

# **TASMANIA** **LAW REFORM** **INSTITUTE**

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## **Submission on the Police Offences Amendment (Knives and other Weapons) Bill 2025**

Thank you for the opportunity to comment on this draft Bill. This response has been approved by the Board of the Tasmania Law Reform Institute (TLRI). It was prepared for the Board by Dr Matias Thomsen and TLRI staff.

### **About the Tasmania Law Reform Institute**

The TLRI is Tasmania's peak independent law reform body. It was established on 23 July 2001 by agreement between the Government of the State of Tasmania, the University of Tasmania and The Law Society of Tasmania.

The work of the Institute is to conduct impartial and independent reviews or research on areas of law and legal policy in order to provide independent and impartial advice and recommendations on the area investigated, with a view to, or for the purposes of:

- i.** the modernisation of the law; and/or
- ii.** the elimination of defects in the law; and/or
- iii.** the simplification of the law; and/or
- iv.** the consolidation of any laws; and/or
- v.** the repeal of laws that are obsolete or unnecessary; and/or
- vi.** adopting new or more effective methods for administering the law and dispensing justice; and/or
- vii.** providing improved access to justice; and/or
- viii.** uniformity between laws of other states, territories and the Commonwealth; and/or
- ix.** the codification of laws; and/or
- x.** promoting equality before the law.

### **Feedback on the Police Offences Amendment (Knives and other Weapons) Bill 2025**

While the TLRI supports measures aimed at improving the safety of the public and police officers, it has concerns that this Bill creates an unwarranted expansion of police search powers.

Our submission is divided into three parts:

- (1) a lack of data justifying an expansion of search powers;
- (2) concerns over the nature and impact of the proposed expansion; and
- (3) alternative approaches.

### 1. Lack of data

To the best of our knowledge, no data has been presented to justify the expansion of police search powers to detect knives and similar dangerous weapons. Evidence is important from a human rights and legal policy perspective. That is because expanding police powers to enable searches of individuals prima facie breaches the right to liberty and the right to refuse to self-incriminate (among other things). These breaches might be acceptable to the community if there was robust evidence that they would reduce Tasmanians' risk of injury or death from knife crimes – thereby *promoting* their right to life. Similar considerations were examined by parliaments and the courts in the late 20<sup>th</sup> century when police were given the power to randomly stop drivers and require them to undergo a breath test for alcohol levels. Ultimately the quality of the evidence was so strong that the random breath test laws were upheld.<sup>1</sup>

However, the 2023-2024 'Crime Statistics Supplement' ('the Supplement') prepared by the Department of Police, Fire, and Emergency Management (DPFEM) does not present clear evidence of an increase in knife violence in public places or the possession of knives in public places.<sup>2</sup>

#### *Assault*

The Supplement reports that in 2023-2024, 80% of assaults did not involve a weapon, 4% involved a knife, and 1% involved a firearm.<sup>3</sup> Further, 56% of all assaults occurred in residential rather than public areas.<sup>4</sup> These figures have remained broadly consistent over the last five years.<sup>5</sup> Moreover, additional data from the Australian Bureau of Statistics (ABS) show that:

- although the per capita rate of recorded assaults in Tasmania increased between 2014-2023, the 2023 rate (712.7 assaults per 100,000 people) is still lower than any year between 2001 to 2008;
- Tasmania's rate of assault is significantly lower than all other states and territories in Australia, bar the ACT.<sup>6</sup>

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<sup>1</sup> Prichard, Jeremy, Allison Matthews, Raimondo Bruno, Katherine Rayment, and Helen James. "Detouring civil liberties? Drug-driving laws in Australia." *Griffith Law Review* 19, no. 2 (2010): 330-349.

<sup>2</sup> Department of Police, Fire, and Emergency Management, '2023-24 Crime Statistics Supplement', Tasmanian Government. Available at: <<https://www.police.tas.gov.au/uploads/Crime-Statistics-Supplement-2023-24.pdf>>.

<sup>3</sup> Ibid 3.

<sup>4</sup> Ibid.

<sup>5</sup> Yearly editions of the Department of Police, Fire, and Emergency Management's Crime Statistics Supplement are available on the Tasmanian Police website: <<https://www.police.tas.gov.au>>. In each of the five years, knife-related assaults accounted for 4-5% of all recorded assaults, with the exception of 2020-1 in which knife-related assaults accounted for 2% of all assaults.

<sup>6</sup> ABS (2024). *Recorded Crime – Victims, 2023*, [www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release#data-downloads](http://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release#data-downloads) . See Table 10 Victimization rates, Selected offences by states and territories. Note that data for Victoria are not listed.

## ***Armed Robberies***

The Supplement presents the following data on recorded armed robberies in Tasmania.

