



Tasmanian Council of Social Service Inc.

Police Offences Amendment (Knives and Other Weapons) Bill 2025

February 2025



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About TasCOSS

TasCOSS' vision is for one Tasmania, free of poverty and inequality where everyone has the same opportunity. Our mission is two-fold: to act as the peak body for the community services industry in Tasmania; and to challenge and change the systems, attitudes and behaviours that create poverty, inequality and exclusion.

Our membership includes individuals and organisations active in the provision of community services to Tasmanians on low incomes or living in vulnerable circumstances. TasCOSS represents the interests of our members and their service users to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

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Introduction

TasCOSS welcomes the opportunity to provide feedback to the Department of Police, Fire and Emergency Management ('DPFEM') in relation to the Police Offences Amendment (Knives and Other Weapons) Bill 2025 ('the Bill'). The Bill proposes several changes to the *Police Offences Act 1935 (Tas)* ('the Act').

The stated intention of the Bill is to align with the Tasmanian Government's commitment to 'making Tasmanian communities and roads safe' and to 'crack down on crime'.¹ According to the Consultation Information Sheet provided as part of the current consultation on the Bill, the proposed legislation is also aimed at improving police operations for the detection of dangerous articles in certain public places, and to deter future offending.

TasCOSS understands the introduction of the Bill follows a statewide, two month trial of 'wandering' which has allowed police to use metal detection wands to look for concealed weapons.² We also understand the trial and the Bill respond to concerns from community members who have experienced violent knife crime and are urging the Government to take action to promote public safety and deter future violent incidents.³

The Bill proposes a series of significant changes to police practices, many of which are likely to impact children and young people. A review of a similar trial in Queensland, undertaken by an academic team at Griffith University,⁴ shows that a significant proportion of those who were wanded were under 18. Given the nature of the locations targeted through the provisions in the Bill (including schools, TAFEs and retail precincts, all places where children are likely to spend time) we believe there is very high likelihood that children and young people will be impacted by this legislation.

TasCOSS is extremely concerned about the potential impact of the Bill on the safety and wellbeing of children and young people. We do not believe there is sufficient evidence demonstrating the effectiveness of wandering in other jurisdictions to justify the introduction of similar procedures in Tasmania and are concerned about the potential impact of these changes, particularly those communities who are already vulnerable in their interactions with police. TasCOSS supports improving public safety but also reminds the Government of its commitment to protecting and supporting children and young people (including reducing their interactions where possible with the criminal legal system).⁵

¹ Tasmania Police, 'Consultation on Police Offences Amendment (Knives and Other Weapons) Bill 2025', (20 January 2025), accessed at [Consultation on Police Offences Amendment \(Knives and Other Weapons\) Bill 2025 - Tasmania Police](#).

² Scout Wallen, 'Tasmania Police search powers set to expand to metal detector wand use, similar to Queensland's Jack's Law', ABC News (online, Tuesday 26 November 2024), [Tasmania Police search powers set to expand to metal detector wand use, similar to Queensland's Jack's Law - ABC News](#).

³ Ibid.

⁴ Griffith Criminology Institute, Griffith University, Review of the Queensland Police Service Wandering Trial (August 2022), 44.

⁵ Many recommendations from the Commission of Inquiry relate to the objective of reducing the number of children in youth detention – this is explored at Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse (Report, August 2023), Volume 5 (Book 3): Chapter 12 — The way forward: Children in youth detention, pp76-110.

Overview

Clause 5 of the Bill introduces a new provision into the Act which allows police to enter certain locations (without a warrant) to conduct searches using a wand. The list of locations is extensive and includes ‘educational facilities’ (including school, university, TasTAFE facility or vocational education facilities), ‘retail precincts’, ‘a place where sport is played or exhibited’, and even ‘a place of worship or place where individuals or a group of persons congregate for religious or spiritual purposes or to perform acts of devotion’.

There is no requirement for there to be any grounds for wanding. This is a significant departure from current laws in relation to searches, which require police to have either a ‘reasonable belief’ or ‘reasonable grounds’ that a person is committing, has committed or is likely to commit an offence.⁶ The Bill proposes a change to search powers in relation to persons suspected of carrying dangerous articles by lowering the threshold for a search,⁷ but our interpretation of the Bill is that this does not apply to powers associated with the use of wands outlined in Clause 5 of the Bill (which introduces a new section relating to the use of electronic metal detection devices), which give the police broad power to search ‘any person’ within a prescribed place.⁸

We note these provisions are the subject of a recent consultation in relation to potentially expanded powers for police (including search powers).⁹ TasCOSS has opposed the expansion of police search powers, noting the impact this expansion may have on groups such as Aboriginal people or Tasmanians with disability, who are already vulnerable to misuse of police powers/discretion.¹⁰

Key Issues

Impact on groups who are vulnerable to misuse of police powers

As we have noted in previous submissions,¹¹ several inquiries, reports and academic research have raised significant concerns about the impact of public order offences on groups experiencing disadvantage or over-policing. For example, in their submission to the recent Victorian inquiry into the criminal justice system,¹² the Victorian Aboriginal Legal Service noted, ‘*[e]xpansion of police powers, and the disproportionate use of these powers and of heavy public health fines against already marginalised communities, leads to engagement with police which ultimately lead to more arrests, more people unnecessarily taken into custody and higher incarceration rates*’.¹³ The Yoorrook Justice Commission heard evidence from a number of stakeholders in relation to the misuse of police powers and subsequent

⁶ For example, *Police Offences Act 1935* (Tas) ss7 and 7B.

