



# **Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022**

**Report No. 27, 57th Parliament  
Community Support and Services Committee  
February 2023**

## **Community Support and Services Committee**

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### **Acknowledgements**

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All web address references are current at the time of publishing.

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## Chair's foreword

This report presents a summary of the Community Support and Services Committee's examination of the Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022.

No parent would ever wish to suffer the loss of a child. On Friday, 13 December 2019, Mr Brett Beasley and Mrs Belinda Beasley received news that their son Jack had been stabbed on a busy street in Surfers Paradise. Jack passed away shortly after, just 3 months before his 18th birthday.

The Bill is named in honour of Jack Beasley. His family established the Jack Beasley Foundation and have since advocated for reform to youth justice laws and to educate young people about the dangers of carrying knives in public places.

The Bill also remembers the passing of Raymond Harris, who was fatally stabbed in Surfers Paradise in September 2020. Knife crime is a concern for any community and particularly in Safe Night Precincts (SNPs).

The Bill proposes to extend and expand the trial of hand held scanners, or wands, to detect the unlawful possession of knives, which was carried out in Broadbeach and Surfers Paradise SNPs. The trial would be extended for an additional 2 years and expanded to include all 15 SNPs in Queensland, as well as public transport stations and public transport vehicles.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*. The committee considered the views expressed in submissions and by witnesses at the committee's public hearing, as well as briefing material from the Queensland Police Service.

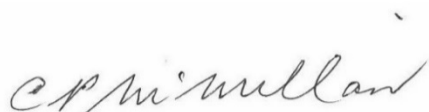
The committee recommends the Bill be passed.

Additionally, the committee recognises that using wands to search and detect weapons are extraordinary and nation leading powers to give to any police service. The Queensland Government acknowledges the scope of these powers and will ensure that evidence-based decision-making always prevails. Rights and liberties must be protected throughout the state of Queensland. For this reason the committee recommends the extension and expansion of the trial be externally reviewed so that future legislative options may be carefully considered.

The committee acknowledges the work by the Queensland Police Service and the support from the Queensland Police Service Union on the architecture of this Bill, and the strength and courage of Mr and Mrs Beasley and the Jack Beasley Foundation for their tireless commitment and advocacy for these laws in Queensland.

On behalf of the committee, I thank those individuals and organisations which made written submissions on the Bill. I also thank the officers of the Queensland Police Service who assisted the committee during the course of the inquiry, and our Parliamentary Service staff for their ongoing support.

I commend this report to the House.



Ms Corinne McMillan MP

Chair

## Recommendations

### **Recommendation 1** **5**

The committee recommends the Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022 be passed.

### **Recommendation 2** **25**

In relation to the expansion of the wandering trial to public transport vehicles and stations, the committee recommends:

- in all regions the wandering trial be adequately resourced and supported by training for QPS officers.
- the Queensland Police Service implement a clear, appropriate and concise public awareness campaign, in cooperation with Queensland's public transport providers.
- the independent review of the extended wandering trial also examine the operation of the wandering trial specifically in relation to public transport vehicles and stations.

### **Recommendation 3** **31**

The committee recommends that the public education program is developed in consultation with key stakeholders in targeted areas around Queensland, relevant to local safe night precinct areas, communities and identified public transport centres.

The committee recommends that the Queensland Police Service extend the public education campaign across Queensland consistent with the extension of the wandering trial.

### **Recommendation 4** **32**

The Committee recommends that the extended and expanded trial be independently evaluated.

## Report Summary

This report presents a summary of the committee's examination of the Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022 (Bill).

### **The committee recommends the Bill be passed.**

The main objective of the Bill is to extend and expand the trial of hand held scanners, or wands, to detect the unlawful possession of knives, which was carried out in Broadbeach and Surfers Paradise Safe Night Precincts (SNPs). The Bill proposes amendments to the *Police Powers and Responsibilities Act 2000* (PPRA) to:

- extend the expiry date of the scanning provisions to 30 April 2025
- increase the scope of prescribed public areas for scanning to include all 15 SNPs and all public transport stations, including public transport vehicles
- strengthen the criteria that a senior police officer must consider before approving the use of a hand held scanner device.

The key issues raised by stakeholders and considered by the committee during the examination of the Bill included:

- public safety, including consideration of:
  - the risks of knife crime
  - whether the expanded trial would improve public safety
  - the need for a review at the end of the extended trial
- authorisations
- safeguards, including consideration of issues such as:
  - whether there are sufficient guidelines to support wandering
  - mitigating risks of bias
  - reliability of QPRIME data
- expansion to public transport stations and vehicles
- the importance of public messaging and education.

The committee supports the purpose of the Bill to extend and expand the trial of wandering provisions in the PPRA, as a method to enhance public safety by detecting and potentially deterring the carrying of knives in public places.

The committee is satisfied that on balance with maintaining community confidence and safety, the Bill has sufficient regard to fundamental legislative principles, to the rights and liberties of individuals and the institution of Parliament, and that any limitations on human rights are reasonable and justifiable. The committee is satisfied the Queensland Police Service (QPS) will support police officers with appropriate training and comply with reporting requirements, to ensure police undertake wandering searches appropriately.

The committee made recommendations to support the expansion and extension of the trial: that the QPS be adequately resourced across the State, and that a public education program be implemented that is relevant and appropriate to the unique characteristics of SNPs, the public transport setting and the Queensland community.

The committee also recommended that the extended and expanded trial be independently evaluated prior to consideration of further legislative reform.





## 1 Introduction

### 1.1 Policy objectives



The main objective of the Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022 is to extend and expand the trial of hand held scanner provisions to detect the unlawful possession of knives beyond the Surfers Paradise and Broadbeach safe night precincts (SNPs).<sup>1</sup>

To achieve that objective the Bill would amend the *Police Powers and Responsibilities Act 2000* (PPRA) to:

- extend the expiry date of the scanning provisions to 30 April 2025
- increase the scope of prescribed public areas for scanning to include all 15 SNPs and all public transport stations, including public transport vehicles
- strengthen the criteria that a senior police officer must consider before approving the use of a hand held scanner device.<sup>2</sup>

### 1.2 Background

On 1 May 2021, the QPS commenced a trial of using hand held metal detecting devices (wands) to detect knives in the Surfers Paradise and Broadbeach SNPs.<sup>3</sup> The objective of the trial was to minimise physical harm caused by knife crime in SNPs.<sup>4</sup> The legislative provisions in the PPRA authorising the trial expire on 30 April 2023.<sup>5</sup>

A catalyst for the trial was the tragic murders of 2 young men, Jack Beasley and Raymond Harris, who were killed with knives in separate incidents within the Surfers Paradise SNP in 2019 and 2020.<sup>6</sup> In December 2019, 17-year-old Jack Beasley was fatally stabbed outside a Surfers Paradise convenience store while on a night out with friends. Jack's family subsequently established the Jack Beasley Foundation to advocate for change and educate young people about the dangers of carrying knives in public spaces.<sup>7</sup> In September 2020, 27-year-old Raymond Harris was fatally stabbed after an alleged altercation on Cavill Avenue, Surfers Paradise. The explanatory notes state that the Bill was 'named in honour of Jack and remembers the passing of both Jack and Mr Harris'.<sup>8</sup>

#### 1.2.1 Review of the trial

The explanatory notes to the *Youth Justice and Other Legislation Amendment Act 2021*, which amended the PPRA to allow the trial, stated that data from the trial would be recorded to inform a 12-month review of the operation of the wand policy prior to any consideration of a further expansion of the scheme.<sup>9</sup> Mr Bob Atkinson AO, APM assessed the effectiveness of the trial as part of the Youth Justice Reforms Review and published his findings in March 2022 in the *Youth Justice Reforms Review Report* (Atkinson Report). That review found:

- the trial had proceeded well

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<sup>1</sup> Explanatory notes, p 1 and 2.

<sup>2</sup> Explanatory notes, p 1.

<sup>3</sup> Queensland Police Service (QPS), correspondence, 16 December 2022, p 1.

<sup>4</sup> Youth Justice and Other Legislation Amendment Bill 2021, explanatory notes, p 1.

<sup>5</sup> *Police Powers and Responsibilities Act 2000* (PPRA), s 39H.

<sup>6</sup> Explanatory notes, p 1.

<sup>7</sup> Explanatory notes, p 1; Queensland Parliament, Record of Proceedings, 30 November 2022, p 3735.

<sup>8</sup> Explanatory notes, p 1.

<sup>9</sup> Youth Justice and Other Legislation Amendment Bill 2021, explanatory notes, p 6.

- staff were resourced, trained and prepared to deliver the trial when the legislation commenced
- training and resources appeared appropriate and sufficient
- there appeared to be strong public support for the trial due to being embedded in a broader campaign to prevent knife crime including a comprehensive communication strategy, education programs and engagement with local interest groups.<sup>10</sup>

The Griffith Criminology Institute evaluated the impact, effectiveness, efficiency and equity of the trial, and published its findings in its *Review of the Queensland Police Service Wanding Trial* report (Griffith Report) in August 2022.<sup>11</sup>

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<sup>10</sup> Bob Atkinson AO, APM, *Youth Justice Reforms Review Final Report*, March 2022, p 118 (Atkinson Report).

<sup>11</sup> Griffith University, Griffith Criminology Institute, *Review of the Queensland Police Service Wanding Trial*, report, August 2022, <https://documents.parliament.qld.gov.au/tp/2022/5722T1863-952D.pdf> (Griffith Report).

The Griffith Report made 9 findings and 8 suggestions for consideration if scanning were to be extended beyond the 12-month trial, summarised below:

Key findings	Suggestions for the future
Wandering trial increased detection of knife carrying at Surfers Paradise, not Broadbeach	Wandering has limited justification and should be used only if there is evidence weapons are more likely to be carried
Continuation of wandering should be targeted where data shows proportionally higher prevalence of knife offences over a sustained period	Current authorisation process serves little purpose. One option is to require authorisations only if evidence suggests heightened risk. Alternatively, remove authorisations and allow wandering only in areas of high risk, with stronger safeguards
While wandering has detected weapons, there is no evidence of deterrent effect. A longer follow up may be needed	The notification is not user-friendly and should be revised
Wandering shows no significant effect on various non-weapons offences or displacement	Consider suggestions for wand improvements
Notification wording may require review and rewording	Wandering training for QPS officers should identify underlying objectives (to reduce violent crime) and how people should be identified for wandering
Wandering authorisation process serves little useful purpose	Training should discuss how wandering can impinge on human rights. Evidence-based guidelines should be produced on risk factors for knife carrying
Wandering inconsistently used across different groups. Some officers evidenced inappropriate stereotypes and cultural assumptions	The QPS should formalise its audit process. Random audits should focus on whether categories of individuals are over-targeted, draw on body worn camera and CCTV footage, and analyse QPRIME data
Recording of First Nations, Maori and Pasifika status needs consideration	The QPS should address unreliability of QPRIME data relating to First Nations people. Consider recording Maori and Pasifika status
Care needs to be taken wandering does not lead to by-passing reasonable suspicion and net-widening among minor offenders	

*Source: Griffith University, Griffith Criminology Institute, Review of the Queensland Police Service Wandering Trial, report, August 2022, pp v vi.*

### **Committee comment**

The committee notes the Griffith Report key finding relating to ensuring accurate recording of First Nations, Maori and Pasifika status was made in the context of the review's findings from the trial in Gold Coast safe night precincts. The committee is cognisant of the richness and diversity of cultures in Queensland society and considers it appropriate that police accurately record all ethnicities as they undertake the wandering process.

On the introduction of the Bill, the Hon Mark Ryan MP, Minister for Police and Corrective Services and Minister for Fire and Emergency Services (Minister), welcomed the findings in the Griffith Report and

advised that key recommendations from the Griffith Report were incorporated into the Bill,<sup>12</sup> including provisions around strengthening the senior police officer authorisation for scanning.<sup>13</sup>

### 1.2.2 Wanding searches in other Australian jurisdictions

Victoria, South Australia and Western Australia permit limited scanning of persons in particular public places for weapons.<sup>14</sup> Victoria (*Control of Weapons Act 1990 (Vic)*) and South Australia (*Summary Offences Act 1953 (SA)*) use wands in public spaces. Generally, Victoria limits the search area to public spaces where more than one act of violence involving a weapon has occurred in the last 12 months. South Australia has similar provisions but also extends wanding to licensed premises and public places holding an event.<sup>15</sup> The committee notes the provisions in the Victorian and Western Australian legislation include that a police officer conducting a search must be the same gender as the person being searched.

Appendix B provides a jurisdictional comparison of metal detector scanning powers in public places in South Australia, Victoria and Western Australia.

### 1.3 Government consultation process

The explanatory notes state '[n]o external consultation undertaken during the development of the Bill'.<sup>16</sup> Similarly, the explanatory notes for the Youth Justice and Other Legislation Amendment Bill 2021, which established the trial in Surfers Paradise and Broadbeach SNPs stated: 'Due to the nature of the PPRA amendments, no external consultation was undertaken ahead of the development of the Bill'.<sup>17</sup>

The committee notes the trial was independently reviewed by both Mr Atkinson and the Griffith Criminology Institute and findings published in the Atkinson Report and the Griffith Report.

#### **Committee comment**

The committee is satisfied that the Bill's proposes to extend the trial, allowing for further evidence gathering on the effectiveness of wanding to detect and deter knife crime. The committee welcomes the commitment by the Queensland Police Service to undertake an independent review at the trial's completion.

### 1.4 Legislative compliance

The committee's deliberations included assessing whether or not the Bill complies with the Parliament's requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* and the *Human Rights Act 2019 (HRA)*.

#### 1.4.1 *Legislative Standards Act 1992*

The committee's assessment of the Bill's compliance with the *Legislative Standards Act 1992* identified issues, in particular in the relation to the right to privacy and the right to freedom of movement, are discussed at section 2.3.5, below.

Part 4 of the *Legislative Standards Act 1992* requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note

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<sup>12</sup> Queensland Parliament, Record of Proceedings, 30 November 2022, p 3735.