<b>Year</b>	<b>Total armed robberies</b>	<b>Percentage involving a knife</b>
2019-2020	65	42%
2020-2021	36	28%
2021-2022	44	46%
2022-2023	61	47%
2023-2024	70	51%

These figures indicate that armed robberies fluctuated over the 5 years between 2019 to 2024, with a temporary reduction during the COVID-19 pandemic. This is consistent with ABS data that shows armed robbery in Tasmania has fluctuated significantly between 1993 and 2023.<sup>7</sup>

The Supplement's figures on *Assault* and *Armed Robbery* suggest that (a) there has been no increase in the use of knives or other dangerous weapons in violent assaults over the last five years, and (b) only a slight increase in armed robberies. No other data was presented on the use or detection of knives in public places.

## ***Murder, Attempted Murder & Manslaughter***

The Supplement does not present data on murder, attempted murder and manslaughter (which are listed by the ABS as 'homicide and related offences'). Knives are obviously used in these incredibly serious crimes. However, ABS data on recorded crime indicate that:

- In 2023 there were six murders and four attempted murders in Tasmania;
- Knives were used in three of the attempted murders;
- The numbers of homicide-related offences are not increasing in Tasmania. In fact, the number in 2023 (8) is lower than 22 of the previous 30 years;<sup>8</sup> and
- Per capita Tasmania's rate of homicide-related offences (1.4 per 100,000 people) in 2023 was comparable to Victoria's (1.3) and lower than Queensland (2.0), South Australia (2.6), Western Australia (2.4), and the Northern Territory (4.4).<sup>9</sup>

Tasmanian-specific data on the location of 'homicides and other offences' are not available on the ABS website. However, at a national level 56% occurred at residential locations, and 38% were family and domestic violence related.<sup>10</sup> In short, there are no indications that new police powers to search individuals in public places will reduce homicide-related offences involving knives.

The TLRI is not suggesting that knives are not dangerous, or that they are not used in very serious violent crimes that have lasting impacts on victims, some of whom are themselves police officers. But police officers already have the power to search people where they have reasonable grounds to believe that the person is in possession of a dangerous weapon under section 15C of the *Police Offences Act 1935* (Tas.) ('the Act'). It is the TLRI's view that there does not appear to have been any evidence presented that this existing search power is inadequate in detecting unlawful

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<sup>7</sup> Ibid. See Table 9.

<sup>8</sup> Ibid. See Table 9. Years with lower numbers of 'homicides and related offences' are 1999, 2006, 2008, 2010, 2017-2020. These years range from 3 to 7.

<sup>9</sup> Ibid. See Table 10.

<sup>10</sup> See <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release#australia>.

possession of dangerous weapons (including knives), or in preventing knife crime in Tasmania.

## 2. Nature and impact of the proposed expansion of police powers

The TLRI has three related concerns with the Bill: (i) the breadth and lack of oversight of the proposed wandering power; (ii) the risk that it will give rise to the arbitrary use of suspicion-less searches; and (iii) the negative impact that such legislative changes may have on community-police relations without necessarily reducing violent crime.

### (i) *Wandering*

Part 2, clause 5 of the Bill would insert s 15CAA(2) into the Act to grant police officers the power to require, without a warrant, any person within a 'prescribed area' to undergo an electronic metal detection device search (also known as 'wandering'). Part 3, clause 8 of the Bill proposes inserting s 8A(2), which would determine the following as 'prescribed areas' for the purposes of s 15CAA(2):

- a) a public transport area;
- b) a retail precinct;
- c) a large passenger vehicle within the meaning of the Passenger Transport Services Act 2011;
- d) a vessel used in the operation of a public ferry service;
- e) a place where sport is played or exhibited;
- f) a licenced premises or any place used for the assembly of members of the public for social, entertainment or recreational purposes;
- g) a facility or place where medical or health services are provided;
- h) an education facility;
- i) a place of worship or place where individuals or a group of persons congregate for religious or ritual purposes or to perform acts of devotion;
- j) a car park or set down area that forms part of, or is used for the purpose of access to, a place specified in this regulation.

Section 8A(1) provides definitions of some of these terms to further demonstrate the scope of prescribed areas. For example, a **public transport area** includes a bus interchange, stop, or shelter; a **retail precinct** includes a shopping area in which 2 or more retail premises are situated, including the footpath immediately adjacent to the retail premises; and a **set down area** includes an area used to allow passengers to enter and exit a private vehicle.

The list of prescribed areas is very broad and covers a significant portion of public spaces used in daily life. There is no requirement that the prescribed area is proven to be susceptible to knife crime or oversight from a senior police officer whose decisions may be subject to review. Further, there is no requirement for a police officer to form reasonable belief that a person is carrying a dangerous item before requesting that a person undergo a metal detection search, and s 15(4A) provides that a failure to comply with a requirement to undergo a metal detection search may constitute a reasonable grounds for suspicion, and so provide the basis to subject that person to a metal detection.

