

Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025

Submission No: 18
Submitted by: Human Rights Law Centre
Publication:
Attachments: See attachment
Submitter Comments:

Human
Rights
Law
Centre.

Submission on Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025

16 April 2025

Human Rights Law Centre

The Human Rights Law Centre uses strategic legal action, policy solutions and advocacy to support people and communities to eliminate inequality and injustice and build a fairer, more compassionate Australia. We work in coalition with key partners, including community organisations, law firms and barristers, academics and experts, and international and domestic human rights organisations.

We acknowledge the lands on which we work and live, including the lands of the Wurundjeri, Bunurong, Gadigal, Ngunnawal, Darug, Wadawurrung, Jagera and Turrbal peoples.

We pay our respects to Elders both past and present, and acknowledge the ongoing work of Aboriginal and Torres Strait Islander peoples, communities and organisations to unravel the injustices imposed on First Nations people since colonisation. We support the self-determination of Aboriginal and Torres Strait Islander peoples.

T: + 61 3 8636 4450

F: + 61 3 4050 7744

E:

W: www.hrlc.org.au

1. Overview of submission

The Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025 ("**the Bill**") proposes to expand, and make permanent, police powers to stop and search a person with a handheld metal detector ("**wandering**") in designated public places without a reason. The Bill will:

- make the wandering powers permanent by removing the sunset clause that schedules its expiry on 30 October 2026;
- expand the application of wandering powers to public places that are not designated 'relevant places';
- remove the requirement for police to obtain authority from a senior police officer to subject people to wandering in a 'relevant place'; and
- remove other safeguards, such as certain police notification and reporting requirements.

The Human Rights Law Centre is highly concerned that the Bill will permanently and significantly expand police wandering powers without sufficient evidence or safeguards to justify the limitation on fundamental human rights. Based on the independent evaluation of the powers and other studies, we are also concerned about unintended consequences, including discriminatory policing and net widening to non-weapon-related offences, leading to the criminalisation of unmet health needs and pipelining of marginalised and vulnerable groups into the criminal legal system.

In the absence of a second independent evaluation, we oppose the Bill.

2. Human rights assessment

The power for a police officer to stop a person, without warrant or reasonable suspicion, and require the person to submit to wandering is a significant limitation on fundamental rights, including equality before the law, freedom of movement, privacy and reputation. In accordance with the *Human Rights Act 2019* ("**Human Rights Act**"), human rights can only be subject to reasonable limits that are demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

We acknowledge that the intention of the Bill is to enhance community safety by addressing knife related crime.¹ We are concerned about a lack of evidence showing that the proposed expansion and permanent extension of wandering powers will achieve this objective. For example, the government has not shown that the wandering trial has deterred individuals from entering public places with knives, minimised the risk of physical harm by removing knives from individuals in these areas and/or ensured the safety of others in the community by reducing knife crime.² Instead, data suggests that 'stop and search' powers in Queensland and elsewhere have a very low weapon detection rate and do not act as a deterrent to knife crime or carrying weapons:

- Recent government information indicates that the current detection rate for weapons since the wandering powers were introduced is less than 1%.³ This low detection rate is consistent with research into stop and search powers in Victoria.⁴

¹ Explanatory Notes, Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025 1, 6.

² We note the Queensland Human Rights Commission called for this evidence in its submission to the Community Support and Services Committee on the Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022 (Submission No 6, 13 January 2023) 7.

³ Queensland Premier, 'Queensland Government marks major milestone for Jack's Law' (Media Release, 25 January 2025) <<https://www.thepremier.qld.gov.au/qld-government-marks-major-milestone-for-jacks-law.aspx>>.

⁴ Information obtained by the Liberty Victoria's Rights Advocacy Project found that stop and search powers allowing Victorian police to search any person in designated areas without reason are largely ineffective, with about 1 percent of searches conducted with these powers uncovering any banned substance or item: *Unreasonable Grounds: Reforming Victoria Police's stop and search powers* (Report, February 2025) 10.

- A review of the 12-month wandering trial by the Griffith Criminology Institute (“**Griffith Review**”) found no evidence that wandering deters knife carrying or that it led to reduced violent or other crime.⁵
- A UK longitudinal study using ten years of data found that stop and search powers without ‘reasonable grounds’ had no apparent effect on violent crime, including knife crime.⁶
- A 2012 review of Victoria Police stop and search powers found there was no discernible impact of these powers on armed robbery, and that impact on armed robbery was the best indicator of the impact on knife-related crime.⁷

We are also concerned that the Bill proposes to remove important safeguards for the exercise of police power, including the requirement for police to obtain evidence-based authority from a senior police officer prior to subjecting people to wandering in relevant places. The government previously justified the limitation on human rights arising from the expansion of the wandering trial in 2023 and 2024 to more ‘relevant places’ on the basis of safeguards such as the authorisation requirement.⁸ The government has not adequately explained how the power to subject people to wandering in ‘relevant places’ will be compatible with human rights without these key safeguards.⁹ This is particularly worrying given the breadth of public places that are covered by the ‘relevant places’ definition, which includes public transport, shopping centres, retail premises, sporting and entertainment venues and licensed premises.¹⁰

The removal of safeguards and the lack of evidence about the efficacy of wandering powers to reduce knife-related crime raise significant questions about whether the human rights limitations created by the Bill are properly justified under section 13 of the Human Rights Act.