<sup>13</sup> Explanatory notes, p 2.

<sup>14</sup> Explanatory notes, p 6.

<sup>15</sup> QPS, correspondence, 16 December 2022, p 8.

<sup>16</sup> Explanatory notes, p 6.

<sup>17</sup> Youth Justice and Other Legislation Amendment Bill 2021, explanatory notes, p 12.

should contain. Explanatory notes were tabled with the introduction of the Bill. The notes contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

#### **1.4.2 Human Rights Act 2019**

The committee considered the Bill's compatibility with the HRA, including its deliberations in relation to the right to privacy, right to freedom of movement and equality before the law, are included at section 2.3.6, below.

A statement of compatibility was tabled with the introduction of the Bill as required by s 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

#### **1.5 Should the Bill be passed?**

The committee is required to determine whether or not to recommend that the Bill be passed.

##### **Recommendation 1**

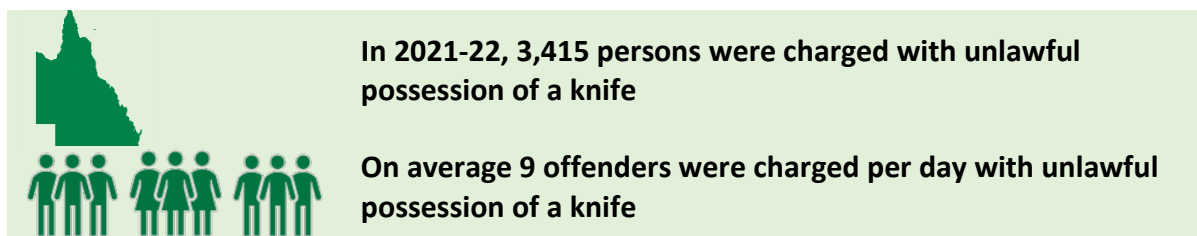
The committee recommends the Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022 be passed.

## 2 Examination of the Bill

This section discusses key issues raised during the committee’s examination of the Bill. It does not discuss all consequential, minor or technical amendments.

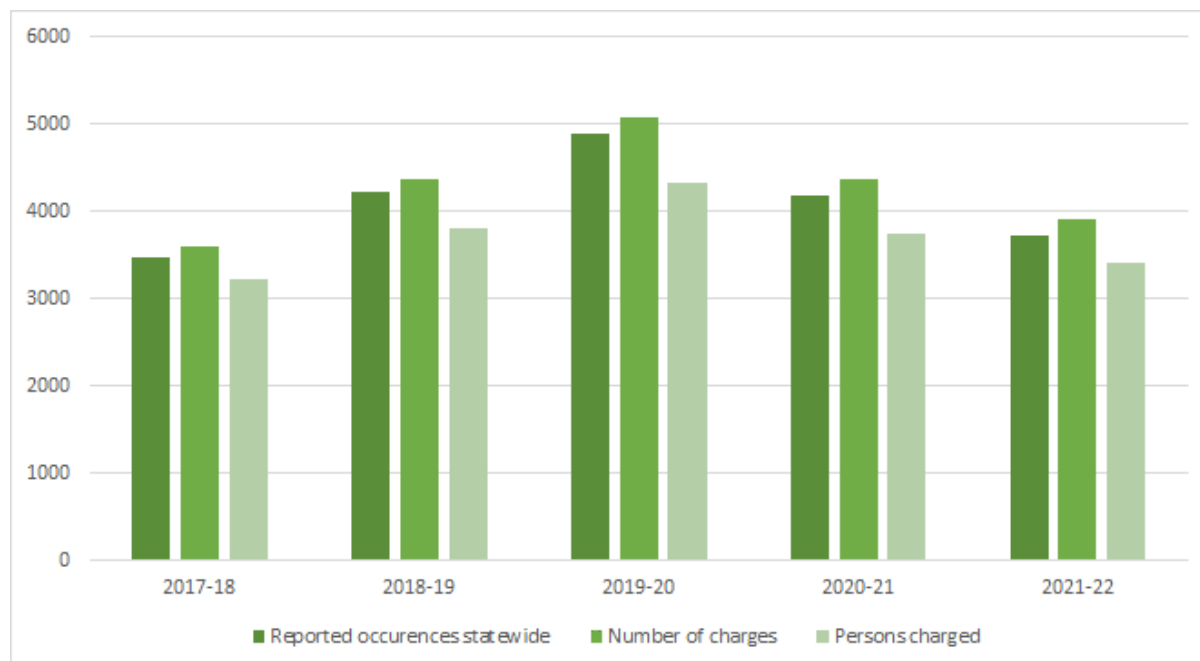
### 2.1 Public safety

#### 2.1.1 Risks of knife crime



Source: Queensland Police Service, correspondence, 16 December 2022, p 4.

Data provided by the QPS indicates a reduction in knife crime from a peak of 4,325 persons charged in 2019-20, however state-wide, unlawful possession of a knife in a public place continues to be a concern.<sup>18</sup>



#### Reported occurrence, total number of charges and people charged with s 51 ‘Possession of a knife in a public place or a school’, *Weapons Act 1990*, Queensland, 2017-18 to 2021-22

Source: Queensland Police Service, Public Hearing Document to the Community Support and Services Committee, Queensland Police Service Statistical Services, Research & Analytics, Organisational Capability Command, 30 January 2023.

<sup>18</sup> QPS, correspondence, 16 December 2022, p 2.

The QPS advised that, in terms of knife crime, the most prevalent offending age groups in 2021-22 were between 15 to 17 years and 31 to 40 years. Males made up the majority of the recorded offenders.<sup>19</sup>

The Minister stated upon introducing the Bill: 'The removal of knives and other weapons from people who carry them in high-risk public places such as safe night precincts and transport hubs is an inherently valuable preventive intervention'.<sup>20</sup>

### 2.1.2 Safe night precincts

The Bill proposes changes to the PPRA to detect and deter the unlawful possession of knives in SNPs, at public transport stations and public transport vehicles.<sup>21</sup> The QPS advised that SNPs continue to be a major source of demand for service for the QPS and there is also a sustained level of knife detection in SNPs.<sup>22</sup>

SNPs are situated in key entertainment areas around the state. SNPs are prescribed by the *Liquor Act 1992* and were established to promote responsible drinking practices and ensure a safe environment in and around licensed venues.<sup>23</sup> The *Safe Night Out Legislation Amendment Act 2014* enabled a mechanism by which designated entertainment precincts can be locally managed by a local board association made up of local businesses, local chambers of commerce and community organisations.<sup>24</sup> Refer to Appendix A for a map of SNPs in Queensland.

By their nature, SNPs tend to be characterised by the congregation of large numbers of people particularly in the evenings and on weekends.<sup>25</sup> These areas may experience an increased risk of violence and harm through higher levels of intoxication and the carriage of weapons. The QPS advised that from 1 July 2021 to 30 June 2022, 542 persons were charged by police with unlawful possession of a knife across the 15 SNPs in Queensland.<sup>26</sup> Some SNPs experience higher rates of recorded offences, as illustrated below.

#### **Committee comment**

The committee recognises the vital role police perform in safe night precincts around Queensland, and the necessity of adequate police resources in these areas during peak periods.

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<sup>19</sup> QPS, correspondence, 16 December 2022, p 3.

<sup>20</sup> Queensland Parliament, Record of Proceedings, 30 November 2022, p 3735.

<sup>21</sup> Explanatory notes, p 1.

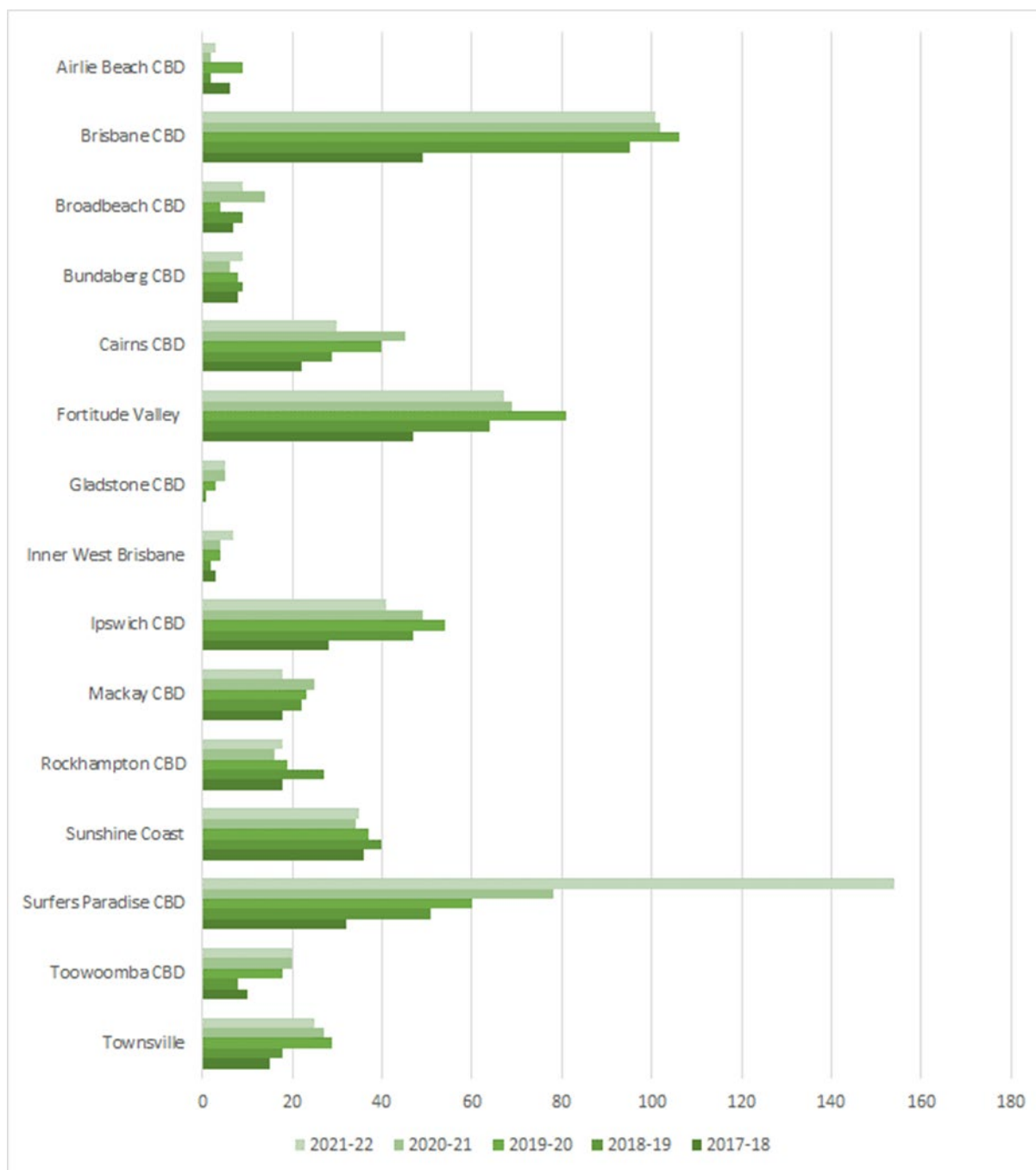
<sup>22</sup> QPS, correspondence, 16 December 2022, p 4.

<sup>23</sup> Business Queensland, 'Safe night precincts', <https://www.business.qld.gov.au/industries/hospitality-tourism-sport/liquor-gaming/liquor/safe-night-precincts>

<sup>24</sup> Safe Night Out Legislation Amendment Bill 2014, explanatory notes, p 1.

<sup>25</sup> Explanatory notes, p 1.

<sup>26</sup> Explanatory notes, p 2.



**Number of people charged with s 51 'Possession of a knife in a public place or a school', Weapons Act 1990, by Safe Night Precinct, Queensland, 2017-18 to 2021-22**

Source: Queensland Police Service, Public Hearing Document to the Community Support and Services Committee, Queensland Police Service Statistical Services, Research & Analytics, Organisational Capability Command, 30 January 2023.



### 2.1.3 Public transport

The QPS Railway Squad provided the following statistics for incidences of unlawful possession of a knife on Queensland rail infrastructure:

- In 2020, there were 180 incidents of a person unlawful possession of a knife on Queensland Rail infrastructure. The main locations of concern were: Beenleigh, Bowen Hills, Fortitude Valley, Helensvale, Indooroopilly, Ipswich, Northgate, Park Road, Petrie and Roma Street.
- In 2021, there were 128 incidents of a person unlawful possession of a knife on Queensland Rail infrastructure. The main locations of concern were: Altandi, Beenleigh, Bowen Hills, Fortitude Valley, Ipswich, Loganlea, Northgate, Park Road, Roma Street and South Bank.
- In the first 6 months of 2022, there were 58 incidents of a person unlawful possession of a knife. The main locations of concern were: Caboolture, Ipswich, Loganlea, Park Road, Petrie, Roma Street, Southbank and Woodridge.<sup>27</sup>

Queensland Rail advised that 'approximately 30% of public transport passenger movements in Queensland occur on the passenger train network'.<sup>28</sup>

#### **Committee comment**

The committee recognises the significant threat knife-related crimes pose to public safety in Queensland, particularly in safe night precincts, at public transport stations and vehicles, and the inherent importance of maintaining public safety in the community.

### 2.1.4 Will the expanded trial improve public safety?

The Queensland Government's view is that detecting and deterring the unlawful possession of knives would provide public safety benefits by reducing the opportunity for serious violent offending with knives and other bladed weapons.<sup>29</sup>

In relation to SNPs, the position of the Queensland Government, as set out in the explanatory notes, is that expanding the trial to capture all 15 SNPs is justified by the recorded levels of unlawful knife possession in these areas.<sup>30</sup> Including public transport stations and vehicles in the trial is justified on the basis that it would 'provide the public safety benefits of reduced unlawful knife possession and the consequent reduced potential for offences involving a knife in those public transport areas, including the areas that a person carrying a knife may be travelling to.'<sup>31</sup>

*At the end of the day, any person who has children wants their children, no matter what their age, whether they are 16 or 36, to come home safely. The community deserves to feel safe when they are out. Everyone deserves to be safe and feel safe when they are out, no matter where it is. If you have nothing to hide, you should not be concerned about being wanded, and the wanding is saving lives.*

Mrs Belinda Beasley, Jack Beasley Foundation, public hearing, Brisbane, 30 January 2023.