⁷ Police Offences Amendment (Knives and Other Weapons) Bill cl4 (b).

⁸ Police Offences Amendment (Knives and Other Weapons) Bill cl5 – new subsection 15CAA (2):

A police officer in a prescribed place may, without a warrant, require any person within that prescribed place to undergo an electronic metal detection device search.

⁹ [Police Powers and Responsibilities Act - Proposal Paper](#) – consultation closed on 3 February 2025.

¹⁰ TasCOSS, Submission to Department of Justice, ‘Police Powers and Responsibilities Act’ (February 2025).

¹¹ Ibid.

¹² Parliament of Victoria, Legislative Council – Legal and Social Issues Committee, Inquiry into Victoria’s criminal justice system – Final Report (2022).

¹³ Victorian Aboriginal Legal Service (2021), *Submission to the Inquiry into Victoria’s Criminal Justice System*, p129, cited at ibid 191.

impact on Aboriginal people, families and communities.¹⁴ In relation to children and young people, the National Children’s Commissioner has recently noted, *‘[s]ome children and young people reported feeling unsafe when interacting with police. They recalled incidents of abuse and mistreatment, racial profiling, and lack of support...’*.¹⁵ They noted these findings were consistent with other research examining children’s negative experiences with police.¹⁶

Recent research has also highlighted that early police contact actually makes it more likely that a child or young person will become (or continue to be) involved in the criminal legal system.¹⁷ The criminogenic risk is higher for Aboriginal children and young people, with reports noting Aboriginal people *‘were significantly more likely than their non-Indigenous peers to have contact with police at a younger age as both victim and offender and to go on to have higher rates of ongoing contact with criminal justice agencies’*.¹⁸ Therefore, while there may be a perception that increasing police presence in locations where children are present (for example, schools or public spaces such as retail precincts) may promote public safety by increasing interactions between police and children in those locations, the evidence suggests the new provisions may in fact be harmful to children and community safety in the long term.

Increased police contact (and expanded powers in relation to searches) may also lead to what has been referred to as ‘net-widening’. While the intent of the legislation is to prevent violent crime and promote public safety, increasing police powers and presence of police in certain locations is likely to result in an increased number of charges/arrests for behaviours which do not fall within this category of offence. The review of the recent trial into wandering in QLD highlighted the increased detection of drug possession as a concerning outcome of the trial.¹⁹ The review further noted that *‘care needs to be taken to ensure that wandering 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 wandering. The entry of larger numbers of people into formal criminal justice systems could have many adverse flow-on effects’*.²⁰ As noted above, the Tasmanian Government has committed to implementing recommendations from the Commission of Inquiry which are focused on reducing, not increasing, the number of children who are involved in the criminal legal and detention systems – we are concerned this reform is not aligned with those objectives.

¹⁴ Yoorrook Justice Commission, *Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems* (2023) 253-269.

¹⁵ Australian Human Rights Commission (2024). ‘Help way earlier!’: How Australia can transform child justice to improve safety and wellbeing, pp47-49.

¹⁶ For example, see South Australian Commissioner for Children and Young People, *Making Change in Youth Justice: A User’s Guide to building a better South Australian youth justice system* (2020); CREATE Foundation, *Youth Justice Report* (Report, 2018).

¹⁷ McCausland, R. and Baldry, E. (2023) “Who does Australia Lock Up? The Social Determinants of Justice”, *International Journal for Crime, Justice and Social Democracy*, 12(3), pp. 37-53. <https://doi.org/10.5204/ijcisd.2504>.

¹⁸ Baldry E, McCausland R, Dowse L and McEntyre E (2015) A predictable and preventable path: Aboriginal people with mental and cognitive disability in the criminal justice system, accessed at <https://www.mhdcd.unsw.edu.au/a-predictable-and-preventable-path-iamhdcd-report.html>.

¹⁹ Griffith Criminology Institute, Griffith University, *Review of the Queensland Police Service Wandering Trial* (August 2022), 83.

²⁰ Ibid.

Lack of justification for the proposed changes

As outlined above, the Bill introduces significant changes which are likely to have substantial impact on the community. We believe such sweeping changes should only be introduced in response to demonstrated community need.

