



## FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

### DIVISION 2

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31 August 2023

### **CIRCULAR TO PROFESSION: OBJECTIONS TO SUBPOENAS**

The Court is experiencing increased filings of Objections in relation to Subpoenas to produce documents. This is impacting on workload and causing third parties to undertake additional work and incur costs.

This Circular is aimed to assist the profession and reduce impacts on the court and third parties.

Tasmania Police has provided the **attached** information, with the objective of reducing the number of Objections they are compelled to take.

Practitioners are reminded that the purpose of a Subpoena for production of documents is to access documents for admission into evidence at hearing, not be fishing or a form of discovery on non-parties. There should be a legitimate forensic purpose to any request to produce documents, meaning that they have apparent relevance to the issues in the proceedings.

Practitioners may find it useful to read *Hatton & AG of the Commonwealth & Ors* [2000] FamCA 892 at [34] and following, which provides an excellent summary of the relevant legal principles. It should be noted that Rule 6.33 of the Federal Circuit and Family Court (Family Law) Rules 2021 provides specific power to set aside the whole or part of a Subpoena.

## TASMANIA POLICE – SUBPOENA INFORMATION

30 August 2023

- Tasmania Police receive between 30 and 35 subpoenas per month, the majority of which are issued out of the Federal Circuit and Family Court of Australia.
- Tasmania Police has in excess of 12 databases in which information is stored, in addition to hardcopy files such as prosecution files.
- Tasmania Police has limited resources to apply to responding to subpoenas.
- When subpoenas are drafted to be served on Tasmania Police, consideration should be given to precisely identifying the forensic purpose. Subpoenas are not a “fishing exercise” designed to uncover as much information as possible.
- In cases where Tasmania Police has provided a report in response to an Order pursuant to s.69ZW, and a party wishes to subpoena Tasmania Police documents relating to events or circumstances set out in the report, reference should be made clearly identifying the event or occasion in the manner it is described in the report.
- In other cases, specifying dates or date ranges and/or particular persons should be considered.
- Subpoenas should be directed to:

The Commissioner of Police  
47 Liverpool Street  
Hobart Tas 7000

And served at:

[Ois.enquiries@police.tas.gov.au](mailto:Ois.enquiries@police.tas.gov.au)

**Garth Stevens**  
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