<sup>27</sup> QPS, correspondence, 16 December 2022, p 4.

<sup>28</sup> QPS, correspondence, 16 December 2022, p 4.

<sup>29</sup> Explanatory notes, p 1.

<sup>30</sup> Explanatory notes, p 2.

<sup>31</sup> Explanatory notes, p 2.

#### 2.1.4.1 *Griffith Report*

One of the findings of the Griffith Report was that wandering had been useful to better detect weapons in the Surfers Paradise SNP.<sup>32</sup>

*Through wandering processes, 68 bladed articles were recorded as having been seized by police during the wandering trial. Of those, 8 were household knives, 59 were other types of knives, and 1 was an axe. No further detail on blade material was available. Other weapons seized included a baton, 2 hand tools, 5 knuckle dusters, 1 screwdriver, 1 handgun replica, and one other type of unidentified tool. Police also seized 2 antipersonnel devices through wandering, 1 acoustic and 1 electric.*

Griffith Report, pp 29-30.

However, the Griffith Report also found that, based on the trial conducted, there was no evidence of any deterrent effect. The report speculated that a longer term follow up trial 'may be needed to better assess these effects'.<sup>33</sup> Additionally, many of the anecdotal observations about perceived changes in young people's behaviour were not borne out by the quantitative offence data.<sup>34</sup> The Griffith Report stated that there was no statistically significant change in any other category of crime, such as armed robbery and offences against the person, which would suggest that increased detection of knives had reduced violent or other offending.<sup>35</sup>

At the public hearing, Professor Janet Ransley, Griffith Criminology Institute, attested to the limitations associated with the evidence gathered from the trial:

... it was only a year. A year seems like a long time for many things but in terms of detecting longer term trends in crime, in offending, it is not enough. There are natural differences that occur year on year and you cannot be sure that any differences that you are seeing relate to an actual intervention as opposed to those blips that we always see in statistical data.<sup>36</sup>

In relation to the enhanced feelings of safety reported by both police and community members, the Griffith Report suggested that these may be attributable to increased visibility of police, increased public engagement, and positive media coverage of the wandering during the trial.<sup>37</sup>

#### 2.1.4.2 *Views of submitters*

Submitters were generally supportive of the Bill's purpose of improving community safety and crime prevention.<sup>38</sup>

*Anecdotally, we have heard from many Gold Coasters about the positive impact the trial has had. Jack's murder in such a public place at such a busy time of year shocked so many people. Since the trial has been running, they feel more comfortable going out at night in our city.*

*This is especially so for parents of teenage children, knowing the police have these wandering powers is a great reassurance which helps them sleep at night when they know their kids won't be home until early the next morning.*

Jack Beasley Foundation, Submission 13.

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<sup>32</sup> Griffith Report, p iv.

<sup>33</sup> Griffith Report, p iv.

<sup>34</sup> Griffith Report, p 62.

<sup>35</sup> Griffith Report, p 82.

<sup>36</sup> Public hearing transcript, Brisbane, 30 January 2023.

<sup>37</sup> Griffith Report, p 82.

<sup>38</sup> Submissions 4, 6, 8, 9, 10, 11, 12, 13 and 14.

The City of Gold Coast submitted that the extension of the wandung trial has the potential to improve feelings of safety at night, particularly in relation to public transport usage.<sup>39</sup>

The results achieved during the existing trial have seen some evidence of improved perceptions of community safety, particularly in the most highly visited precincts where antisocial behaviour, alcohol fuelled violence and criminal activity are most likely to occur.<sup>40</sup>

Some submitters did not consider that wandung would reduce knife crime and improve public safety.<sup>41</sup> A number of submitters referenced reports on 'stop and search' powers in Victoria and the United Kingdom (UK), which showed no relationship between increased searches and a decrease in knife crime.<sup>42</sup> The Aboriginal and Torres Strait Islander Legal Service (Qld) (ATSILS) stated that the UK report found that the 'relationship between incidence of knife-crime and the rates of "stop and search" was "at best unclear"' and a review of the 'stop and search' reporting data over 6 months compared to crime statistics for the same period showed 'no relationship between increased searches and a decrease in knife-crime.'<sup>43</sup> The ATSILS stated '[g]iven the lack of evidence for the effectiveness for these sorts of powers in reducing knife crime, we do not consider the expanded powers to be justified'.<sup>44</sup>

DVConnect stated that there was 'no evidence, positive or negative, regarding wandung'.<sup>45</sup>

*In our work with men and women across the state through our domestic and sexual violence response programs as well as within our victim of crime support service, there has been no meaningful impact of wandung. Clients have not spoken about any improvements or perception of improved safety because of wandung. Consultation with our partner agencies in the Gold Coast area saw no impact to individuals or service delivery.*

...

*This tells us, that overall, the community has not been made safer by wandung. Further wandung is unable to improve safety as the use of knives as weapons occurs most commonly in residential settings.*

DVConnect, submission 8.

Submitters also raised concerns about the large number of wandungs (over 13,000) required to be conducted in order to detect a reasonable number of weapons (68 bladed weapons).<sup>46</sup> DVConnect suggested that this raises the question of whether investment would be 'better placed elsewhere given the negligible proven effectiveness of weapon scanning to reduce violence.'<sup>47</sup>

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<sup>39</sup> Submission 11.

<sup>40</sup> Kim Daniel, Executive Coordinator Community Safety, Development and Youth, City of Gold Coast, public hearing transcript, Brisbane, 30 January 2023.

<sup>41</sup> Submissions 5 and 9.

<sup>42</sup> Submissions 5 and 9. See also Atkinson Report, pp 24, 108-19.

<sup>43</sup> Submission 9.

<sup>44</sup> Submission 9.

<sup>45</sup> Submission 8.

<sup>46</sup> Submission 8.

<sup>47</sup> Submission 8.

The QPS, at the public briefing, submitted that from 30 April 2021 to 29 January 2023:

- 21,362 people have been wanded for knives or weapons
- resulting in the seizure of 242 weapons and 656 offenders being charged with various offences
- the weapons detected included folding knives, flick-knives, machetes, a bush saw, a tomahawk, sharpened screwdrivers, replica firearms, knuckledusters and tasers.<sup>48</sup>

#### 2.1.4.3 QPS response

*The Queensland Police Service supports the extension and expansion of the trial to include all safe night precincts and any public transport station or public transport vehicle as there is evidence of a need to wand for knives in those areas. ... The use of wands in these areas gives our officers the means to take proactive action against knife crime. This bill allows police officers to detect knives and weapons in the community before they can be used to devastating effect. Further public safety benefits arise through deterring the carrying of these weapons within these prescribed areas.*

Queensland Police Service, public briefing transcript, Brisbane, 30 January 2023, p 2.

The QPS, in its response to submissions, stated in relation to the Victorian report that there were 'significant issues' with the data, including problems with definitions and statistical data collection which made it difficult to establish how effective 'stop and search' powers were in reducing knife-related crime in Victoria.<sup>49</sup>

In relation to the UK report, the QPS, in its response to submissions, stated that there were significant differences between the approaches to knife-related violence, as the UK approach was a power to 'stop and search' whereas the amendments proposed by the Bill are a 'stop and scan power'.<sup>50</sup> A search will only be conducted if a person fails to stop for a scan or fails to produce a thing that is activating the scanner.<sup>51</sup> The QPS concluded that:

Consequently, it is argued that to state that the UK and Victorian findings have been confirmed in the Griffith Report findings 3 and 4 would be to make a significant inference. Findings 3 and 4 provide that there is no evidence yet to suggest any deterrent effect from wanding. It is possible that these finding needs to be read in conjunction with the caveat at page 18 of the Griffith Report noting that the evaluation had been constrained due to COVID19 data patterns and the limited 12 month evaluation time period.<sup>52</sup>

In relation to the Griffith Report, the QPS noted the constraints of the review, in terms of COVID-19 and the relative brevity of the 12 month period of the trial. The QPS also highlighted the positive aspects noted in the review, including increased public confidence: 'greater feelings from the public in terms of community assurance and community safety and also that our police officers involved were very positive towards the actual use of the wanding powers.'<sup>53</sup>

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<sup>48</sup> QPS, public briefing transcript, Brisbane, 30 January 2023, p 2.

<sup>49</sup> QPS, correspondence, 30 January 2023, p 8.

<sup>50</sup> QPS, correspondence, 30 January 2023, p 8.

<sup>51</sup> QPS, correspondence, 30 January 2023, p 8.

<sup>52</sup> QPS, correspondence, 30 January 2023, p 9.

<sup>53</sup> QPS, public briefing transcript, Brisbane, 30 January 2023, p 5.

**Committee comment**

The committee notes the concerns of submitters in relation to the lack of evidence to support the extension of the trial in the Griffith Report, particularly regarding the effectiveness of wandings in reducing knife-related crimes and in deterring people from carrying knives in public. The committee accepts the position of the Queensland Police Service that the evaluation was constrained by COVID-19 data patterns and the limited 12-month evaluation time period.

The committee supports the Bill's intention to extend the wandings trial to all Queensland safe night precincts and to public transport, to further build a body of evidenced-based data, and enhance public safety.

**2.2 Authority to scan****2.2.1 Proposed new criteria**

The trial undertaken on the Gold Coast did not specify a criteria for issuing an authority. According to the Griffith Report, the authorisation process reflected the availability or lack of policing resources and was not underpinned by any evidence-based or strategic decision making.<sup>54</sup> It, therefore, considered the current authorisation process served little purpose. The report suggested one option is to retain authorisations but to require them to be given only when there is evidence to suggest a heightened risk of weapons carrying, based on some form of evidence.<sup>55</sup>

A primary objective of the Bill is to strengthen the criteria in the extended trial a senior police officer must consider before approving the use of a wandings device. Refer to Appendix C for an illustration of the wandings process as proposed by the Bill.

The Bill proposes a new s 39C, to provide that a senior police officer may issue an authority for the use of a wand in a SNP, at a public transport station and on board a public transport vehicle only if:

- in the previous 6 months any of the following happened at the relevant place:
  - at least one offence involving a person armed with a knife or other weapon
  - at least one 7 year imprisonment offence against the Criminal Code involving violence against a person
  - more than one offence against the *Weapons Act 1990*<sup>56</sup>
- the officer considers the use of wands is likely to be effective to detect or deter the commission of an offence involving the possession or use of a knife or other weapon
- the officer has considered:
  - the effect the use of wands may have on lawful activity at the place
  - whether under a previous authority for that place, wandings identified persons carrying knives or other weapons.

The QPS noted s 39C was intended to address this particular suggestion of the Griffith Report and to further ensure the human rights of individuals stopped and wanded are not unjustifiably engaged. The

<sup>54</sup> Griffith Report, key finding 6, pp vi, 62, 82.

<sup>55</sup> Griffith Report, pp v, 82, 83.

<sup>56</sup> Bill, cl 4, new s 39C. The QPS listed the following as examples of violent offences under the Criminal Code: grievous bodily harm, assaults occasioning bodily harm, serious assault, wounding, rape and sexual assaults, and murder or attempted murder: QPS, correspondence, 16 December 2022, p 5.

QPS stated the provision will provide both an evidentiary threshold as well as a subjective analysis by the senior police officer before an authority is issued.<sup>57</sup>

Similar to the Gold Coast trial, the authority would be effective for 12 hours.<sup>58</sup>

The QPS clarified that a heightened risk of weapons carrying, in a relevant area, would satisfy the first dot point in the criteria, for example:

- a person going armed with a knife or gun so as to cause fear
- assault occasioning bodily harm while pretending to be armed
- multiple unlawful knife or weapons possession.<sup>59</sup>

Between 1 May 2021 and 30 April 2022, the QPS issued 732 authorisations, with the number of authorisations steadily increasing over the trial. Relevantly, from 21 February 2022 until the end of the trial period, an authorisation was continually in place (for example, from 6am–6pm and 6pm–6am), indicating limited decision making for authorising wandering operations.<sup>60</sup> The Griffith Report cautioned that if wandering was to operate on a 24/7 basis, it needed to be transparent to the community.<sup>61</sup>

Professor Ransley commented at the public hearing on the data collected:

The authorisation was simply being done as a matter of course to the extent that there was a period where authorisations were operating 24 hours a day, seven days a week...

That kind of makes a mockery of the need for an authorisation. If it is just happening all the time, then the authorisation is really not serving a purpose.

... 39C(2) and (3) are partly a response to that concern that we raised.<sup>62</sup>

The proposed criteria under s 39C for issuing an authority prompted diverging views from submitters:

- Professor Ransley expressed concern that s 39C has a 'very low bar' of one offence<sup>63</sup>
- some submitters supported the authorisation process generally<sup>64</sup> and considered the criteria:
  - in addition to the extended expiry date and increased scope of prescribed public place—would provide police an effective tool to detect concealed weapons and evaluate the level of safety for persons in SNPs and public transport station<sup>65</sup>
  - would appear to reduce the risk or perception of bias and protect human rights as required by the *Anti-Discrimination Act 1991* and the HRA<sup>66</sup>

However, one of those submitters expressed concerns the criteria would hamstring police in their endeavours to keep the community safe in SNPs and on public transport<sup>67</sup>

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<sup>57</sup> QPS, correspondence, 30 January 2023, p 2.

<sup>58</sup> PPRA, s 39E(3); Bill, cl 4, new s 39D(2).

<sup>59</sup> QPS, correspondence, 30 January 2023, p 5.

<sup>60</sup> Griffith Report, p 57.

<sup>61</sup> Griffith Report, p 62.

<sup>62</sup> Public hearing transcript, Brisbane, 30 January 2023, p 6.

