk by driving using a stolen vehicle as the weapon.² In the second reading speech for the Bill the Minister commented:

“... intentionally or recklessly exposing an emergency worker to risk to safety by driving will require the imposition of a custodial sentence if the offence is committed in certain aggravating circumstances, for example, where the motor vehicle is stolen, where the offence occurred in connection with another indictable offence, or where the offender has also damaged the emergency vehicle.”³

1.2.2 ACT

The ACT introduced legislation in 2019 to:

“... help ACT police officers, firefighters and paramedics be better protected on the job, recognising the special occupational vulnerability these workers have when performing their everyday duties.”⁴

Introducing the Bill for the new legislation the Minister noted that some acts of violence are worse than others, giving as an example provisions for the protection of vulnerable victims that exist in ACT legislation in relation to aggravated offences against pregnant women. The Minister observed:⁵

- police officers, firefighters and paramedics are in “frontline emergency service roles”, being expected to step forward to face risks that others are expected to step away from. For that reason “it is appropriate for the law to specifically reflect this vulnerability”;
- the reforms had the strong support of ACT police, the Australian Federal Police Association and ACT emergency service agencies and unions;
- the issue of occupational violence experienced by emergency workers is well documented by national research which highlights increased levels of psychological distress and poor mental health outcomes. The reports also identify the larger cost of mental health disorder claims by police, firefighters and paramedics;

¹ Section 297 (2) of the *Criminal Code* (WA).

² The amendments were made by the *Crimes Legislation (Protection of Emergency Workers and Others) Act 2017* (Vic). The Minister’s second reading speech (Legislative Assembly) was on Thursday 2 November 2017, Hansard page 3667.

³ Hansard at page 3668.

⁴ Introductory speech by Minister: ACT Legislative Assembly, 22 October 2019, page 4095. The Bill was enacted as the *Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020* (ACT), an amending Act which inserted four sections into the *Crimes Act 1900*. A review provision requires the Minister to review the operation of the four new sections after two years.

⁵ At pages 4096 - 4098.

- creation of the new offence recognises the “discrete criminality of this offending and the particular occupational vulnerability” of emergency workers. Creating the new offence “also means the specific conduct would be reflected in the offender’s criminal record, which enables better informed decisions involving the assessment of a person’s criminal history, for example, by the police, the courts, prospective employers or volunteer agencies”;
- disturbingly, the ramming of police vehicles has been an emerging trend in the ACT, typically occurring where drivers intentionally fail to comply with a police officer’s signal to pull over or where drivers attempt to avoid random breath testing.

2. Australian legislation

2.1 General offences, specific offences and aggravating factors

Recent legislative reforms in Australia and elsewhere have recognised the interrelated nature of criminal behaviour and the need to identify aggravating factors when defining offences and specifying penalty levels. One component of serious criminality is car theft: that is, the use of a stolen car compounds the criminality of activity in which a stolen vehicle is used.

In the absence of detailed legislative provisions it is open to the courts to differentiate between criminal activities on the basis of the degree of criminality involved. If this approach is taken there would be a small number of generally expressed offences (such as assault and wilfully causing property damage) with a wide range of penalties available to the courts.⁶ There are multiple reasons why this approach is unsatisfactory:

- it requires a court, without guidance from Parliament, to recognise that the use of a stolen vehicle is an aggravating factor;
- it fails to send a signal to the courts as to the relative gravity of criminal behaviour and the multiple components to offending behaviour;
- it fails to adequately differentiate between different forms of criminal activity. Without this differentiation criminal records will lack relevant detail. Future courts, employers and others will be unable to fully understand a person’s criminal history;
- without specific offences being created there is potential for wide variation between sentencing outcomes for similar behaviour.

In recent years many specific offences have been created relating to the misuse of motor vehicles. Many of these have two (or more) components. In some cases an offending behaviour is identified, with specific circumstances being treated as “aggravated circumstances” (or similar terms).