We are unclear, for example, why the legislation includes a focus on places such as educational facilities or places of worship. Given the potential impact of increasing police presence at these locations – particularly for people or groups who have a history of difficult interactions with police, such as Aboriginal communities, cultural or religious minorities, LGBTQIA+ people or Tasmanians with disability – we cannot support the introduction of these measures without detailed evidence and data demonstrating that these changes are justified to increase community safety and protection in these places.

Similarly, we are unclear why introducing powers to search without warrant is justified. We note the overwhelming evidence (outlined in numerous national and state inquiries)²¹ relating to the impact of police practices on groups who are vulnerable to criminalisation or marginalisation, and recommendations from these inquiries to limit (not increase) the interactions of particular groups with the police as a safeguard against misuse of power.

Finally, there is no evidence the expansion of these powers will have a deterrent effect on crime – this was not a finding of the QLD wandering trial, with the review report noting, that *‘[t]he evidence to date does not suggest any deterrent effect that can be attributed to wandering, whereby fewer people are carrying knives’*.²² The review noted that this may change over time and that a subsequent evaluation may be helpful.²³ We therefore suggest that, if deterrence is (as stated) a key motivation for the introduction of this legislation, it would be prudent to wait for further evaluations to see if the desired impact can be achieved through similar schemes in Tasmania.

Lack of data in relation to recent trial

Aside from statements from Tasmania Police referenced in media articles and media releases, we have not seen any outcomes or findings from the recent trial. Following the similar (but longer) trial of wandering in Queensland referred to above, the following key findings were made:

- To be effective, wandering should be targeted within areas where data shows a proportionately higher incidence of knife offences;
- There was no evidence that wandering had a deterrent effect on offences involving weapons or violent crime;

²¹ For example, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, ‘Criminal justice and people with disability’ (2023) p3; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, ‘Research Report: Police responses to people with disability’ (2021), pp3-7; Australian Law Reform Commission, *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Final Report No 133 (2017) pp354-355; Yoorrook Justice Commission, *Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems* (2023) 253-269; Parliament of Victoria, Legislative Council – Legal and Social Issues Committee, *Inquiry into Victoria’s criminal justice system – Final Report* (2022) pp179-257.

²² Griffith Criminology Institute, Griffith University, *Review of the Queensland Police Service Wandering Trial* (August 2022), 81.

²³ *Ibid.*

- Wandering was inconsistently used by police across different community groups, with evidence of ‘inappropriate use of stereotypes and cultural assumptions by a small number of officers in determining who to select for wandering’; and
- There is a need for caution in relation to potential ‘net-widening’ for minor offenders who are not carrying weapons but nonetheless come into contact with police due to wandering.²⁴

Given these findings, TasCOSS is not supportive of the introduction of these provisions in Tasmania without clear evidence demonstrating the need for expanded search powers and alternatives procedures.

Increased penalties

The Bill also proposes changes to the penalties for the offence of possessing a dangerous article to a maximum fine of 100 penalty units, or a term of imprisonment not exceeding three years, or both.

The underlying assumption of the proposed changes in the Bill is that increased penalties will reduce offending. However, as we have highlighted in previous submissions,²⁵ academic research into sentencing and its impact on criminal behaviour show that this is not always the case. As noted by the Tasmanian Law Reform Institute, “there is little support for the proposition that harsher sentencing brings about any significant reduction in the crime rate.”²⁶ A recent submission from Community Legal Centres Tasmania also highlighted that the rate of offending (relating to the offence of possessing a dangerous article) has actually increased in Tasmania since the penalty was increased in 2021.²⁷

For the reasons outlined above, TasCOSS does not support the Bill. To ensure a safer community, we strongly recommend the Government prioritises greater investment in evidence-based reform to address the underlying causes which are driving criminal behaviour.²⁸

²⁴ Griffith Criminology Institute, Griffith University, Review of the Queensland Police Service Wandering Trial (August 2022), iii-v.

²⁵ TasCOSS, Submission to Department of Police, Fire and Emergency Management, ‘Police Offences Amendment Bill 2024’ (October 2024).

²⁶ Tasmanian Law Reform Institute (2008) ‘Sentencing,’ June, p. 79.

²⁷ Community Legal Centres Tasmania, Submission to Department of Police, Fire and Emergency Management, ‘Consultation on the Police Offences Amendment Bill 2023’ (14 November 2024).

²⁸ For an overview of TasCOSS’ previous recommendations in relation to children and young people who are involved in, or at risk of becoming involved in, the legal system, please see TasCOSS and CREATE Foundation (2022), Submission to the Tasmanian Government, ‘Reforming Tasmania’s Youth Justice System,’ March; TasCOSS and CREATE Foundation, Submission to the Department of Education, Children and Young People (2022), ‘Response to the Youth Justice Blueprint,’ December; TasCOSS (2023), Submission to the Legislative Council Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters, April; TasCOSS (2024), Submission to the Federal Senate Inquiry into Australia’s youth justice and incarceration system, October.