<sup>63</sup> Public hearing transcript, Brisbane, 30 January 2023, p 6.

<sup>64</sup> Submissions 2, 4, 11, 12, and 13.

<sup>65</sup> Submission 4.

<sup>66</sup> Submission 11.

<sup>67</sup> Submission 2.

- other submitters qualified their support for the criteria,<sup>68</sup> highlighting concerns that:
  - one offence in the previous 6 months did not meet the Griffith Report's suggestion<sup>69</sup>
  - the limitations in s 39C(2) did not make the Bill 'any less repugnant' given it authorises wandering without a warrant or reasonable suspicion.<sup>70</sup>

In response to the suggestion that s 39C(2)(b) should include a standard of reasonableness, the QPS advised that reasonableness is already implied, and that a senior police officer would need to consider the number and type of trigger offences and the likelihood that it will have on detecting or deterring knife and weapon offences before issuing the authority. The QPS notes this aspect of the reasonableness of the consideration will form part of the training package for senior police officers for any roll out of the Bill.<sup>71</sup>

The QPS has confirmed, that as additional administrative safeguards, it would develop policy and procedures for senior police officers issuing authorisations, their use, and compliance with that policy through recording of information and auditing.<sup>72</sup> The QPS advised that the policy and procedures developed in relation to the authorisation of wands by senior police officers will be made available online.<sup>73</sup>

### **Committee comment**

The committee acknowledges submitters' concerns regarding the appropriateness of the criteria for a senior police officer to issue an authority but is satisfied the criteria will be suitably supported by clear policy and procedures to support senior police officers issuing authorisations.

The committee is reassured that, while the extended trial continues, police policy and procedure, details of the authorisations issued, their use and compliance, will be recorded and published in a timely manner.

### **2.2.2 Publishing notice of authority**

The Bill proposes a new requirement at clause 4, new s 39J, whereby the commissioner (Queensland Police Commissioner) is to publish a notice about an authority on the police service website within 2 months after the authority is issued stating:

- the name of the SNP or public transport station for which the authority was issued
- the day and time the authority started and ended
- information about:
  - the offences that were known to the senior police officer who issued the authority
  - the senior police officer's consideration of the matters set out above as the criteria for issuing the authority.

In regard to the requirement for the commissioner to publish a copy of the authority on the police website, the City of the Gold Coast appreciated that the publishing of such information would be for the purposes of transparency. However, to prevent a decrease in the perceptions of safety, the City

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<sup>68</sup> Submissions 6, 8 and 9.

<sup>69</sup> Submission 6.

<sup>70</sup> Submission 5.

<sup>71</sup> QPS, correspondence, 30 January 2023, p 2.

<sup>72</sup> QPS, correspondence, 16 December 2022, p 7.

<sup>73</sup> QPS, correspondence, 16 December 2022, p 7


of the Gold Coast suggested that consideration be given to ‘mitigating the risk of inadvertent negative impacts including a reduction in feeling safe at these locations’.<sup>74</sup>

**Committee comment**

The committee welcomes the additional level of information and transparency provided by the Bill’s proposed publication of notices about hand held scanner authorities within a certain timeframe.

**2.3 Safeguards**

As with the Gold Coast trial, the Bill at clause 4, new s 39H, requires that once an authority is issued, a police officer exercising the power to wand must follow a range of prescribed safeguards.

	Safeguards
✓	must wand in least invasive way practicable
✓	may detain a person for so long as reasonably necessary to conduct wand
✓	must inform person they must allow the officer to use the wand to determine whether the person is carrying a knife or other weapon
✓	must offer person a notice advising of the reason for the wand and their rights and police powers
✓	if not in uniform—must produce their identity card for inspection
✓	if requested—must inform the person of their name, rank and station (and in writing, if requested)
✓	must be of the same sex as the person, if reasonably practicable

*Source: Police Powers and Responsibilities Act 2000; Bill, proposed new s 39H; Queensland Parliament, Record of Proceedings, 30 November 2022, pp 3735-3736.*

**2.3.1 Verbal notification and written notice**

The Bill amends the wording for the verbal notice under new s 39H(5)(d). The verbal notice proposes to refer to ‘informing the person that the person is required to allow the officer to use a [wand], rather than to ‘submit to the use of [wand]’ as currently worded.

One key finding from the Griffith Report was that the notification wording used by officers may require review and rewording.<sup>75</sup> Police officers were reported as commenting that the wording of the notification should be simplified, that it was lengthy, too masculine and confrontational.<sup>76</sup> Significant concerns were expressed that people would take offence or be distracted by the wording; specifically, since the advantage of wand should be the positive interaction and engagement with people.<sup>77</sup> The Griffith Report also noted that in its observations the notice was routinely given verbally. A written notice was only given when requested, as required by the PPRA.<sup>78</sup>

A submitter recommended the QPS revise the current wording for the notification and provide appropriate training to its officers, including that communication be culturally appropriate when approaching an Aboriginal or Torres Strait Islander person.<sup>79</sup> In response, the QPS confirmed it is

<sup>74</sup> Submission 11.

<sup>75</sup> Griffith Report, key finding 5, p iv, 82. See also Griffith Report, Suggestion for future directions 3, p v, 83.

<sup>76</sup> Griffith Report, p 55.

<sup>77</sup> Griffith Report, p 55.

<sup>78</sup> Griffith Report, p 70.

<sup>79</sup> Submission 9.



reviewing the wording of the notification to make it more user friendly for police and the subject person.<sup>80</sup>

The requirement to offer a written notice has also been amended to reflect the proposed expanded scope of the trial.<sup>81</sup> The written notice is proposed to be defined as a 'hand held scanner information notice', which states:

- the person is in a public place in a SNP, at a public transport station or on board a public transport vehicle within one scheduled stop of a public transport station
- the police officer has power to require the person to stop and allow (or allow again) the use of a scanner in relation to the person and their belongings, and produce a thing that may be causing the scanner to indicate that metal is, or is likely to be, present
- it is an offence for the person not to comply with the requirement unless the person has a reasonable excuse.<sup>82</sup>

### **2.3.2 Who may be wanded**

Both the Atkinson and Griffith Reports raised concerns about the potential for discriminatory targeting of persons for wanding and racial profiling. For instance, the Atkinson Report noted:

It was impossible to assess if safeguards were consistently used. It was suggested by stakeholders that safeguards be provided in a clearer and more accessible way. The trial may benefit from more transparent guidelines about the decision to wandle people to minimise any concerns about racial or other profiling, particularly if the trial continues or is expanded following the independent evaluation.<sup>83</sup>

The Griffith Report similarly observed that aside from requirements outlined above to identify the officer and giving of notice, the PPRA does not contain other safeguards, against, for example, discriminatory targeting of certain people to be stopped for wanding.<sup>84</sup> The Griffith Report states that in the absence of guidelines for how officers should use their discretion, the selecting of wanding targets could become problematic.<sup>85</sup> Additionally, the evidence suggests there may be some overrepresentation of First Nations people among those wanded, but the unreliability of the QPRIME data on this point makes this conclusion uncertain.<sup>86</sup> Any such over-representation would not be evidence-based.<sup>87</sup> A small number of police officers indicated reliance on unfounded stereotypes in exercising their discretion.<sup>88</sup> The wide discretion afforded officers in selecting people for wanding leaves considerable room for decisions based on stereotypes and discrimination.<sup>89</sup>

A number of submitters raised the same type of concerns with the Bill's impact on First Nations people, or inconsistent application across different groups in the community, and the potential for actual or perceived bias.<sup>90</sup>

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<sup>80</sup> QPS, correspondence, 30 January 2023, p 15.

<sup>81</sup> PPRA, s 39F(4)(f) and (5); Bill, cl 4, new ss 39H(5)(e) and 39I.

<sup>82</sup> Bill, s 39I.

<sup>83</sup> Atkinson Report, p 152.

<sup>84</sup> Griffith Report, p 71.

<sup>85</sup> Griffith Report, p 71.

<sup>86</sup> Griffith Report, p 72.

<sup>87</sup> Griffith Report, p 72.

<sup>88</sup> Griffith Report, p 72.

<sup>89</sup> Griffith Report, p 73.

<sup>90</sup> Submissions 3, 8 and 10.

The QPS acknowledged that expanding the existing wandering powers could see their use in areas where there is a higher proportion of First Nations people. The QPS confirmed:

- it is respectful of First Nations people, their potential vulnerability when engaging with police and their cultural link to gathering together, often in public spaces
- the commissioner has provided written directions to all members of the QPS to be able to explain and justify any limitations on a person's human right. The QPS has adopted the PLAN approach—Proportionate, Lawful, Accountable and Necessity
- the commissioner will provide police with written direction on how the Bill is operationalised. The operational policy will be supplemented with a training package that will explicitly identify the underlying objectives of wandering and how people should be selected for wandering. Training and guidelines will reinforce this aspect when police interact with First Nations people
- the planned audit process will involve random audits by senior supervising police officers of all officers who participated in wandering, specifically focused on whether they are over targeting any particular categories of individuals or groups. These audits would be drawn from police body worn camera and any CCTV footage, and analysis of both offence and street check data in QPRIME to identify any patterns of potential bias. The audit process will be set out in guidelines.<sup>91</sup>

Police officer training is further discussed at section 2.6 below.

### **Committee comment**

The committee acknowledges concerns expressed in the Griffith Report and by submitters regarding the wide discretion afforded police officers in selecting people for wandering, and the potential for the wandering powers to lead to inconsistent application and racial profiling.

The committee stresses the importance of education and training to challenge and address any risk of unconscious cultural and gender bias.

The committee welcomes the Queensland Police Service's confirmation that officers will be trained on relevant police powers and human rights impacts before exercising any new proposed powers, and that police guidelines would include an audit process for officers who participate in wandering.

The committee is satisfied the audit process would specifically focus on whether police are over targeting particular categories of individuals or groups, and will provide the community with transparency regarding how officers are exercising the wandering powers.

### **2.3.3 Accuracy of QPRIME data**

Connected to concerns of inconsistent application of the wandering powers across different groups in the community, stakeholders questioned the accuracy of QPRIME data, particularly when recording of First Nations people, Maori and Pasifika status.

The Griffith Report noted the quality of QPRIME data was highly variable, particularly in relation to recording demographic information, such as racial or cultural identification. This was due to data being entered by thousands of individual officers who had many other tasks to complete and were often time-pressured.<sup>92</sup> The Griffith Report states the QPS needs to address the unreliability of its data,

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<sup>91</sup> QPS, correspondence, 30 January 2023, pp 2, 3, 8, 10, 11, 13.

<sup>92</sup> Griffith Report, p 22.

particularly recording of First Nations status, and consider how Maori and Pasifika status are recorded.<sup>93</sup>

Some submitters drew on the Griffith Report to echo concerns about the accuracy of QPRIME data identifying First Nations People.<sup>94</sup> One submitter:

- suggested data collection needs to be accurate and transparent to ensure laws are applied fairly and selective policing is avoided
- recommended amending the Bill to require recording of additional information relating to the exercise of wanding powers, such as the First Nations status, ethnicity, and age groups for individuals wanded. This would ensure a reliable set of data that can be used to audit whether certain cohorts of the community are being profiled.<sup>95</sup>

In its response to public submissions, the QPS acknowledged the initial data it provided to Griffith University contained some errors in relation to the ethnicity of persons wanded.<sup>96</sup> The QPS clarified the error in the data occurred when officers manually entered data in QPRIME while interacting with persons being wanded, either accidentally recording an incorrect ethnicity identifier or receiving incorrect information from persons wanded about their ethnicity.<sup>97</sup> The QPS subsequently provided cleansed data to Griffith University. The QPS confirmed the issue had been rectified and training will be updated to reflect the need to accurately record the ethnicity identifier of persons wanded in QPRIME.

### **Committee comment**

The committee encourages the Queensland Police Service to include demographic information, including ethnicity, First Nations status, gender and age of people who are wanded, as part of the information reporting in the Queensland Police Service annual report.

The committee welcomes Queensland Police Service's confirmation that its officers will be trained to accurately record ethnicity identifiers of individuals wanded in QPRIME, and which would have the added benefit of reducing the risk of decisions made based on unconscious bias.

The committee notes the data gathered would be invaluable in informing the independent review and assessment of the extended trial.

### **2.3.4 Reasonable suspicion and drug offences**

The Griffith Report emphasised the importance of ensuring wanding does not lead to by-passing reasonable suspicion safeguards and net-widening of minor offenders who are not carrying weapons but come to the attention of police purely because of wanding.<sup>98</sup> According to the report, 'entry of large numbers of individuals into formal criminal justice processes could have many adverse flow-on effects'.<sup>99</sup> The Griffith Report proposed police officers be reminded, as part of their training, that the goal of wanding is to reduce violent crime, not better detection of any other type of behaviour.<sup>100</sup>

<sup>93</sup> Griffith Report, pp iii, iv, vi, 82, 84.

<sup>94</sup> Submissions 6 and 9.

<sup>95</sup> Submission 9.

<sup>96</sup> QPS, correspondence, 30 January 2023, p 11.

<sup>97</sup> QPS, correspondence, 30 January 2023, p 11.

<sup>98</sup> Griffith Report, key finding 9 and suggestion 6, pp v, 83, 84.

<sup>99</sup> Griffith Report, pp v, 83, 84.

<sup>100</sup> Griffith Report, pp v, 83.