The proposed wandering powers in the Bill can be contrasted with similar legislative amendments in Queensland. Under s 38C of the *Police Powers and Responsibilities Act 2000* (QLD), wandering is only permitted in 'relevant areas' with authorisation from a senior police officer. That senior police officer may only issue the authorisation if there has been a knife or serious criminal offence committed in the relevant area within the last 6 months and must consider, among other things, whether the use of wandering is likely to be effective in deterring knife crime and the impact it may have on lawful activity in the area. Furthermore, a senior police officer may only authorise wandering in a **licenced premises** if the officer has reasonable grounds to believe that an offence involving a weapon or a serious criminal offence is likely to occur in the next 6 months, and may only authorise wandering in a **retail premises** if the premises is open for business between 12 midnight and 5:00am on at least 2 nights per week or if at least 2 offences have been committed by a person with a weapon in the last 6 months.

**(ii) Suspicion and suspicion-less searches**

Section 15C(2) of the Act currently gives police officers the power to search a person or their vehicle where the officer reasonably believes that the person has possession of, or carries, any dangerous article (including knives) without lawful excuse. Part 2, clause 4(b) of the Bill would omit the term ‘reasonably believes’ and substitute it for the term ‘reasonably suspects’, which is a lower standard. As discussed, there is no evidence provided to justify why expanding search powers is necessary and would stand at odds with consistent use of the ‘reasonably believes’ standard for all personal search powers under the Act (with the exception of laser pointers under s 15F), and under the *Misuse of Drugs Act 2001* (Tas).

Moreover, Part 2, clause 4(c) of the Bill would amend s 15C of the Act by inserting s 4A, which provides that where a person refuses to comply with a requirement to undergo an electronic metal detection device search (wanding), it may constitute a reasonable ground for suspicion that the person is in possession of a knife or other dangerous article. In practice, this can amount to a suspicion-less search. The proposed Bill then does not require police officers to form reasonable suspicion or belief before subjecting individuals to wanding in prescribed areas, which, as discussed, includes many public places used in daily life. A person who refuses would then be liable to a personal search. The risk of police arbitrarily exercising this power is high, as police appear to be able to circumvent the existing reasonable belief, or suspicion standard, for any personal searches in prescribed areas by requiring a person to undergo wanding, providing that person refuses the direction.

**(iii) Impact**

The impact of wanding provisions is yet to be fully understood. Following the trial legislation in Queensland, (which took place from 1 May 2021 to 30 April 2022 in two ‘safe night precincts’ in the Gold Coast) the Final Report of the Griffith Criminology Institute (‘the Report’) recommended that ‘wanding should be targeted at only those areas where data shows a proportionately higher prevalence of knife offences occurring over a sustained period’.<sup>11</sup> This recommendation was based on the finding that the wanding trial contributed increased detection of knife-carrying in only one of the two precincts.<sup>12</sup> Furthermore, wanding led to a significant increase in drug detections, which highlights the risk that the power can be used to circumvent the reasonable belief or suspicion standard for personal searches. As stated in the Report:

Given the increased number of drug detections linked to wanding in Surfers Paradise, care needs to be taken to ensure that wanding does not lead to a by-passing of reasonable suspicion safeguards, and net-widening among minor offenders who are not carrying weapons but nevertheless come to police attention purely because of wanding practices. The entry of larger numbers of these individuals into formal criminal justice processes could have many adverse flow-on effects.<sup>13</sup>

The Report also noted that there is yet to be any evidence of a deterrent effect or statistically significant reduction in the number of violent offences using a knife.<sup>14</sup> The Report also found that wanding had been used inconsistently among different groups in the community, with ‘some evidence of inappropriate use of stereotypes and cultural assumptions by a small number of officers in determining who to select for wanding’.<sup>15</sup>

Wanding legislation has since been enacted in Queensland, allowing a senior police officer to authorise its use in ‘relevant areas’, subject to the limitations previously mentioned. Even with this more circumscribed legislation, it has been reported that New Queensland Police Service data

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<sup>11</sup> Janet Ransley, Nadine Connell, Margo van Felius, and Shannon Walding, ‘Review of the Queensland Police Service Wanding Trial’ (August 2022, Griffith University Criminology Institute, Report), Key finding 2, p iv. Available at: <<https://research-repository.griffith.edu.au/server/api/core/bitstreams/231360c5-d77d-4438-9b3e-8a12cc16af5c/content>>.

<sup>12</sup> Ibid, Key Finding 1, p iv.