Examples of offences with multiple components are:

- NSW: several “aggravated offences” are specified in the NSW *Crimes Act 1900*. For example, under section 52A a person is guilty of *aggravated dangerous driving occasioning death* if the person commits the offence of dangerous driving occasioning death in “circumstances of aggravation”. The Act identifies “circumstances of aggravation,” one of which is that the accused was driving the vehicle to escape police pursuit;⁷
- South Australia: Criminal law uses the concept of a “basic” offence and an “aggravated offence.”⁸ It is an offence to drive a motor vehicle in a reckless manner with the intention of escaping pursuit by a police officer. If the person is driving a stolen vehicle this becomes an “aggravated offence” with a higher penalty;⁹
- Tasmania: It is an offence for a vehicle driver to take action to avoid interception by a police officer. It is an offence with a higher penalty to do so if the vehicle being driven is stolen;¹⁰
- Victoria: Recent legislation (described below) establishes offences of endangering an emergency worker by use of a motor vehicle. If there is an aggravating factor (such as use of a stolen motor vehicle) the person is guilty of a more serious offence;

⁶ This approach was supported in a submission to the NSW Sentencing Council in its review of *Assaults on Police and Emergency Workers* by the Office of the Director of Public Prosecutions (September 2020).

⁷ Section 52A (7) of the *Crimes Act 1900* (NSW).

⁸ Under section 5 of the *Criminal Law Consolidation Act 1935* (SA) an “aggravated offence” occurs where a provision differentiates between a “basic offence” and an “aggravated offence”.

⁹ Sections 19AC and 5AA(1b) of the *Criminal Law Consolidation Act 1935* (SA).

¹⁰ Section 11A of the *Police Powers (Vehicle Interception) Act 2000*. Another example of offence uplift is aggravated assault: common assault which occurs with intent to commit a crime or resist arrest (section 183 of the *Criminal Code* (Tas)).

- Western Australia: The concept of “circumstances of aggravation” is used in Western Australia. For the purposes of general driving offences one of the “circumstances of aggravation” is that the person was unlawfully driving the vehicle without the owner’s consent.¹¹

In the model provisions set out in the Appendix to this report an offence of ramming a police vehicle is established, with the use of a stolen motor vehicle being an aggravating factor.

2.1.1 The use of a stolen motor vehicle as an aggravating factor more generally

It can be seen from a survey of Australian legislation that the use of a stolen motor vehicle is sometimes, but not always, an aggravating factor. In South Australia it is an aggravating factor for the offence of driving recklessly with the intention of escaping pursuit by a police officer. In Victoria it is an aggravating factor for the offence of intentionally exposing an emergency services worker to risk by use of a motor vehicle.

A possible reform in this area would be to specify that the use of a stolen motor vehicle is an aggravating factor for offences generally, using the Western Australia concept of “circumstances of aggravation” as a model.

2.1.2 The Victorian offences

Following amendments in 2017 Victoria’s *Crimes Act 1958* now includes a Division¹² entitled *Driving offences connected with emergency workers, custodial officers, youth custodial workers and emergency service vehicles*. It sets out five offences with multiple factors which comprise offending behaviour.

The legislative approach can be described as compound, or layered. There is a basic offence of intentionally exposing an emergency worker to risk by driving (section 317AC). However, a person is guilty of the more serious **aggravated offence** of intentionally exposing an emergency worker to risk by driving (section 317AD) if there are aggravating factors.

Similarly, the basic offence of recklessly exposing an emergency worker to risk by driving (section 317AE), is uplifted to the more serious **aggravated offence** of recklessly exposing an emergency worker to risk by driving (section 317AF) if there are aggravating factors.

The aggravating factors¹³ in the Victorian legislation in relation to endangering a police officer are:

- the motor vehicle used to commit the offence is stolen, and the defendant knows this is or is reckless as to whether it is stolen;
- the offence is committed in connection with intentional damage to an emergency vehicle; or
- the offence is committed in connection with an indictable offence punishable by 10 years’ imprisonment or more.

In the second reading speech for the amending legislation the Minister stated¹⁴

“... intentionally or recklessly exposing an emergency worker to risk to safety by driving will require the imposition of a custodial sentence if the offence is committed in certain aggravating circumstances, for example, where the motor vehicle is stolen ...”

In addition, Victoria has the offence (section 317AG) of intentionally or recklessly driving a motor vehicle so that damage is caused to an emergency vehicle – that is, using a motor vehicle to ram an emergency vehicle. As a result of these amendments Victoria has *five* relevant offences. These are summarised in Figure 1: The five Victorian offences.

¹¹ Section 49AB of the *Road Traffic Act 1974* (WA). See also section 297 of the *Criminal Code* (WA).

¹² Division 8A of *Part 1 Offences*.

¹³ Section 317AD (1) and section 317AF (1).

¹⁴ Second reading speech 2 November 2017 Legislative Assembly, page 3668.