The Griffith Report noted that officers commented wandering increased engagement opportunities and thereby the detection of other offences.<sup>101</sup> Other contraband was often detected during wandering, such as drugs.<sup>102</sup> In addition, individuals were identified as having outstanding warrant, being wanted for questioning or having a banned order because they provided names and address when wanted.<sup>103</sup>

However, the Griffith Report noted that in relation to the Surfers Paradise SNP, 'while wandering was also associated with some drug offences detected, the great majority of drug offences were detected by other means.'<sup>104</sup>

The Griffith Report emphasises that the justification for introducing wandering was the possibility of reducing violent crime, not the increased detection of drugs.<sup>105</sup> The ability to conduct wandering in the absence of reasonable suspicion is a significant departure from criminal law and procedure.<sup>106</sup>

Submitters also expressed concern that drug detections may be linked to wandering.<sup>107</sup> One submitter:

- noted it provided feedback to the trial advising some individuals known to police appeared to be profiled as candidates for wandering as a means to search them for drugs without needing to meet the reasonable suspicion threshold
- noted net-widening would have a damaging effect and could exacerbate the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system
- recommended the QPS implement policies, procedures and training to support officers to appropriately use wandering powers for the detection of unlawful possession of knives and not for searching a person in a context where reasonable suspicion is required, and to remove unconscious bias to avoid selective policing
- recommended the committee consider whether a legislative obligation could be included to require police to consider diversionary options for individuals wanted who do not have a knife or other weapon but who may be subject to a less serious offence.<sup>108</sup>

In response to the latter recommendation, the QPS advised that drug diversion exists under s 379 of the PPRA and that officers are aware of the requirement to divert appropriate drug offenders.<sup>109</sup> Youth drug offenders may also be considered for a caution under the *Youth Justice Act 1992* for minor drug offences.<sup>110</sup> Furthermore, the QPS considers the updated training, audits and supervisors will ensure wandering does not lead to by-passing thresholds of reasonable suspicion.<sup>111</sup>

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<sup>101</sup> Griffith Report, pp 50, 79.

<sup>102</sup> Griffith Report, p 50.

<sup>103</sup> Griffith Report, p 50.

<sup>104</sup> Griffith Report, p 35

<sup>105</sup> Griffith Report, p 79.

<sup>106</sup> Griffith Report, p 79.

<sup>107</sup> Submissions 6 and 9.

<sup>108</sup> Submission 9.

<sup>109</sup> QPS, correspondence, 30 January 2023, p 14.

<sup>110</sup> QPS, correspondence, 30 January 2023, p 14.

<sup>111</sup> QPS, correspondence, 30 January 2023, p 12.

### **Committee comment**

The committee recognises the concerns expressed by submitters and in the Griffith Report regarding the potential for police to use the wandering powers as a means of detecting drugs in the absence of a reasonable suspicion.

The committee notes the policy objective of the wandering trial, as stated in the explanatory notes for the Youth Justice and Other Legislation Amendment Bill 2021, was to 'minimise the risk of physical harm caused by knife crime in SNPs', not to increase the detection of drugs.

The committee welcomes the advice from the Queensland Police Service that its audits, updated training, and informed supervising officers, will ensure decisions made based on unconscious bias is minimised and wandering does not lead to by-passing of reasonable suspicion and net-widening of minor offenders.

### **2.3.5 Fundamental legislative principles**

The Bill raises issues regarding the rights and liberties of individuals, particularly the right to privacy and freedom of movement. These rights and liberties are particularly affected by the police's ability to wand a person without a warrant or a reasonable suspicion.

Although the Bill expands the scope of the trial to all 15 SNPs and public transport, the criteria for issuing the authorisation goes some way to providing an additional safeguard for the rights and liberties of individuals. As noted above, the requirement for the commissioner to publish notices of authorisation within a certain timeframe allows for public scrutiny of the process.

### **Committee Comment**

The committee acknowledges the concerns in relation to the rights and liberties of individuals.

The committee considers the limitations of an individual's privacy and freedom of movement are justified given the Bill's overarching policy objective to reduce the opportunity for serious violent offending involving knives and other weapons, and thereby enhancing public safety.

### **2.3.6 Human rights**

The committee considered the Bill's provisions to allow the use of a wand to search a person's clothing and their belongings in the context of human rights compatibility and notes the Bill may impinge on the right to privacy; right to freedom of movement; freedom from cruel, inhuman or degrading treatment; freedom of religion; and equality before the law.<sup>112</sup>

Since wandering does not require a warrant or reasonable suspicion, there is a risk that the power may be used to circumvent other restrictions which would normally apply to police search powers, such as a reasonable suspicion before the police may search a person for drugs.

While the use of wands is not inherently inhuman or degrading, there is a potential that it could be used in such a manner depending on the way people are identified for wandering, where the wandering takes place and how police perform the wandering. If the wandering is the result of stereotyping or unconscious bias, then it is reasonable to expect it would be a degrading experience for the individual concerned.

The Bill may restrict freedom of religion; for instance, members of the Sikh religion carry on their person a small knife-like weapon known as a kirpan.<sup>113</sup> The Sikh Nishkam Society of Australia

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<sup>112</sup> HRA, ss 25, 19, 17, 20 and 15.

<sup>113</sup> Submission 15. A kirpan is a Sikh article of faith, resembling a small curved knife or sword and typically sheathed and worn under clothing.

submitted that having a kirpan is not an unlawful possession of a knife in a public place under the *Weapons Act 1990*. According to the Sikh Nishkam Society, there is limited training/awareness for QPS officers in regard to religious beliefs, and the prospect of being stopped by police, wanded and the kirpan confiscated 'will be improper and would cause unnecessary distress'.<sup>114</sup>

There is also a significant risk that the proposed powers could be used in a discriminatory fashion, in violation of the right to equality before the law.

Restricting the powers to certain geographical settings goes some way towards limiting the impact on these rights. As noted in the statement of compatibility, SNPs have been designated having regard to the crime rates and nature of the offending within those areas. Furthermore, under proposed s 39C, an authorisation may only be issued if there has been a history of violent crime in the area in the previous 6 months, limiting the risk. However, the threshold of at least one offence in the relevant area is relatively low. In relation to public transport, this threshold could be satisfied by a single offence at a public transport hub or on a public transport vehicle traveling to and from that hub.

### **Committee Comment**

The committee encourages the Queensland Police Service to ensure adequate training of senior police when undertaking a wand search.

The committee recognises that the Bill's overarching purpose to improve the detection of knives or other weapons, or deter the commission of an offence involving the possession or use a knife or other weapon is of high importance to the Queensland community, and an appropriate objective for a democratic government committed to the protection of human rights.

The committee is satisfied the Bill's limitations on human rights are justifiable in the circumstances that the Bill proposes an extension of a trial that will be reviewed at its conclusion.

## **2.4 Expansion to public transport vehicles and stations**

The Bill proposes to expand the wand search to permit scanning of people at public transport stations and on public transport vehicles.<sup>115</sup>

Under proposed new s 39C(1)(b), a senior police officer may authorise the use of a wand:

*at a public transport station and on public transport vehicles travelling to and from the station[.]*

'Public transport vehicle' is defined in proposed new s 39A:



(a) a train or other public passenger vehicle being operated by a railway manager or railway operator;



(b) a light rail vehicle or other public passenger vehicle being operated by a light rail manager, or light rail operator, for a light rail;



(c) a bus or other motor vehicle being used for a general route service;



(d) a ferry being used for a general route service.

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<sup>114</sup> Submission 15.

<sup>115</sup> Explanatory notes, p 2.

'Public transport station' is defined in proposed new s 39B as 'a station, platform or other structure for the taking on and letting off of passengers of a public transport vehicle' and includes:

- car parks and set down facilities
- other structures or facilities for the use or convenience of public transport passengers, such as overhead or underground walkways between platforms, footpaths and seating
- landscaping associated with the station, platform or structure.

The explanatory notes state the expansion 'is to provide the public safety benefits of reduced unlawful knife possession and the consequent reduced potential for offences involving a knife in those public transport areas, including the areas that a person carrying a knife may be travelling to'.<sup>116</sup>

The statement of compatibility provides that:

Another alternative was to limit the scope of the relevant places to public transport infrastructure that is in close proximity to all SNPs. While this is likely to decrease knife crime in those areas, it may have the effect of causing displacement of knife crime and would limit the opportunity to promote community safety across the broader public transport network.<sup>117</sup>

The Jack Beasley Foundation, City of Gold Coast, Townsville City Council and the Safe Night Cairns CBD Precinct Inc. supported the expansion of the wandering trial to public transport across Queensland.<sup>118</sup>

The Jack Beasley Foundation stated that several other near-fatal knife incidents had occurred across the Gold Coast in SNPs and on public transport infrastructure. The expansion of the wandering trial was 'part of the solution...already helping Gold Coasters and visitors feel safer and be safer.'<sup>119</sup>

*We think more could be done at the actual changeover point from the heavy to the light rail, because that is where the problem starts straightaway. They are coming down. They are on the heavy rail from the north. They are heading down to the Gold Coast, which is the party precinct. The changeover hub there is so important. It will probably never happen but I believe some sort of scanning system should be implemented there. You cannot get onto an aeroplane without it. When you go to an airport you have to walk through a scanner before you get on a plane.*

*... so why can you get on public transport? How are you able to freely walk onto it? Our son's killer walked on with a knife. He travelled all the way from Brisbane down to the Gold Coast and did what he did.*

Mr Brett Beasley, Jack Beasley Foundation, public hearing, Brisbane, 30 January 2023.

The City of Gold Coast stated that a 2021 community safety survey showed 48.94 per cent of respondents did not feel safe on public transport at night. The City of Gold Coast further stated that the 'extension of the wandering trial has the potential to improve feelings of safety at night, particularly in relation to public transport usage' and to 'achieve positive community safety outcomes'.<sup>120</sup> They submitted that, with the heavy rail connecting to the light rail and bus network, people can easily travel from locations such as Logan, Brisbane and Ipswich to the Gold Coast and the extension of the wandering trial to public transport is 'likely to prevent weapons travelling to public places including in the Gold Coast'.<sup>121</sup>

<sup>116</sup> Explanatory notes, p 2.

<sup>117</sup> Statement of compatibility, p 7.

<sup>118</sup> Submissions 2, 4, 11 and 13.

<sup>119</sup> Submission 13.

<sup>120</sup> Submission 11.

<sup>121</sup> Submission 11.

The Queensland Indigenous Family Violence Legal Service (QIFVLS) was supportive of the wider definition of 'public transport vehicles' so as to capture 'the preponderance of buses as a mode of public transport outside South-East Queensland.'<sup>122</sup>

Professor Ransley raised the issue of how wandering will operate at public transport stations and on public transport vehicles. She stated:

The pilot at Surfers Paradise in particular was extremely well organised and resourced. There was training. There was a big commitment by the senior leadership of Gold Coast police to implement that training, oversee that training and be quite rigorous in the way they monitored the trial. If you go out to more sites I wonder whether that can be maintained, particularly in other areas which—I might be wrong—may not be as resource rich and that could be an issue. I would like to see whether it is a QPS budget allocation to training—and I suspect they will say they do not have any money. I think that needs to be taken seriously because, while it is a useful tool, there is a potential for misuse as with most policing tools.<sup>123</sup>

The ATSILS expressed concerns about the proposed new regime for wandering on public transport.

*The regime that authorises wandering on public transport stations and, more particularly, public transport vehicles is not easily understood. It would be difficult for a lay person to understand the confines of where they can and cannot be wanded and, if on a public transport vehicle, it would be even more difficult for an individual to be cognisant of when they were wanded and if that was within 1 scheduled stop of a public transport station which is the subject of a wandering authority. Accordingly, it will be crucial that information regarding wandering authorities is communicated effectively to the community so that individuals understand their rights and obligations.*

Aboriginal and Torres Strait Islander Legal Service (Qld), Submission 9.

The Bar Association of Queensland similarly expressed concern about the justification for, and limits to, the expansion of police wandering powers such that all persons on board any public transport vehicle could be stopped, wanded and searched by police.<sup>124</sup>

The QPS stated, in the public briefing, that training and resources will be critical in adding public transport stations and vehicles to the wandering trial.<sup>125</sup> The QPS also stated that the public awareness campaign 'will capture the need for clear communication of this police power'.<sup>126</sup>

### **Committee comment**

The committee recognises the potential benefits to public safety of extending the wandering trial to public transport vehicles and stations.

The committee notes submitters' concerns in relation to how the trial of wandering on public transport stations and vehicles will operate in practice, and acknowledges the need for adequate police resourcing to ensure an effective extension of the trial. The committee also recognises the importance of implementing a public awareness campaign to clearly communicate where, and in what circumstances, people may be wanded on public transport.

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<sup>122</sup> Submission 10.

<sup>123</sup> Public hearing transcript, Brisbane, 30 January 2023, p 8.

<sup>124</sup> Submission 16.

<sup>125</sup> QPS, public briefing transcript, Brisbane, 30 January 2023, p 4.

<sup>126</sup> QPS, correspondence, 30 January 2023, p 14.



## Recommendation 2

In relation to the expansion of the wandering trial to public transport vehicles and stations, the committee recommends:

- in all regions the wandering trial be adequately resourced and supported by training for QPS officers.
- the Queensland Police Service implement a clear, appropriate and concise public awareness campaign, in cooperation with Queensland's public transport providers.
- the independent review of the extended wandering trial also examine the operation of the wandering trial specifically in relation to public transport vehicles and stations.

### 2.4.1 Impact on at-risk marginalised groups

The Queensland Human Rights Commission expressed concerns about the impact the extension of the wandering trial to public transport stations and vehicles may have on at-risk groups, stating:

Adding public transport to the places where searching may be conducted risks marginalising at-risk groups who rely on public transport to obtain essential services, attend work, and access health care. The extension of the power to search and scan to such situations is likely to limit additional human rights.<sup>127</sup>

The Women's Legal Service Queensland (WLSQ) were concerned that the expansion to include public transport stations may have 'significant consequences for people who are homeless, as they may regularly be present in the vicinity of bus stops, railway stations, light rail stations, car parks or near a jetty.'<sup>128</sup> They further stated:

The infringement of personal rights authorised by the Bill depends heavily on the exercise of discretion by officers. The training of police who are to exercise this discretion should include input from specialist services who support people who are homeless to ensure that any unintended consequences can be minimised.<sup>129</sup>

The WLSQ recommended that proposed new s 39C(2)(c)(i) should include a specific example of a person living in a public place who may possess knives for food preparation, consumption or other lawful purposes.