<sup>13</sup> Ibid, Key finding 9, p v.

<sup>14</sup> Ibid, Key findings 3 and 4, p iv

<sup>15</sup> Ibid, Key finding 7, p iv.

shows that from April 2023 to January 2024, 92,201 people had been scanned, 31,516 of whom were children, leading to charges being laid against 2,505 people.<sup>16</sup> Of those charges, just over 400 related to weapons offences and almost 1,400 related to drug offences.<sup>17</sup>

Professor Ransley, who co-authored the Griffith Final Report reviewing the trial legislation, stated that the only publicly available evidence found ‘no reduction in violence as a result of the use of these scanners’, adding further that:

What's needed to reduce knife crime are evidence-based government programs addressing underlying causes like mental health, poverty, child maltreatment and domestic and family violence — wandering has no impact on them.<sup>18</sup>

Michael Cope, president of the Queensland Council for Civil Liberties, is also reported as saying that ‘All the evidence from the UK would suggest that it [wandering] will be making little or no difference to the sort of crimes that it's meant to be dealing with – violent crime, assault.’<sup>19</sup> Indeed, multiple studies from the UK suggest that suspicion-less stop and search powers are ineffective in dealing with violent crime and are harmful to the relationship between the community and the police, undermining trust and in some instances causing long-term trauma.<sup>20</sup>

### 3. Alternative options

The TLRI recommends that more time is needed to gather evidence on the necessity and efficacy of wandering. If such legislation is enacted, the research suggests that it requires (a) greater oversight, (b) ought to be empirically reviewed after a reasonable period of time, and (b) should be limited *in time and place* to an area that is known to be at greater risk of knife-related crime.

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<sup>16</sup> Cloe Read, 'Extraordinary power': Calls for review of knife searches by Qld police - More than 30,000 children have been searched using metal-detecting wands under Jack's Law, sparking calls for a review of the police powers amid concerns they could be misused' (2 February 2025, Brisbane Times, News Article) available at: <

[https://infoweb.newsbank.com/apps/news/document-view?p=AUNB&t=country%3AAustralia%21Australia&sort=YMD\\_date%3AD&hide\\_duplicates=2&fld-base-0=alltext&maxresults=60&val-base-0=knife%20searches&docref=news/19E7FB6F44A383E8](https://infoweb.newsbank.com/apps/news/document-view?p=AUNB&t=country%3AAustralia%21Australia&sort=YMD_date%3AD&hide_duplicates=2&fld-base-0=alltext&maxresults=60&val-base-0=knife%20searches&docref=news/19E7FB6F44A383E8)>.

<sup>17</sup> Ibid.

<sup>18</sup> Rachel Stewart, Claudia Williams and Jessica Black, 'Expansion of Jack's Law welcomed by family of victims grappling with 'heartbreak beyond imagination' (23 August 2024, ABC News, News Article) available at: <

<https://www.abc.net.au/news/2024-08-23/jack-beasley-vyleen-white-police-powers-knife-crime/104254410>>.

<sup>19</sup> Cloe Read, 'Extraordinary power' (n 10).

<sup>20</sup> Matteo Tiratelli, Paul Quinton and Ben Bradford, 'Does Stop and Search Deter Crime? Evidence From Ten Years of London-Wide Data' (2018) 58 *British Journal of Criminology* 1212; Rhydian McCandless, Andy Feist, James Allan and Nick Morgan, 'Do initiatives involving substantial increases in stop and search reduce crime? Assessing the impact of Operation BLUNT 2' (March 2016, London Home Office, Report) available at:

<<https://assets.publishing.service.gov.uk/media/5a80c6deed915d74e623061b/stop-search-operation-blunt-2.pdf>>; Amal Ali and Nina Champion, 'More Harm than Good: A Super-Complaint On The Harms Caused by 'Suspicion-Less' Stop and Searches and Inadequate Scrutiny of Stop and Search Powers' (May 2021, Criminal Justice Alliance, Report) available at: <[https://www.criminaljusticealliance.org/wp-content/uploads/CJA-super-complaint-into-section-60-and-scrutiny-of-stop-and-search\\_FINAL.pdf](https://www.criminaljusticealliance.org/wp-content/uploads/CJA-super-complaint-into-section-60-and-scrutiny-of-stop-and-search_FINAL.pdf)>; and Report on the Criminal Justice Alliance's Super Complaint (December 2023, His Majesty's Chief Inspectorate of Constabulary and Fire and Rescue Services, the College of Policing, and the Independent Office for Police Conduct, Report) available at: <<https://assets.publishing.service.gov.uk/media/657afeb7095987000d95e118/cja-super-complaint-section-60-independent-community-scrutiny-stop-search.pdf>>.