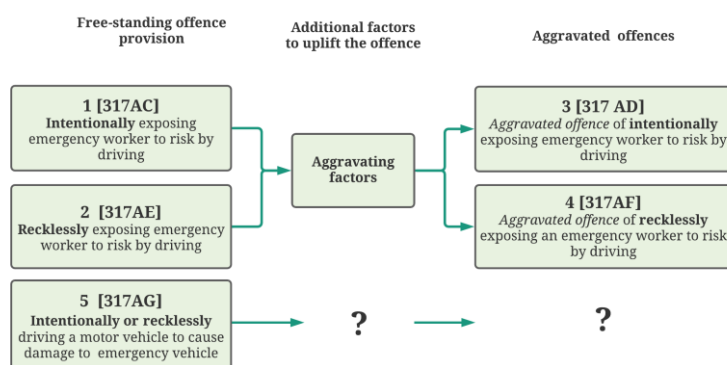


Figure 1: The five Victorian offences

In the Victorian structure the use of a stolen motor vehicle is an aggravating factor for two offences (sections 317AC and 317AE), and therefore is a component of the two aggravated offences (sections 317 AD and 317AF). However the same structure does not apply to the offence of using a vehicle to ram an emergency vehicle (section 317AG, number 5 in Figure 1 above). There is no obvious reason for this omission.

Further, the offence of ramming (section 317AG) is not included in the definition of “serious motor vehicle offence” in section 87P of the *Sentencing Act 1991 (Vic)*. As a result, a person who uses a vehicle (whether stolen or not) to ram a police car and is convicted of the offence under section 317AG is not subject to mandatory licence cancellation under section 89 of the *Sentencing Act 1991*.

It appears that the Victorian Parliament has decided that the offence of using a vehicle (whether or not a stolen vehicle) to ram an emergency vehicle is a lower level offence than exposing an emergency worker to risk by driving, with a lower penalty and no mandatory licence cancellation.

It appears likely that, if a vehicle is used to ram a police vehicle when there is a police officer in the vehicle, the driver would be charged with assault or exposing the police officer to risk. If so, the offence under section 317AG would be used for offences where there is no exposure to risk, for example ramming an empty car or a very low speed collision.

2.1.3 The ACT offences

In 2019 the ACT enacted legislation dealing with the ramming of police vehicles. Three offences were created:

1. Assault of a frontline community service provider:¹⁵ the components of this offence are: assault, the victim is a frontline community service provider and the defendant knows, or is reckless about whether, the victim is a frontline community service provider;
2. Driving motor vehicle at a police officer:¹⁶ this offence is specific to police officers but not police vehicles. It is committed if a person drives a motor vehicle near or at a police officer, the defendant knows or is reckless about whether, the victim is a police officer, the police officer is exercising a police function and the defendant intends to risk the police officer’s safety or is reckless about the police officer’s safety;
3. Damaging a police vehicle:¹⁷ this offence is committed if a person drives a motor vehicle and thereby causes damage to a police vehicle, where the defendant knows, or is reckless about whether, it is a police vehicle and intends to cause damage to the police vehicle or is reckless about causing that damage.

The third of these offences (section 29B of the *Crimes Act 1900*) provides a good model for national legislation – if it is modified so that the use of a stolen motor vehicle is an aggravating factor.

Under section 29A an offence to endanger a police officer. The maximum penalty is 15 years imprisonment. The offence is committed if the defendant:

- drives a motor vehicle near or at a police officer who was exercising the functions of a police officer;
- is knowing or reckless about the fact that the other person was a police officer; and
- intends to risk the police officer’s safety or was reckless about risking the police officer’s safety.

Unlike Victoria’s legislation, the ACT legislation does not identify the use of a stolen motor vehicle as a component of an offence.

¹⁵ Section 26A of the *Crimes Act 1900*. “Frontline community service provider” is defined to include a police officer.

¹⁶ Section 29A of the *Crimes Act 1900*.

¹⁷ Section 29B of the *Crimes Act 1900*.