In response, the QPS stated:

Police are ever mindful of a person's special needs when interacting with vulnerable persons such as the elderly, homeless, First Nations people, young people and people with mental and physical disabilities. In relation to wandering homeless persons, police are cognisant that a homeless person may carry a knife for the preparation of their food in a public space. This would be a reasonable excuse in accordance with section 51(2)(d) of the *Weapons Act 1990*. Consequently, there is no need to amend section 39C.<sup>130</sup>

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<sup>127</sup> Submission 6.

<sup>128</sup> Submission 14.

<sup>129</sup> Submission 14.

<sup>130</sup> QPS, correspondence, 30 January 2023, p 16.

### **Committee comment**

While the committee notes the concerns of submitters in relation to the impact of the extension of the wandering trial to public transport stations and public transport vehicles on at-risk marginalised groups, the committee accepts that the Queensland Police Service will continue to interact respectfully and effectively with at-risk marginalised groups.

## **2.5 Queensland Police Service reporting requirements**

The Bill provides for information about wandering authorities and operations to be reported in the QPS annual report. Under proposed new s 808C, the commissioner would be required to ensure the QPS annual report included information about the number of wandering authorities issued during the financial year and the names of the relevant SNPs and public transport stations.<sup>131</sup>

### **2.5.1 Information to be included in annual report**

The Bill proposes legislative requirement that the commissioner ensure the QPS annual report includes information about wandering authorisations. New s 808C, at clause 5 of the Bill, details the information required to be published.

Clause 5, proposed new s 808C: Annual report to include information about authorisation of hand held scanners

(1) The commissioner must ensure the police service's annual report for a financial year, prepared under the *Financial Accountability Act 2009*, includes the following information—

- a) the number of hand held scanner authorities issued during the financial year;
- b) the names of the safe night precincts and public transport stations for which the authorities were issued;
- c) information about—
  - i. the number of people who were required to submit to the use of hand held scanners under the authorities; and
  - ii. the number of knives or other weapons that were detected using hand held scanners under the authorities; and
  - iii. the number of times a power to search a person without a warrant was exercised under chapter 2, part 2, division 2 as a result of the use of hand held scanners under the authorities; and
  - iv. the number and type of charges made against persons as a result of the use of hand held scanners under the authorities.

(2) The information included in the annual report under subsection (1) must not include any information that identifies, or is likely to lead to the identification of, an individual.

### **Stakeholder views**

Submitters suggested this section be amended to also include relevant demographic information, such as ethnic or cultural background, First Nations status and gender.<sup>132</sup> It was considered that transparency of the powers, including key demographic information, would provide confidence that the powers are being exercised appropriately and fairly.<sup>133</sup>

<sup>131</sup> Bill, cl 5, proposed new s 808C.

<sup>132</sup> Submissions 10 and 14.

<sup>133</sup> Submission 14.

The QIFVLS and the WLSQ sought a broadening of the annual reporting requirements to include ethnicity or cultural background,<sup>134</sup> gender and the First Nations status of people who are scanned.<sup>135</sup> The WLSQ was of the view that transparency of the exercise of search powers including key demographic information would provide confidence that the powers are being exercised appropriately and fairly.<sup>136</sup>

The QIFVLS submitted that reporting such data would meet the objective underpinning Priority Reform 4 of the National Agreement on Closing the Gap relating to ensuring that Aboriginal and Torres Strait Islander people have access to and the capability to use locally relevant data in efforts to Close The Gap.<sup>137</sup>

#### Departmental response

In its response to public submissions, the QPS advised it would provide data capture of the ethnicity of First Nations people/women/non-Indigenous persons who are wanded, to the entity undertaking the independent review of the expanded trial.<sup>138</sup>

#### **Committee comment**

The committee welcomes the Queensland Police Service commitment for the commissioner to provide certain information including, but not limited to, ethnicity and First Nations status, gender and age of people who are wanded, to the entity undertaking the independent review of the expanded trial.

## **2.6 Queensland Police Service officer training**

Currently training for QPS officers relates to how to use the wands and how the wanding operations are to be conducted. This consists of a 5-unit online training video and practical instruction in the use of the wands. Officers also receive a briefing prior to the start of any particular wanding operation.<sup>139</sup>

While the Atkinson Report found '[t]raining and resources appear appropriate and sufficient',<sup>140</sup> 2 of the 8 suggestions made by the Griffith Report related to training for QPS officers:

- The wanding training for officers needs to explicitly identify underlying objectives, and how people should be selected for wanding. This includes reminding officers the goal is reduced violent crime, not the better detection of any other type of behaviour.
- Training should also specifically discuss how wanding can impinge human rights protected under the HRA. Specific mention needs to be made of the human rights implications of the use of stereotypes to guide decision-making. Officers should be directed not to select people for wanding based only on race or cultural identification, or because they are part of a group perceived as troublesome. Evidence-based guidelines on risk factors for knife carrying should be produced to guide officer discretion.<sup>141</sup>

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<sup>134</sup> Submission 10.

<sup>135</sup> Submission 14.

<sup>136</sup> Submission 14.

<sup>137</sup> Submission 10; Closing the Gap, 'Priority Reforms', <https://www.closingthegap.gov.au/national-agreement/priority-reforms>.

<sup>138</sup> QPS, correspondence, 30 January 2023, p 15.

<sup>139</sup> QPS, public briefing transcript, Brisbane, 30 January 2023, p 3.

<sup>140</sup> Atkinson Report, p 118.

<sup>141</sup> Griffith Report, pp v-vi.

The QPS advised that, in response to suggestions made in the Griffith Review, QPS officer wandung training would be updated to identify the underlying objectives of the wandung and how members of the public should be selected for scanning. Those objectives would focus on the goal of reducing violent crime. The training would also be updated to discuss how wandung can impinge upon protected human rights such as the right to equality before the law and also the right to freedom of movement. The training would make specific mention of the human rights implications in the use of stereotypes to guide officer decision-making. In this regard, officers would be instructed that they should not specifically select people for wandung based solely on race or cultural identification, or as part of a group perceived as troublesome. The training would also provide evidence-based guidelines on risk factors for knife carrying to guide officer discretion when conducting wandung.<sup>142</sup>

### Stakeholder views

Several submitters called for training and/or guidelines for QPS officers involved in enacting the expanded wandung trial<sup>143</sup> and made a number of recommendations regarding elements to be included in training for those officers:

- the appropriate use of the powers for the narrow legislative purpose of detecting unlawful possession of knives and not for searching a person in contexts where reasonable suspicion would ordinarily be required<sup>144</sup>
- cultural competency,<sup>145</sup> including using communication that is culturally appropriate when the individual officers are approaching is an Aboriginal and/or Torres Strait Islander person<sup>146</sup>
- how to identify and eliminate unconscious and conscious biases when applying their discretion so as to avoid selective policing<sup>147</sup>
- the possible effects wandung can have for children entering the criminal justice system<sup>148</sup>
- input from specialist services who support people who are homeless to ensure that any unintended consequences can be minimised.<sup>149</sup>

The Queensland Human Rights Commission noted that the QPS would develop evidence-based and publicly available guidelines on risk factors for knife carrying to guide the exercise of officers' discretion, and stated: 'This would ensure scanning does not occur based on race or cultural identification alone'.<sup>150</sup>

### Departmental response

In regard to wandung training for QPS officers, the QPS advised that the commissioner would provide written directions to police on how the Bill is to be operationalised and that wandung is not to unlawfully breach a person's human rights or to discriminate against a person.<sup>151</sup> Additionally,

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<sup>142</sup> QPS, public briefing transcript, Brisbane, 30 January 2023, p 3.

<sup>143</sup> Submissions 9, 10 and 14; City of the Gold Coast, public hearing transcript, Brisbane 30 January 2023, p 10.

<sup>144</sup> Submission 9.

<sup>145</sup> Submissions 9 and 10.

<sup>146</sup> Submission 9.

<sup>147</sup> Submissions 9 and 10.

<sup>148</sup> Submission 10.

<sup>149</sup> Submission 14.

<sup>150</sup> Submission 6.

<sup>151</sup> QPS, correspondence, 30 January 2023, p 10.

updated training on the impact of police powers on individuals' human rights would be provided to police officers prior to their exercising any of the new proposed powers.<sup>152</sup>

Regarding the use of stereotypes in selecting people to be wanded, the QPS advised that the wanding training package 'is being updated to reflect the importance of using wanding consistently across different groups in society and not to unlawfully discriminate against people'.<sup>153</sup> Further, the updated training and guidelines for the expanded wanding trial would reinforce the cultural rights of First Nations people which is legislated for in s 28 of the HRA and the QPS approach to assessing whether an action or decision is compatible with human rights when police interact with First Nations people.<sup>154</sup>

### **Committee comment**

The committee is reassured by Queensland Police Service advice that wanding training for Queensland Police Service officers will include explicit written directions from the commissioner on how wanding is to be operationalised and will reflect the importance of using wanding consistently across different groups in society, so that wanding will not unlawfully breach a person's human rights or discriminate against a person.

## **2.7 Public messaging for deterrence and awareness raising**

In September 2021, the QPS launched the crime prevention campaign 'I live my life ... without a knife' to increase awareness about the laws and consequences of carrying a knife.<sup>155</sup> As previously noted, Mr Atkinson considered the apparent strong public support for the Surfers Paradise and Broadbeach SNPs wanding trial was likely due to its being embedded in that campaign, which included a comprehensive communication strategy, education programs and engagement with local interest groups.<sup>156</sup> The QPS has committed to continue the campaign and roll it out to the 15 police districts across the state, and described it as 'an anchor' to a number of other current campaigns, 'most notably the Jack Beasley Foundation 'Detect Knives, Save Lives.'<sup>157</sup>

The Jack Beasley Foundation partners with the QPS to convey the messaging associated with the campaign through their *One Moment* one-hour presentation, which is delivered in schools across south-east Queensland and northern NSW.<sup>158</sup> The aims of the *One Moment*<sup>159</sup> presentation are to:

- continue the momentum of the campaign
- raise community awareness of knife possessions, laws and risks
- reduce knife carrying and knife-related offences in public places
- educate young people on situational awareness to reduce victimisation

<sup>152</sup> QPS, correspondence, 30 January 2023, p 15.

<sup>153</sup> QPS, correspondence, 30 January 2023, p 10.

<sup>154</sup> QPS, correspondence, 30 January 2023, p 3.

<sup>155</sup> QPS, 'I live my life ... without a knife' campaign, <https://mypolice.qld.gov.au/news/2021/05/10/make-stronger-choices-now-and-for-your-future/>; Atkinson Report, p 109.

<sup>156</sup> Atkinson Report, p 118.

<sup>157</sup> QPS, public hearing transcript, Brisbane, 30 January 2021, p 2023.

<sup>158</sup> Submission 13; Atkinson Report, p 109.

<sup>159</sup> Jack Beasley Foundation, 'One moment' Program, [https://www.jackbeasleyfoundation.org/pages/education-program](https://www.jackbeasleyfoundation.org/pages/education-program;); <https://www.facebook.com/goldcoastbulletin/videos/detect-knives-save-lives/371841970662259/>

- educate youth in strategies to avoid confrontation.<sup>160</sup>

The Jack Beasley foundation employs the following general engagement principles:

- change the values and actions of young people
- educate young people by raising awareness of the rules and consequences of knife carrying
- educate young people of the prevalence of knife violence in public places and victim prevention strategies
- encourage community partnership to achieve positive outcomes for young people
- empower young people to make better choices.<sup>161</sup>

The City of the Gold Coast worked with the QPS to support the campaign by distributing and displaying materials through its community centres, other city facilities and its network.<sup>162</sup> The City of the Gold Coast representatives submitted that they would like to see promotion of the expanded trial if it goes ahead and committed to supporting any promotion of Jack's Law and community safety, 'so that the general public could get to know what to expect from the trial'.<sup>163</sup>

The Gold Coast police district officers engaged with the City of the Gold Coast to ensure communication about the Surfers Paradise and Broadbeach SNPs trial did not contribute to perceptions that the Gold Coast was unsafe and to ensure the trial was described in a positive way – that the Gold Coast is safe and the wanding trial is making it safer.<sup>164</sup>

The Atkinson Report considered that the broader campaign on the Gold Coast and education program being delivered by the Jack Beasley Foundation may have contributed to the decline in knife crime in Gold Coast police divisions in 2021 compared to the same period in 2020.<sup>165</sup>

In regard to expanding the trial to other locations, the Atkinson Report recommended 'early and sustained engagement with Aboriginal and Torres Strait Islander and culturally and linguistically diverse (CALD) communities (relevant to the location) would be advisable to facilitate similar levels of community support as there has been on the Gold Coast'.<sup>166</sup> Further, the Atkinson Report stated:

Given the ... concern in the community about youth crime, there may be benefit in conveying consistent, data informed messaging about the target group for identifying a knife or metal weapon and the demographic breakdown of those who are 'wanded' and identified.<sup>167</sup>

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<sup>160</sup> Belinda Beasley, public hearing transcript, Brisbane, 30 January 2023, p 2.

<sup>161</sup> Belinda Beasley, public hearing transcript, Brisbane, 30 January 2023, p 3.

<sup>162</sup> City of the Gold Coast, public hearing transcript, Brisbane, 30 January 2023, p 10.

<sup>163</sup> City of the Gold Coast, public hearing transcript, Brisbane, 30 January 2023, pp 10 and 11.

<sup>164</sup> Atkinson Report, p 109.

<sup>165</sup> Atkinson Report, p 114.

<sup>166</sup> Atkinson Report, p 119.

<sup>167</sup> Atkinson Report, p 118.

### **Committee comment**

The committee commends the Beasley family for their courage, determination and tenacity in honouring Jack through the valuable education program they are delivering through the Jack Beasley Foundation.

The committee commends the Queensland Police Service on the 'I live my life ... without a knife' campaign and acknowledges the support for that campaign provided by the Jack Beasley Foundation and the City of the Gold Coast.

The committee notes that the Queensland Police Service intends to roll-out the 'I live my life ... without a knife campaign' across the state and encourages the Queensland Police Service to work with local councils and communities, including First Nations and culturally and linguistically diverse communities, to ensure community awareness and support for the expanded trial.