3. Unintended consequences

We are concerned widening the places and situations in which wandering can occur, without key safeguards, will have disproportionate consequences for Aboriginal and Torres Strait Islander people, people of colour, children, and people with disabilities and complex health needs, who are historically overpoliced and overrepresented in Australia’s criminal legal system.¹¹ Any search process that

⁵ Janet Ransley et al, Griffith Criminology Institute, *Review of the Queensland Police Service Wandering Trial* (Report, August 2022) iv, 81.

⁶ UK House of Commons Home Affairs Committee, *The Macpherson Report: Twenty-two years on* (Third Report of Session 2021-22, 30 July 2021) 104 [333].

⁷ Office of Police Integrity, *Review of Victoria Police use of ‘stop and search’ powers* (Report, May 2012) 7.

⁸ Statement of Compatibility, Police Powers and Responsibilities (Jack’s Law) Amendment Bill 2022, 6-7; Statement of Compatibility, Queensland Community Safety Bill 2024 19.

⁹ For example, there is an inherent contradiction in the Bill’s Statement of Compatibility where the government states that ‘there are no less restrictive and reasonably available ways to achieve the purposes of the Bill’, whilst simultaneously acknowledging in the context of the expansion of powers to other public places that ‘creating an authorising environment within a public place, provides a degree of supervision to safeguard that hand held scanning is undertaken lawfully and with the intent to enhance community safety and security’: Statement of Compatibility, Police Powers and Responsibilities (Making Jack’s Law Permanent) and Other Legislation Amendment Bill 2025 8.

¹⁰ *Police Powers and Responsibilities Act 2000* (Qld) s39C(1).

¹¹ See for example, Australian Productivity Commission. (2025). Report on Government Services 2025, Part F, Section 17 (Youth justice services), table 17A.18; Australian Institute of Health and Welfare, ‘First Nations young people in detention by legal status’ in Youth detention population in Australia 2024 (December 2024) <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/first-nations-young-people/first-nations-young-people-in-detention-by-legal-s>>; Victorian Government. (2023). Aboriginal Affairs Report 2023, 133-137; The Racial Profiling Data Monitoring Project, Key Findings (based on available data) (accessed 16 April 2025) <<https://www.racialprofilingresearch.org/keyfindings>>; NSW Bureau of Crime Statistics and Research. (2024). *The involvement of young people aged 10 to 13 years in the NSW criminal justice system*; Yussuf, A., ABC News, ‘First Nations and diverse communities disproportionately stopped and searched in NSW’ (Online, 14 February 2025) <<https://www.abc.net.au/news/2025-02-14/first-nations-cald-disproportionately-searched-nsw-police/104642914>>; NSW Bureau of Crime Statistics and Research, *Youth custody numbers in NSW up by almost a third since 2023 due to a rise in bail refusal* (Media Release, 18 February 2025) <<https://bocsar.nsw.gov.au/media/2025/mr-custody-dec2024.html>>; Harris, L., ABC News, ‘Former NSW Police officers say racist culture leading to higher Indigenous incarceration rates’ (Online, 26 November 2024) <<https://www.abc.net.au/news/2024-11-26/former-nsw-police-officers-indigenous-racism-incarceration/104635852>>; Office of the Children’s Commissioner Northern Territory. (2024). *Our most vulnerable children bearing the consequences of a failed system: A thematic analysis of the needs of children aged 10 to 13 years held in Northern*

provides broad police discretion and no requirement for reasonable suspicion can lead to the inadvertent misuse or weaponisation of search powers. For example, research from the Centre for Racial Profiling shows that First Nations people in Victoria are 11 times more likely to be searched by Victoria Police, people perceived as African are six times more likely to be searched, and people perceived as Middle Eastern are five times more likely to be searched.¹²

The Griffith Review found evidence of inappropriate stereotyping and cultural assumptions by a small number of officers during the trial.¹³ It also found that wandering powers led to an increased number of drug detections, despite being targeted at preventing knife-related crime, and 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’.¹⁴

We are therefore concerned about the extent to which wandering powers is worsening the criminalisation of unmet health needs and funnelling vulnerable people who should be receiving health and social supports into prisons and police watchhouses.

We also note that the data available to the Griffith Review was limited because of the difficulty in extrapolating from 12 months of data, the trial period overlapping with COVID-19, and limitations on recording some information on the police database, including data regarding First Nations people.¹⁵

Given our concerns, in the absence of a second independent evaluation, we oppose the Bill. A second independent evaluation is crucial to properly understand the efficacy of wandering in preventing knife-related crime, as well as the impacts of wandering powers on overpoliced, vulnerable and marginalised groups. Without this information, the expansion and permanent entrenchment of wandering appears unjustifiable under the Human Rights Act.

Territory youth detention in 2022/23, 20, 35; WA Today, ‘Racism fear amid WA police report on driver fines’ (Online, 6 February 2020) <<https://www.watoday.com.au/national/western-australia/racism-fear-amid-wa-police-report-on-driver-fines-20200206-p53ycf.html>>; Australian Law Reform Commission. (2017). *Pathways to Justice - An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, 90 [3.2]; O’Brien, G., ‘Racial Profiling, Surveillance and Over-Policing: The Over Incarceration of Young First Nations Males in Australia’ (2021), *Social Sciences* 10 (2) 68.

¹² The Racial Profiling Data Monitoring Project, Key Findings (based on available data) (accessed 16 April 2025) <<https://www.racialprofilingresearch.org/keyfindings>>.

¹³ Janet Ransley et al, Griffith Criminology Institute, *Review of the Queensland Police Service Wandering Trial* (Report, August 2022) iii-iv.

¹⁴ *Ibid* v.

¹⁵ *Ibid* iii.