2.1.4 New South Wales

The most relevant provisions are located in Division 8A of the *Crimes Act 1900* (NSW) “Assaults and other actions against police and other law enforcement officers”.¹⁸ Section 60 sets out six offences:

- assault, stalk, harass or intimidate¹⁹ a police officer (with a higher penalty if it occurs during a public disorder);
- assault causing actual bodily harm to a police officer (with a higher penalty if it occurs during a public disorder);
- causes grievous bodily harm to a police officer (with a higher penalty if it occurs during a public disorder).²⁰

2.1.5 Northern Territory

It is an offence under section 218 of the *Criminal Code Act 1983* (NT) to “unlawfully use” a motor vehicle.²¹ The penalty is two years’ imprisonment. The offence provision identifies aggravating circumstances (although that term is not used) which render the offender liable to seven years’ imprisonment.

One of the identified aggravating circumstances is where, in the course of the unlawful use, the offender causes injury or endangers lives or safety.²² This does not adequately cover the use of a motor vehicle to ram a police vehicle (it would not apply where a vehicle without occupants is rammed), so the proposed amendments in the Schedule to this report include an additional paragraph to be inserted into section 218 referring specifically to the ramming of a police vehicle.

The Criminal Code specifies several forms of assault, including assault on police or emergency workers.²³ However, there is no offence of ramming a police vehicle.

2.1.6 Queensland

Relevant offences are:

- assault or obstruct a police officer in the performance of the officer’s duties;²⁴
- endanger the safe use of a vehicle with intent to injure or endanger the safety of a person in or on the vehicle.²⁵ This provision is set out as section 319 of the *Criminal Code*. The amendment proposed in the Schedule to this report adds a new section following section 319.

2.1.7 South Australia

South Australia has offences under the *Criminal Law Consolidation Act 1935* which include:

- intentionally or recklessly cause harm to an emergency worker²⁶;
- assault an emergency worker;²⁷
- hinder or resist a police officer;²⁸
- dangerous driving in order to escape police pursuit (see below in relation to the uplifting of this offence to become an aggravated offence).²⁹

¹⁸ In 2019 private member’s bills were introduced into the Legislative Council for two amending Acts – a *Crimes Amendment (Assault of Emergency Service Workers) Bill 2019* and a *Crimes (Forensic Procedures) Amendment (Assaulted Emergency Workers) Bill 2019* (Notice of Motion by R Roberts MLC 21 November 2019). They do not appear to have had a second reading and it seems that a Bill was not drafted (“introduction” does not require that a Bill be drafted – this is required only at the “second reading” stage).

¹⁹ Presumably the offence was intended to deal with an *attempt* to intimidate.

²⁰ A deeming provision (subsection 4) provides that an action is taken to be carried out in relation to a police officer while in execution of the officer’s duty even if the officer is not on duty, if it is carried out as a consequence of, or in retaliation for, actions undertaken by the police officer in execution of the officer’s duty, or because the officer is a police officer.

²¹ Section 218 of the *Criminal Code Act 1983* (NT).

²² Section 218 (2)(a).

²³ Section 189A of the *Criminal Code Act 1983* (NT).

²⁴ Section 790 of the *Police Powers and Responsibilities Act 2000* (Qld).

²⁵ Section 319 of the *Criminal Code* (Qld).

²⁶ Section 20AA (1) and (2).

²⁷ Section 20AA (3).

²⁸ Section 20AA (4).

²⁹ Section 19AC.

Under the *Sentencing Act 2017* (SA), the primary purpose for sentencing a defendant is to protect the safety of the community and a secondary purpose is:³⁰

“to deter the defendant and others in the community from harming or assaulting prescribed emergency workers (within the meaning of section 20AA of the *Criminal Law Consolidation Act 1935*) acting in the course of official duties.”

South Australian offence provisions can differentiate between “aggravated offences” and “basic offences”, with higher penalties being applied to aggravated offences.³¹ The term “aggravated offence” includes an offence committed against a police officer where the offender knows that the victim is acting in the course of his or her official duty.

In addition, “aggravated offences” can occur under specific provisions of the Act. One of these is the offence of dangerous driving to escape police pursuit.³² If the offender was, at the time of the offence, driving a stolen vehicle the offence is uplifted by section 5AA (1b) to be an aggravated offence. This structure is proposed for the offence of ramming a police vehicle in a stolen vehicle.