### **Recommendation 3**

The committee recommends that the public education program is developed in consultation with key stakeholders in targeted areas around Queensland, relevant to local safe night precinct areas, communities and identified public transport centres.

The committee recommends that the Queensland Police Service extend the public education campaign across Queensland consistent with the extension of the wandering trial.

## **2.8 Independent review of the extended trial**

A number of submitters suggested that the extension of the wandering trial should be subject to a review at the end of the trial in 2025.<sup>168</sup> DVConnect suggested that the Research and Evaluation Branch of the QPS should track similar data measures as were reviewed in the Griffith Report, particularly in relation to change in reportable offences during the trial period at the trial sites and equity of application, that is, wandering being applied equitably to people of different demographic groups.<sup>169</sup>

The Queensland Human Rights Commission recommended that the Queensland Government should commission an independent review 12 months after the implementation of the Bill.<sup>170</sup> They stated that 'relevant considerations for such a review would be the extent to which the trial has achieved a significant reduction in crimes involving weapons, and if the addition of public transport has had a disproportionate impact on certain groups.'<sup>171</sup>

The QPS stated, in its departmental briefing, 'the expanded trial will also be subject to further independent review.'<sup>172</sup> This was reiterated by the QPS in the public briefing, stating they are 'mindful of the prospect of a further review of the wandering legislation' and are prepared to cooperate with any entity tasked with conducting the review.<sup>173</sup>

<sup>168</sup> Submissions 6, 8, 10 and 11.

<sup>169</sup> Submission 6; Griffith report, pp 18 and 20.

<sup>170</sup> Submission 6.

<sup>171</sup> Submission 6.

<sup>172</sup> QPS, correspondence, 16 December 2022, p 7.

<sup>173</sup> QPS, public briefing transcript, Brisbane, 30 January 2023, p 3.

### **Committee comment**

The committee acknowledges the extraordinary powers that this Bill affords the Queensland Police Service and for this reason recognises the importance of extending the trial in order to ensure that the Queensland Government uses clear evidence to make well informed policy decisions into the future.

The committee notes the Bill's proposal to extend the period of the trial to 30 April 2025 would allow the government valuable opportunity in which to gather valid, reliable and statistically sound evidence, undertake further assessment of the effectiveness of the proposed wanding laws and consider improvements to the operation of these specific and extraordinary police powers in reducing unlawful knife possession and life threatening offences.

The committee also supports the views of submitters that an independent review be conducted at the conclusion of the wanding trial and commends the willingness of the Queensland Police Service to cooperate with the entity tasked with conducting the independent review.

The committee encourages the extended trial be independently evaluated, using evidence-based data gathered from the trial, to assist the Queensland Government to determine whether the trial is allowed to sunset or whether other legislative options are to be explored and potentially introduced into the Parliament.

The committee would welcome clarity as to when and how the government will determine definitively whether police wanding powers will be allowed to lapse at the end of the extended trial, or considered on a more permanent basis.

### **Recommendation 4**

The Committee recommends that the extended and expanded trial be independently evaluated.



## Appendix A – Safe Night Precincts map



Source: Queensland Government, *Safe Night Out Strategy*, 2014, p 11,  
<https://cabinet.qld.gov.au/documents/2014/Jun/SafeNightOutBill/Attachments/Strategy.pdf>

**Appendix B – Jurisdictional comparison**

**Metal detector scanning powers in public places in South Australia, Victoria and Western Australia<sup>1</sup> current as at 1 February 2023**

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
Are police powers to scan contained within the same provisions as police search powers?	<p>Yes</p> <p>For metal detector searches in declared public precincts see s 66R ‘Power to conduct metal detector searches etc’.</p> <p>For metal detector searches in licensed premises, a public place holding an event declared by the commissioner by published notice, a car parking area for licensed premises or a public place holding an event declared by the commissioner by published notice (s 72A ‘Power to conduct a metal detector searches etc’).</p>	<p>Yes.</p> <p>Section 10G ‘Power to search person in designated area’ is read with power to scan and search in schedule 1.</p>	<p>No.</p> <p>For a basic search (which includes a metal detector search) based on reasonable suspicion see s 68 ‘Searching people for things relevant to offences’.</p> <p>For a basic search (which includes a metal detector search) with consent only see s 69 ‘People and vehicles in public places, search of for security purposes’.</p> <p>See also s 63 ‘Basic search, meaning of’.</p>

**Please note direct quotes from the legislation are in italics.**

<sup>1</sup> New South Wales police may use a metal detection device as part of a search with requisite suspicion (see s 30 ‘Searches generally’ of the *Law Enforcement (Police Powers and Responsibilities Act 2002* (NSW)).

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
Threshold for the area that must be met before police can exercise scanning powers.	<p>s 66N – (1) <i>The Attorney- General may, by notice in the Gazette, declare a defined area comprised of 1 or more public places to be a <b>declared public precinct</b> for a period, or periods, specified in the declaration.</i></p> <p>(2) <i>The Attorney-General may only make a declaration in relation to an area under subsection (1) if satisfied that—</i></p> <p style="padding-left: 20px;">(a) <i>there is, during the period or periods specified in the declaration, a reasonable likelihood of conduct in the area posing a risk to public order and safety; and</i></p> <p style="padding-left: 20px;">(b) <i>the inclusion of each public place in the area is reasonable having regard to that identified risk.</i></p> <p>(3) <i>A declaration under subsection (1) may be made on the Attorney-General's own motion or on the recommendation of the Commissioner.</i></p>	<p>s 10D – Planned designation of an area</p> <p>(1) <i>The Chief Commissioner may declare an area to be a designated area, if the Chief Commissioner is satisfied that—</i></p> <p>(a) <i>either—</i></p> <p style="padding-left: 20px;">(i) <i>more than one incident of violence or disorder has occurred in that area in the previous 12 months that involved the use of a weapon; or</i></p> <p style="padding-left: 20px;">(ii) <i>an event is to be held in that area and violence or disorder involving the use of weapons have occurred at previous occasions of the event (wherever occurring); and</i></p> <p>(b) <i>there is a likelihood that the violence or disorder will recur.</i></p> <p>s 10E – <i>Unplanned designation of an area</i></p> <p>(1) <i>The Chief Commissioner may, in writing, declare an area to be a designated area if the Chief Commissioner is satisfied that—</i></p>	<p>s 68 – Reasonable suspicion that a person has in his or her possession or under his or her control anything relevant to an offence.</p> <p>s 69A – Reasonable suspicion a person in a public place is prohibited by a prohibited behaviour order (no suspicion of possession of a prohibited thing required).</p> <p>s 69B – Reasonable suspicion that a person in a public place is prohibited from having a prohibited thing by an interim control order or a control order under the <i>Criminal Organisations Control Act 2012</i> (no suspicion of possession of a prohibited thing required).</p> <p>s 69 – (1) The powers in this section may be exercised by consent in a public place by a police officer in:</p> <ul style="list-style-type: none"> <li>• a prescribed place</li> <li>• a place is subject of a written declaration made by a senior police officer who is of the opinion that it is necessary to safeguard a particular public place/persons in the place</li> </ul>

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
		<p><i>(a) there is a likelihood that violence or disorder involving weapons will occur in that area during the period of intended operation of the declaration; and</i></p> <p><i>(b) it is necessary to designate the area for the purpose of enabling police officers or protective services officers to exercise search powers to prevent or deter the occurrence of violence or disorder that the Chief Commissioner is satisfied is likely to occur.</i></p>	<ul style="list-style-type: none"> <li>any public place where an officer reasonably suspects that it is necessary to exercise the powers for the purposes of safeguarding the place/people.</li> </ul>
Who/what may be subject to the powers:	<p>s 66R – any person present within a declared public precinct including property in their possession.</p> <p>s 72A – ‘any person who is in, or is apparently attempting to enter or leave’ a licensed premises, declared public event etc including property in their possession.</p>	<p>s 10G – (1) a person and ‘anything in the possession of or under the control of the person’ within a the designated area.</p>	<p>s 69 – (4) A person entering the place or a person within the place.</p> <p>If the person does not consent to the search, the person must be refused entry or asked to leave the place.</p> <p>Motor vehicles are included.</p>

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
Threshold suspicion for conducting scanning upon an individual:	s 66R – Nil threshold but must be in a declared public precinct s 72A – Nil threshold but must be in, apparently attempting to enter licensed premises, declared public event etc.	Nil threshold but must be in a designated area.	s 69 – Consent.
Powers which may be exercised:	s 66R – (1) <i>A police officer may, for the purpose of detecting the commission of an offence under s 66Q [Offensive weapons or dangerous articles] or Part 3A [Weapons etc], carry out a search in relation to—</i>  <i>(a) any person present within a declared public precinct;</i> <i>and</i> <i>(b) any property in the possession of such a person.</i>  <i>(2) The following provisions apply to a search carried out in accordance with this section:</i>  <i>(a) the search must, in the first instance, be a metal detector search;</i>	s 10G and schedule 1 – Person may be stopped and initially searched using a metal detector.  If, after an initial search using a metal detector, the police officer considers that the person may be concealing a weapon, the person may be asked to empty their pockets, produce or empty the contents of a bag, pat down the area of the person's pockets. Anything produced may be examined by the police officer.  If, after an initial search using a metal detector, the police officer considers that the person is concealing a weapon, then the police officer may conduct a further search by running their hands on the outside of the person's clothes. A request to remove outer garments may be made and those garments may	s 68 – A basic search may be conducted. A basic search may include the use of a hand held metal detector (s 63).  s 69 – A basic search in public places may only be conducted with the consent of the person.  Person inside the place must be advised that if they do not consent, they will be asked to leave.

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
	<p><i>(b) if the metal detector search indicates the presence or likely presence of metal, a police officer may require the person to produce items detected by the metal detector (and, for the purpose of determining whether or not the person has produced such items, may conduct further metal detector searches);</i></p> <p><i>(c) if the person refuses or fails to produce any such item, a police officer may, for the purpose of identifying the item, conduct a search in relation to the person or property (which need not be a metal detector search but may be conducted as if it were a search of a person who is reasonably suspected of having on or about his or her person an object, possession of which constitutes an offence).</i></p>	<p>be examined and be subject to a metal detector search.</p> <p>Strip searches may be conducted if the police officer reasonably suspects that the person has a concealed weapon and the urgency and seriousness of the circumstances dictate it.</p> <p>s 10H – Motor vehicles may be searched.</p>	

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
	<p>(3) <i>In this section—</i></p> <p><b>metal detector search</b> means a search conducted—</p> <p>(a) <i>using only a metal detector of a kind approved by the Commissioner; and</i></p> <p>(b) <i>in accordance with any directions issued by the Commissioner.</i></p> <p>s 72A – Power to conduct metal detector searches etc</p> <p>Same powers as above but apply to licensed premises including hotels, clubs, casinos, restaurants; public place holding an event declared by the Commissioner by published notice; a car parking area for licensed premises or public place holding an event declared by the Commissioner by published notice.</p>		

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
Duration of powers:	<p>s 66N – (4) <i>An area may not be a declared public precinct for more than 12 hours in any 24 hour period unless the Attorney-General is satisfied that special circumstances exist in the particular case.</i></p> <p>s 72A – No time restriction except for the duration specified in a declaration applying to a public place holding an event.</p>	<p>s 10D(3) and s 10E(4) – For both planned and unplanned designations, the period of operation of a declaration:</p> <p>(a) <i>must be not longer than is reasonably necessary to enable police officers or protective services officers to effectively respond to the threat of violence or disorder; and</i></p> <p>(b) <i>must not exceed 12 hours.</i></p> <p>s 10D(8) – For planned designated areas there must be 10 days between declarations with respect to the same area, unless an unplanned declaration is required to be made.</p>	<p>s 69 – (3) Declaration of place to be in force for no more than 48 hours.</p>
Notification requirements for the declared area:	<p>s 66N – (1) <i>The Attorney-General may, by notice in the Gazette, declare a defined area comprised of 1 or more public places to be a declared public precinct for a period, or periods, specified in the declaration.</i></p> <p>...</p> <p>(5) <i>The Attorney-General must cause notice of a declaration under this section to be published on a</i></p>	<p>s 10D(4) and (5) – For a planned declaration, the Chief Commissioner must publish:</p> <ul style="list-style-type: none"> <li>• a description of the designated area</li> <li>• the powers authorised to be used</li> <li>• the period/s of operation</li> <li>• any event the declaration was made in respect of.</li> </ul>	<p>s 69 – (3) A senior police officer must make a written record of the declaration providing the area, date and time the declaration was made, the period it will be in force, and reasons for making the declaration. The declaration must not be for longer than 48 hours.</p>



