

Police Powers and Responsibilities and Other Legislation Amendment Bill 2024

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Submitted by: Queensland Police Union of Employees
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The Secretariat
Community Support and Services Committee
Parliament House
George Street
BRISBANE 4000

11 April 2024

Dear Secretariat

**Re: Queensland Police Union Submission
*Police Powers and Responsibilities and Other Legislation Amendment Bill 2024***

I write to the Committee in relation to the above Bill and provide the following submission on behalf of the Queensland Police Union (QPU).

The QPU represents over 12,500 police officers, special constables, civilian watchhouse officers, police liaison officers, band members and chaplains across the State of Queensland. This equates to over 95% of eligible members of the QPU, which is responsible for making submissions on behalf of its membership on topics impacting the performance of their policing roles.

I note the underlying purpose of the Bill is to recognise trans and gender diverse Queenslanders and provide a legislative framework which allows police and watchhouse officers powers to conduct searches of citizens in particular circumstances, whilst ensuring the searched individual's dignity is preserved to the greatest extent. Similar provisions are proposed for other individuals also granted the power to search.

The QPU notes that the principles expressed in the *Births, Deaths and Marriages Registration Act 2023* are proposed to be reflected in this bill. The definition of gender and sex has changed to reflect the diversity in our community and the QPU is supportive of the law moving to a place that better reflects the diversity in our community and inside our Union.

I commend the Government on introducing amendments to remove gender-specific terms from various Acts, and to give recognition and appropriate safeguards to trans and gender diverse persons.

The QPU is supportive of the proposed amendments but wishes to suggest some changes for the Committee's consideration.

First, the Bill will allow police and watchhouse officers to disregard a detainee's preference about the gender of the searching officer, if the officer reasonably believes the preference is expressed for an improper purpose.

The QPU is concerned the expression 'improper purpose' is not defined in any of the Acts to be amended, and recommends a definition consistent with the explanatory notes should be

inserted into the Dictionary Schedules. That definition should include examples of what may constitute an improper purpose.

For example, the QPU recommends the expression 'improper purpose' include (a) a purpose designed to frustrate, prevent or unreasonably delay a search; and (b) a purpose to cause embarrassment or offence to an officer.

Second, the QPU is also concerned each of the proposed amendments contain a second provision in the alternative to the improper purpose provision which allows an officer (or other individual authorised to search) to conduct the search, despite not being of the same gender as the person to be searched. That exception arises if it is not reasonably practicable to accommodate the preference.

The QPU is particularly concerned this provision will allow persons of different genders to conduct a search, despite a gender preference being stipulated, simply because no person of the stipulated gender is on duty or reasonably available.

For example, under the current provisions outside of an emergency a male can only search a male and a female can only search a female. The Queensland Police Service (QPS), at least in major centres, ensures there are a number of male and female officers rostered on duty at watchhouses so the search safeguards can be complied with. The QPU believes the proposed amendments are considerably loose and would allow the QPS to have a person who identifies as male search a person who identifies as female, simply because there is not an officer who identifies as female rostered on duty. Clearly this is not the intent of the legislation, but its current drafting would allow such to occur.

Ensuring that people who are gender diverse and transgender feel appropriately secure is at the heart of this legislation. The QPU is not in the business of outing or exposing any of our members who are gender diverse or transgender however we believe it is necessary to speak up on their behalf here. All attempts must be made to ensure that common sense prevails in this proposal and that the rights of our members are maintained to ensure the continued safety of police.

Police in Queensland are subject to strong provisions around their professional conduct and all complaints made against our members are rigorously investigated. The QPU is concerned that the ambiguity in the proposals before the committee potentially present a risk to our members. Let us be clear, creating 'flexibility' for officers conducting a search should not be envisioned as an opportunity for police to decline to respect the expressed gender identity of a person in custody. Similarly, the proposed flexibility should be read to envision an environment where a person misuses the respectful provisions designed to recognise the lived experience of transgender and gender diverse Queenslanders for their own purposes.

Police are concerned about the risk of a complaint being made against them and the QPU seeks assurances through this process to those concerns. Men and women must be available to undertake these searches and searches must occur in a manner that respects the dignity of those in custody and the dignity of our members.

The bill proposes to strike out the ability for any police officer or authorised commissioned officer to view the monitor of a video camera in an area where a person is searched. The QPU is concerned that this provision increases the risk to police, whilst we recognise the intention behind this proposal we ask for consideration about how this practice can best safeguard the dignity of those in custody and safeguard our members from false claims of misconduct.

Third, the QPU believes there must be a clear recognition in the legislation an officer (or other authorised searcher) need not disclose their own gender to the person being searched, and

nor can such officer be required to undertake a search if the officer themselves feels undertaking the search would make the officer uncomfortable or embarrassed. This should not be limited to gender grounds, but should also allow an officer to decline to conduct a search due to cultural, religious or even officer safety concerns. For example, a female officer transitioning to male may feel personally uncomfortable about searching a person who identifies as female and should not be compellable to conduct such search (outside of an emergent situation). Similarly, an officer who has been subject to sexual abuse may feel uncomfortable conducting a search where clothing is removed.

The intention behind this legislation is framed with respect at its heart. This legislation must come with appropriate resourcing and changes to the operational nature of policing. Whilst those are matters for the QPS it is important to note at this time the cautionary position of the QPU. Overwhelmingly police feel that they are responsible for a number of complex issues inside the community, often without increased resourcing, plans or equipment to meet the expectations of the community. When proceeding with this legislation the Committee must consider these factors and make recommendations that can give our members the certainty that their previously good conduct in this space will continue to be recognised and will be enhanced, not further complicated by this process.

With the exception of the above issues, I commend the Bill to the Committee and advise the QPU supports the intent of the Bill wholeheartedly. I am available on [REDACTED] should you wish to discuss these matters further.

Yours faithfully

[REDACTED]
Ian Leavers APM
General President & CEO
QUEENSLAND POLICE UNION