2.1.8 Tasmania

Relevant offences are:

- avoid interception: it is an offence to take action to avoid interception by the police. If a person does so in a stolen vehicle a higher level offence is committed;³³
- assault: common assault is an offence under the *Police Offences Act 1935* (Tas). Aggravated assault, depending on the circumstances, is an offence under both that Act and under the *Criminal Code Act 1924* (Tas);³⁴
- obstruction of the police: it is an offence to assault, resist or wilfully obstruct a police officer in the execution of the officer’s duty;³⁵
- injury by driving: it is an offence for a person who is in charge of a vehicle by wanton or furious driving or racing or other wilful misconduct to cause injury to another person;³⁶
- crimes endangering life or health: Chapter 18 of the *Criminal Code Act 1924* (Tas) sets out several offences relating to actions which endanger life or health. These include causing injury to avoid arrest and dangerous driving. Chapter 19 deals with assaults, including assault to avoid arrest. Chapter 21 deals with “injury” (damage) to property, including public property.

2.1.9 Western Australia

Relevant offences are:

- grievous bodily harm: a person who does grievous bodily harm to another person is guilty of a crime. A higher penalty applies if the offence is committed in the course of stealing a motor vehicle; or if the victim is a public officer;³⁷
- act or omission causing bodily harm or danger: A person who does something as a result of which the life, health or safety of a person is endangered is guilty of an offence. A separate (and more serious offence) is committed if there is an intention to do harm;³⁸
- stealing: it is an offence to steal. A higher penalty applies if the thing stolen is a motor vehicle and the offender drives the vehicle recklessly or dangerously;³⁹
- reckless or dangerous driving: a person who commits the offence of reckless or dangerous driving is liable to an increased penalty if the person was driving to escape a police pursuit.

³⁰ Section 4(da) of the *Sentencing Act 2017*.

³¹ Section 5 of the *Criminal Law Consolidation Act 1935* and (definition of “aggravated offence”) and section 5AA of that Act (inserted by section 5 of the *Statutes Amendment and Repeal (Aggravated Offences) Act 2005*. *Criminal Law (Consolidation (Assaults on Prescribed Emergency Workers) Amendment Act 2019*.

³² Section 19AC of the *Criminal Law Consolidation Act 1935* (SA).

³³ Section 11A of the *Police Powers (Vehicle Interception) Act 2000* (Tas).

³⁴ Section 35 of the *Police Offences Act 1935* (Tas); section 183 of the *Criminal Code Act 1924* (Tas).

³⁵ Section 34B of the *Police Offences Act 1935* (Tas).

³⁶ Section 36 of the *Police Offences Act 1935* (Tas).

³⁷ Section 297 of the *Criminal Code* (WA). The term “public officer” is defined to include a police officer.

³⁸ Section 304 of the *Criminal Code* (WA).

³⁹ The offence is under section 378 of the *Criminal Code* (WA). The relevant associated offences are under sections 60, 60A and 61 of the *Road Traffic Act 1974* (WA).

Appendix: Proposed amendments

2.2 ACT

Amend the *Crimes Act 1900* (ACT) by inserting a new section 29C as follows:

29C Aggravated offence of damaging a police vehicle using a stolen vehicle

A person is guilty of an offence if—

- (a) the person commits an offence against section 29B; and
- (b) the offence is committed by use of a stolen motor vehicle and the person knows that, or is reckless as to whether, the motor vehicle is stolen.

Maximum penalty: imprisonment for 10 years.

2.3 New South Wales

1. In section 2 of the *Crimes Act 1900* (NSW) insert the following new definition:
police vehicle means a motor vehicle that is being used, or is ordinarily used, by a police officer in the exercise of the officer's functions.
2. After section 60 of the *Crimes Act 1900* (NSW) insert the following new section:

60AA Ramming a police vehicle

(1) A person is guilty of an offence if the person—

- (a) drives a motor vehicle and causes damage to a police vehicle by that conduct;
- (b) knows, or is reckless about whether, the damaged vehicle is a police vehicle; and
- (c) intends to cause, or is reckless about causing, damage to the police vehicle.

(2) For the purposes of subsection (1) it is presumed, unless there is evidence to the contrary, that the person knew that the damaged vehicle was a police vehicle if—

- (a) the vehicle stated "police" on the outside of the vehicle; or
- (b) the fact that the vehicle was a police vehicle was reasonably apparent, having regard to all of the circumstances, including the manner in which it was being driven.

(3) The accused has an evidential burden in relation to evidence to the contrary mentioned in subsection (2).

(4) A person may be guilty of an offence against this section regardless of whether the damaged vehicle was occupied by a police officer.

(5) A person who commits an offence under subsection (1) is liable to imprisonment for 3 years.

