

Reply to:Hobart Office

12 February 2025

Department of Police, Fire and Emergency Management
GPO Box 308
Hobart
Tasmania 7001

By email to: submissions.strategy.support@police.tas.gov.au

Dear Sir, Madam

Tasmania Legal Aid's Submission: Police Offences Amendment (Knives and other Weapons) Bill 2025

Tasmania Legal Aid (TLA) welcomes the opportunity to provide a submission to the Department of Tasmania Police on the *Police Offences Amendment (Knives and other Weapons) Bill 2025* (the Bill). TLA acknowledges the intention of the proposed amendments - to enhance public safety and to create safer environments, particularly in high-risk areas such as entertainment precincts, transport hubs, and nightlife districts. However, TLA is concerned that if passed, the amendments will allow searches to be conducted without a reasonable suspicion, creating the potential to infringe on individuals' rights to privacy and freedom of movement. TLA are also concerned about the impacts such amendments will have on groups of people experiencing disadvantage and vulnerability.

TLA also welcomes all opportunities to participate in stakeholder consultations on this and any future proposals to implement recommendations.

About Tasmania Legal Aid (TLA)

We are a body corporate established under the *Legal Aid Commission Act 1990* to sustainably provide legal services in Tasmania in an effective, efficient and economical manner.

TLA provides legal services to help Tasmanians understand their rights, navigate the system to resolve their legal issues, and get the assistance they need. We support and advocate for Tasmanians experiencing hardship, vulnerability and marginalisation and work with our clients, staff, service partners and community to improve the legal system.

HOBART

158 Liverpool Street
Hobart TAS 7000

LAUNCESTON

117 Cimitiere Street
Launceston TAS 7250

BURNIE

50 Alexander Street
Burnie TAS 7320

DEVONPORT

8 Griffith Street
Devonport TAS 7310

As the primary provider of criminal law legal services to adults and children in Tasmania's justice system, we are uniquely placed to contribute to the proposed amendments to the *Police Offences Act* that are proposed in the Bill.

Section 15C – Dangerous Article

TLA made a submission on the *Police Offences Amendment Bill 2024* in October 2024. This included recommendations in relation to proposed amendments to section 15C in that Bill, which were to:

- Increase the penalty from a fine not exceeding 50 penalty units or a term of imprisonment not exceeding 2 years or both to a fine not exceeding 100 penalty units and a term of imprisonment not exceeding 3 years or both.
- Change the standard of belief for searches without a warrant for the offence from “reasonable belief” to “reasonable suspicion”

TLA repeats our recommendations made during that consultation process.

TLA strongly opposes increasing both the fine and the term of imprisonment. Historically, this offence carried no term of imprisonment and the current penalty of not exceeding two years' imprisonment was only introduced in July 2021. In the absence of sentencing data for recent decisions involving convictions for this offence, it is not understood why a significant increase in the penalty is necessary or justified. The proposed increase in penalty is disproportionate to the seriousness of the offence and is not supported by TLA.

TLA strongly oppose any amendment with respect to lowering the standard of belief of a police officer from reasonable belief to reasonable suspicion. This is a significant change to the standard of belief and provides the police with a wider power to stop, detain and search a person without warrant. TLA holds concerns about widening this power by reducing the threshold because:

1. of the negative impact we consider it will have on vulnerable members of the community including to increase contact, and often therefore conflict, with police for homeless people, young people, people who identify as Aboriginal or Torres Strait Islander and other ethnic minorities; and
2. there is no evidence-based research that we are aware of that supports the position that lowering the threshold for unwarranted searches will reduce crime.

Further proposed amendments to section 15 include section 15CAA – use of electronic metal detection device. Subsection (2) provides that a police officer in a prescribed place may, without warrant, require any person within that prescribed place to undergo an electronic metal detection device search. Subsection (3) proposes to provide police with the power to stop and detain a person for as long as reasonably required to conduct the search. The Bill goes on to define prescribed places.

TLA notes that research in other jurisdictions indicates that the use of metal detector wands has not demonstrably reduced violent crimes. A study, conducted by Griffith University, concluded that while wandering increased the detection of knife carrying in certain areas, it did not deter individuals from carrying knives, nor did it lead to a decrease in violence offences¹. The report also found that in terms of equity, wandering was inconsistently used across different groups in the community – whilst the targeting of young people was clearly intended under the Queensland legislation, there was an evidence base for selecting more males than females and evidence of inappropriate use of stereotypes and cultural assumptions by a small group of officers.

Based on the Queensland research, TLA is concerned that these laws could disproportionately target minority groups. Should the Bill be passed in its current form, TLA strongly advocates for training to **all** police to specifically address the underlying objectives of the Bill – to reduce violent crime. Training should also specifically address how the use of wands can impinge human rights/personal freedoms and the implications of the use of stereotypes to guide decision making.

TLA is concerned that the current Bill gives police the authority (albeit in a prescribed place) to conduct searches without needing to hold or form a reasonable suspicion. The absence of this requirement raises concerns about the potential to misuse the power and the erosion of civil liberties. Moreover, the prescribed places are those that youth and homeless groups are more likely to be present in – increasing the probability that these vulnerable groups will be disproportionately targeted, leading to greater interactions with police for those cohorts and potentially negative interactions.

The proposed Bill also includes a provision that a police officer may, where a person who without reasonable excuse, fails to comply with the requirement for a wand search, may take such non-compliance as a reasonable suspicion that the person may be in possession of carrying, or using a dangerous article.

It is unclear from the proposed Bill what constitutes a “reasonable excuse” in the context of non-compliance with a search that can occur without a reasonable suspicion that a person is carrying a knife. Vulnerable, disadvantaged and minority groups such as youth, Aboriginal and Torres Strait Islander people, homeless, those with mental health issues or impacted by drugs and/or alcohol and people who do not speak English, may have very little understanding of why they must comply with a search and/or the consequences of not complying. For example, an individual may have a legitimate reason for declining a search – such as cultural sensitivities, trauma or a mistrust of police.

If this section is to remain, TLA recommends that safeguards be added to require that suspicion be based on a totality of circumstances, not just a refusal to comply, for example, a failure to comply, *when considered alongside other relevant circumstances*, constitutes a reasonable ground for suspicion that a person is in possession or carrying a dangerous article. Other relevant circumstances should at least include:

¹ Griffith University Criminology Institute (2022) *Review of the Queensland Police Service Wandering Trial*, J Ransley, N Connell, M van Felius and S Walding.

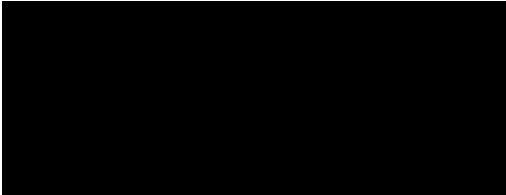
1. The person's behaviour or conduct indicating potential concealment of a dangerous article; and
2. Any prior information or intelligence reasonably suggesting that a person may be in possession of a dangerous article.

Conclusion

TLA opposes the proposed amendments in the Bill for the reasons expressed above. Whilst the goal of enhancing community safety is undeniably important, we are strongly of the view that it must not come at the expense of eroding fundamental individual rights or disproportionately impact particular groups of people.

TLA welcomes the opportunity to have input into any further draft Bills, amendments or implementation.

Yours faithfully

A large black rectangular redaction box covering the signature area.

Director of Tasmania Legal Aid