(6) A person is guilty of an offence if—

- (a) the person commits an offence against subsection (1); and
- (b) the offence is committed by use of a stolen motor vehicle and the person knows that, or is reckless as to whether, the motor vehicle is stolen.

(7) A person who commits an offence under subsection (6) is liable to imprisonment for 10 years.

2.4 Northern Territory

1. In section 1 of the *Criminal Code* insert the following new definition:
police vehicle means a motor vehicle that is being used, or is ordinarily used, by a police officer in the exercise of the officer's functions."
2. Amend the *Criminal Code* by adding after section 189A a new section 189B as follows:

189B Ramming a police vehicle

(1) A person is guilty of the offence of ramming a police vehicle if the person—

- (a) drives a motor vehicle and causes damage to a police vehicle by that conduct;
- (b) knows, or is reckless about whether, the damaged vehicle is a police vehicle; and
- (c) intends to cause, or is reckless about causing, damage to the police vehicle.

Maximum penalty: 3 years imprisonment.

(2) For the purposes of subsection (1) it is presumed, unless there is evidence to the contrary, that the person knew that the damaged vehicle was a police vehicle if—

- (a) the vehicle stated "police" on the outside of the vehicle; or
 - (b) the fact that the vehicle was a police vehicle was reasonably apparent, having regard to all of the circumstances, including the manner in which it was being driven.
- (3) The accused has an evidential burden in relation to evidence to the contrary mentioned in subsection (2).
 - (4) A person may be guilty of an offence against this section regardless of whether the damaged vehicle was occupied by a police officer.
3. Amend section 218 of the *Criminal Code* by adding a new paragraph (f) as follows:
- (f) in the course of such unlawful use the offender commits an offence against section 189B,

2.5 Queensland

1. In section 1 of the *Criminal Code* (Qld) insert the following new definition:
 "police vehicle means a motor vehicle that is being used, or is ordinarily used, by a police officer in the exercise of the officer's functions."
2. After section 319 of the *Criminal Code* (Qld) insert the following new section:

319 AA. Ramming a police vehicle

- (1) A person is guilty of an offence if the person—
- (a) drives a motor vehicle and causes damage to a police vehicle by that conduct;
 - (b) knows, or is reckless about whether, the damaged vehicle is a police vehicle; and
 - (c) intends to cause, or is reckless about causing, damage to the police vehicle.
- Maximum penalty — imprisonment for three years.
- (2) For the purposes of subsection (1) it is presumed, unless there is evidence to the contrary, that the person knew that the damaged vehicle was a police vehicle if—
- (a) the vehicle stated "police" on the outside of the vehicle; or
 - (b) the fact that the vehicle was a police vehicle was reasonably apparent, having regard to all of the circumstances, including the manner in which it was being driven.
- (3) The accused has an evidential burden in relation to evidence to the contrary mentioned in subsection (2).
- (4) A person may be guilty of an offence against this section regardless of whether the damaged vehicle was occupied by a police officer.
- (5) A person is guilty of an offence if—
- (a) the person commits an offence against subsection (1); and
 - (b) the offence is committed by use of a stolen motor vehicle and the person knows that, or is reckless as to whether, the motor vehicle is stolen.
- Maximum penalty — imprisonment for 10 years.

2.6 South Australia

2. Insert new section 20AA (3A) of the *Criminal Law Consolidation Act 1935* (SA) as follows:
- "(3A) A person commits an offence if the person—
- (a) drives a motor vehicle and causes damage to a police vehicle by that conduct;
 - (b) knows, or is reckless about whether, the damaged vehicle is a police vehicle; and
 - (c) intends to cause, or is reckless about causing, damage to the police vehicle.
- Maximum penalty:
- (a) for a basic offence: — imprisonment for 3 years;
 - (b) for an aggravated offence — imprisonment for 5 years.
- (3B) For the purposes of subsection (3A) it is presumed, unless there is evidence to the contrary, that the person knew that the damaged vehicle was a police vehicle if—
- (a) the vehicle stated "police" on the outside of the vehicle; or
 - (b) the fact that the vehicle was a police vehicle was reasonably apparent, having regard to all of the circumstances, including the manner in which it was being driven.
- (3C) The accused has an evidential burden in relation to evidence to the contrary mentioned in subsection (3B).

- (3D) A person may be guilty of an offence against this subsection (3A) regardless of whether the damaged vehicle was occupied by a police officer.”
3. In section 20AA (9) of the *Criminal Law Consolidation Act 1935 (SA)* insert the following new definition:
- “**police vehicle** means a motor vehicle that is being used, or is ordinarily used, by a police officer in the exercise of the officer’s functions.”
4. Amend section 5AA(1b) of the *Criminal Law Consolidation Act 1935 (SA)* by inserting after “section 19AC” the expression “or section 20AA(3A)”

2.7 Tasmania

1. In section 1 of the *Criminal Code (Tas)* insert the following new definition:
- “**police vehicle** means a motor vehicle that is being used, or is ordinarily used, by a police officer in the exercise of the officer’s functions.”
2. After section 172A of the *Criminal Code (Tas)* insert the following new section:
- 172B. Ramming a police vehicle**
- (1) A person is guilty of an offence if the person—
- drives a motor vehicle and causes damage to a police vehicle by that conduct;
 - knows, or is reckless about whether, the damaged vehicle is a police vehicle; and
 - intends to cause, or is reckless about causing, damage to the police vehicle.
- (2) For the purposes of subsection (1) it is presumed, unless there is evidence to the contrary, that the person knew that the damaged vehicle was a police vehicle if—
- the vehicle stated “police” on the outside of the vehicle; or
 - the fact that the vehicle was a police vehicle was reasonably apparent, having regard to all of the circumstances, including the manner in which it was being driven.
- (3) The accused has an evidential burden in relation to evidence to the contrary mentioned in subsection (2).
- (4) A person may be guilty of an offence against this section regardless of whether the damaged vehicle was occupied by a police officer.
- (5) A person who commits an offence under subsection (1) is liable to imprisonment for a term not exceeding 3 years.
- (6) A person is guilty of an offence if—
- the person commits an offence against subsection (1); and
 - the offence is committed by use of a stolen motor vehicle and the person knows that, or is reckless as to whether, the motor vehicle is stolen.
- (7) A person who commits an offence under subsection (6) is liable to imprisonment for a term not exceeding 10 years.

2.8 Victoria

The use of a stolen motor vehicle is an “aggravating factor” which uplifts two offences – the offence of intentionally endangering an emergency worker (section 317AC of the *Crimes Act 1958*) and the offence of recklessly endangering an emergency worker (section 317AE). The following new section would extend this concept to the offence of ramming a police vehicle (section 317AG) with a stolen motor vehicle. The penalty level is specified as being one level more serious than for the offence against section 317AG.

- 317AH Aggravated offence of damaging an emergency service vehicle**
- (1) A person is guilty of the aggravated offence of damaging an emergency service vehicle if—
- the person commits an offence against section 317AG; and
 - the motor vehicle driven by the person in the commission of the offence against section 317AG is stolen and the person knows that, or is reckless as to whether, the motor vehicle is stolen.
- (2) A person guilty of the aggravated offence of damaging an emergency service vehicle is guilty of an indictable offence and liable to level 5 imprisonment (10 years maximum).

2.9 Western Australia

1. In section 221 of the *Criminal Code* (WA), after subsection (1)(d) insert:
 - (e) in the case of an offence under section 304A, the motor vehicle driven by the person is stolen and the person knows that, or is reckless as to whether, the motor vehicle is stolen.
2. After section 304 of the *Criminal Code* (WA) insert the following new section:

304A. Ramming a police vehicle

 - (1) A person is guilty of the offence of the offence of ramming a police vehicle if the person—
 - (a) drives a motor vehicle and causes damage to a police vehicle by that conduct;
 - (b) knows, or is reckless about whether, the damaged vehicle is a police vehicle; and
 - (c) intends to cause, or is reckless about causing, damage to the police vehicle.
 - (2) For the purposes of subsection (1) it is presumed, unless there is evidence to the contrary, that the person knew that the damaged vehicle was a police vehicle if—
 - (a) the vehicle stated “police” on the outside of the vehicle; or
 - (b) the fact that the vehicle was a police vehicle was reasonably apparent, having regard to all of the circumstances, including the manner in which it was being driven.
 - (3) The accused has an evidential burden in relation to evidence to the contrary mentioned in subsection (2).
 - (4) A person may be guilty of an offence against this section regardless of whether the damaged vehicle was occupied by a police officer.
 - (5) A person who commits the offence of ramming a police vehicle is liable—
 - (a) if the offence is committed in circumstances of aggravation, to imprisonment for 10 years;
 - (b) in any other case, to imprisonment for 3 years.