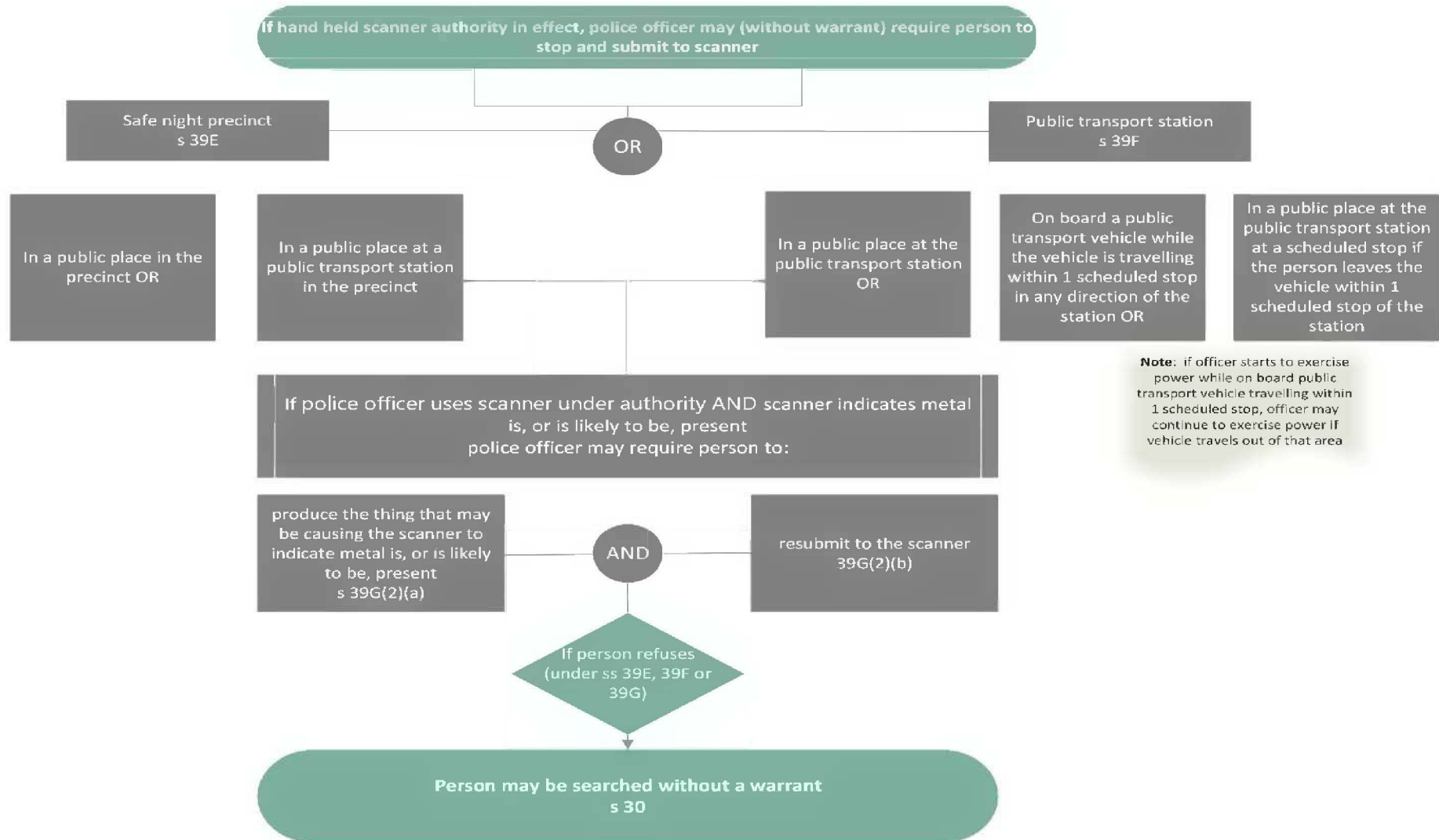
	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
	<p><i>website determined by the Attorney-General to which the public has access free of charge.</i></p> <p><i>(6) The Attorney-General may, by subsequent notice in the Gazette, vary or revoke a declaration made under subsection (1).</i></p> <p>s 72A – only if Commissioner intends to declare a public place holding an event (s 72A(3)(b)).</p> <p>Declaration must identify the event and public place and be made in accordance with any regulations. The times the powers will be in force must also be declared along with other conditions specified in the notice (s 72A(4)).</p> <p>Notification must be made in the gazette and in a newspaper with statewide circulation or the Commissioner's website (s 72A(5)).</p>	<p>s 10D(4) – The declaration must be published in the government gazette, a daily newspaper circulating generally in Victoria and, if outside the metropolitan area, in a daily newspaper circulating generally within that area.</p> <p>s 10E(6) and (7) – If the declaration is not planned, the authorised officer must ensure that a notice of declaration is published on the Victoria Police website as soon as practicable including the above information and a map of the area.</p>	
Who may authorise scanning:	Nil in legislation.	s 10F – Chief Commissioner or no lower than an Assistant Commissioner may authorise the designation of an area for the purposes of searching.	s 69(2) – Senior police officer, which is defined as a police officer who is of the rank of inspector or higher (s 3).

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
Other safeguards:	Nil in legislation.	<p>s 10D(2) – <i>The area designated must not be larger than is reasonably necessary to enable police officers or protective services officers to effectively respond to the threat of violence or disorder.</i></p> <p>s 10G(3) – <i>A police officer must conduct the least invasive search that is practicable in the circumstances.</i></p> <p>s 10G(4) – <i>A police officer may detain a person for so long as is reasonably necessary to conduct a search under this section.</i></p> <p>Schedule 1 – Conduct of searches</p> <p>During an outer search, a police officer must ask for the person’s cooperation.</p> <p>Any outer searches must be conducted in a way that provides reasonable privacy and be done as quickly as possible.</p> <p>Schedule 1 also includes safeguards in relation to strip searches, including that a strip search must be conducted by an</p>	<p>s 70 – (2) A police officer conducting a basic search or a strip search must:</p> <p><i>(a) identify himself or herself to the person; and</i></p> <p><i>(b) inform the person of the reason for the search; and</i></p> <p><i>(c) request the person to consent to the search; and</i></p> <p><i>(d) if the person does not consent to the search or withdraws his or her consent, inform the person that it is an offence to obstruct the searcher doing the search.</i></p> <p><i>(3) If a basic search or a strip search is done of a person —</i></p> <p><i>(a) it must be done as quickly as is reasonably practicable; and</i></p> <p><i>(b) it must not be any more intrusive than is reasonably necessary in the circumstances; and</i></p> <p><i>(c) the searcher, if he or she proposes to remove any article that the person is wearing, must tell the person why it is considered necessary to do so; and</i></p>

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
		<p>officer of the same sex or gender as the person being searched.</p>	<p><i>(d) the person must be allowed to dress as soon as it is finished; and</i></p> <p><i>(e) the person must be provided with a reasonably adequate replacement for any article of clothing or footwear seized if, due to the seizure, the person is left without adequate clothing or footwear in the circumstances; and</i></p> <p><i>(f) the person must not be questioned while it is being done about any offence that he or she is suspected of having committed.</i></p> <p><i>s 71(2) The searcher must, if practicable, be a person of the same gender as the person being searched, unless the searcher is a doctor or a nurse.</i></p> <p>Certain other safeguards apply to strip searches (s 72).</p>
Children	No special provisions	<p>Schedule 1 – Police can search a child with a metal detector as they would an adult.</p> <p>Subsequent searches arising because of the metal detector search (outer searches and strip searches) must be conducted in the presence of a parent or guardian, or, if the child is mature enough to express an opinion, in the</p>	No special provisions.

	South Australia	Victoria	Western Australia
	<i>Summary Offences Act 1953</i>	<i>Control of Weapons Act 1990</i>	<i>Criminal Investigation Act 2006</i>
		<p>presence of an independent person who is capable of representing the interests of the child and is acceptable to the child.</p> <p>This also applies to persons with impaired intellectual functioning.</p>	
Reporting requirements	<p>For s 72A – Search of a declared public place holding an event:</p> <p>(7) The Commissioner must include in their annual report:</p> <p>(a) the number of declarations</p> <p>(b) number of wandering searches conducted</p> <p>(c) number of occasions wandering searches indicated the presence of metal</p> <p>(d) number of occasions in which weapons were detected and the type of weapons detected</p> <p>(e) any other information required by the Minister.</p>	<p>s 10A – Police who conduct a search on the basis of reasonable suspicion or a subsequent strip search must make a written record of the search containing the prescribed particulars.</p> <p>The Chief Commissioner must provide to the Minister in the annual report the number of:</p> <ul style="list-style-type: none"> <li>• searches without warrant conducted</li> <li>• strip searches, including the number in planned and unplanned designated areas</li> <li>• weapons and dangerous articles found and their type</li> <li>• persons charges.</li> </ul>	<p>s 69(3) – <i>A senior police officer who makes such a declaration must make a written record of it and –</i></p> <p><i>(a) the place to which it applies; and</i></p> <p><i>(b) the date and time it was made; and</i></p> <p><i>(c) the period for which it will be in force, which must not be more than 48 hours; and,</i></p> <p><i>(d) the reasons for making it.</i></p>

Appendix C – Proposed wandng regime process



## Appendix D – Submitters

<b>Submission No.</b>	<b>Submitter</b>
001	Robert Heron
002	Townsville City Council
003	Shane Cuthbert
004	Safe Night Cairns CBD Precinct Inc
005	Queensland Council for Civil Liberties
006	Queensland Human Rights Commission
007	Robert Heron (Supplementary Submission)
008	DVConnect Limited
009	Aboriginal and Torres Strait Islander Legal Service (Qld)
010	Queensland Indigenous Family Violence Legal Service
011	City of Gold Coast
012	Scout Association of Australia Queensland Branch
013	Jack Beasley Foundation
014	Women's Legal Service Queensland
015	Sikh Nishkam Society of Australia
016	Bar Association of Queensland

## **Appendix E – Officials at public departmental briefing**

**30 January 2023**

### **Queensland Police Service**

- Acting Deputy Commissioner Mark Wheeler, Regional Queensland
- Superintendent Rhys Wildman, Gold Coast District, South Eastern Police Region
- Senior Sergeant Ian Carroll, Legislation Branch, Policy and Performance Division

## **Appendix F – Witnesses at public hearing**

**30 January 2023**

### **Jack Beasley Foundation**

- Mr Brett Beasley, Executive Board Member
- Mrs Belinda Beasley, Secretary
- Mr Sam O'Connor MP, Executive Board Member

### **Griffith Criminology Institute**

- Professor Janet Ransley

### **City of Gold Coast**

- Mrs Kim Daniel, Executive Coordinator Community Safety, Development and Youth
- Ms Anna Rainbow, Coordinator Community Safety



## Appendix G – Abbreviations

Atkinson report	B Atkinson, <i>Youth Justice Reforms Review: Final Report</i> , March 2022
ATSILS	Aboriginal and Torres Strait Islander Legal Service (Qld)
Bill	Police Powers and Responsibilities (Jack's Law) Amendments Bill 2022
committee	Community Support and Services Committee
Criminal Code	<i>Criminal Code Act 1899</i> (Qld)
Griffith Report	Griffith Criminology Institute, <i>Review of the Queensland Police Service Wandering Trial</i> , August 2022
HRA	<i>Human Rights Act 2019</i>
Minister	Minister for Police and Corrective Services and Minister for Fire and Emergency Services
PPRA	<i>Police Powers and Responsibilities Act</i>
QIFVLS	Queensland Indigenous Family Violence Legal Service
QPRIME	Queensland Police Records Information Management Exchange
QPS	Queensland Police Service
SNP	Safe Night Precinct
UK	United Kingdom
WLSQ	Women's Legal Service Queensland

## Statement of Reservation



**MICHAEL BERKMAN MP**

*Member for Maiwar ▲*

16 February 2023

**Statement of Reservation - CSSC Report No. 27:  
Inquiry into Police Powers and Responsibilities (Jack's Law) Amendment Bill**

Protecting the community from violent crime and preventing further loss of life are worthy aims, but there remains insufficient evidence to suggest that this bill will achieve those aims, or that it does so in a way that is consistent with Queensland's Human Rights Act.

**No justification for expansion of trial to other SNPs and public transport**

While it can be reasonably argued that an extension of the trial of wandering powers is warranted in order to gather better evidence, the Committee was not provided with any adequate justification to expand the trial to all Safe Night Precincts and onto public transport. This was not recommended by the Griffith Criminology Institute's review of the trial, which found the initial trial resulted only in an increase in detection of knife carrying at one of the two locations and found no evidence of deterrence, concluding that "any continuation of wandering should be targeted at only those areas where data shows a proportionately higher prevalence of knife offences occurring over a sustained period", with reassessment needed to better assess the effects of the wandering. As the Queensland Human Rights Commission pointed out in its submission, the requirement for just one knife-related offence to have occurred in the previous six months for a wandering authorisation to be made is inconsistent with this recommendation.

The Government asserts that the presence of licensed premises and concentrated pedestrian traffic are sufficient reason for the trial in SNPs, but the only reason given to expand the trial onto public transport is "to provide the public safety benefits of reduced unlawful knife possession and the consequent reduced potential for offences involving a knife", which were not demonstrated to have been achieved in the wandering trial.

**Detection versus deterrence**

Even taking into account the possibility that an extended trial may lead to a deterrent effect on knife-carrying due to increased public awareness of the wandering powers, we should take great care at this stage not to conflate the findings about increased detection with deterrence. The Griffith report is clear that there is as yet no evidence of any deterrent effect on knife carrying, nor is there any evidence to suggest any significant effect from wandering on other violent offences. It should also be noted that previous analysis of similar powers in other jurisdictions showed no discernible impact of increased police stop and search powers (such as in Victoria or the United Kingdom) on knife crime.

There is inconsistency between some of the language used in the bill with respect to deterrence and detection. For example, the objective of the bill only to "detect unlawfully possessed knives" contrasts with the requirement for a senior officer to consider that "the use of hand held scanners is likely to be

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effective to detect **or deter** the commission of an offence involving the possession or use of a knife or other weapon”.

Any extended trial should be properly grounded in an independent assessment that demonstrates an explicit link between wandering and the deterrence of knife carrying and a reduction in violent offending.

### **Misuse of expanded powers and net widening**

The Committee has failed to adequately address the findings that the wandering trial resulted in the detection of more illicit drugs than weapons, and the concern that the powers were being deliberately used to identify, search and question or charge people for offences entirely unrelated to knife crime. This was evidenced by interviews Griffith conducted with police officers, who made comments like:

*“So that’s been one of the real benefits, because we are able to engage with people in such a manner that you know reasonable suspicion isn’t required and because we’re engaging with them around the knives it’s just a lot of offences flow off the back of that and the way we’re going about that.”*

Not only is this inconsistent with the stated objectives of the trial, but creates a risk of detrimental flow-on effects, through the criminalisation of greater numbers of people for non-violent offences.

Given the evidence to date, one could fairly assume that the extended and expanded trial provided for in this bill is intended to increase the number of individuals caught up in formal criminal justice processes for low level drug offences - a counterproductive outcome, to say the least. An independent review of any new trial must evaluate whether the new training to be provided to police is effective in preventing the use of these extraordinary powers to increase prosecutions for non-violent, particularly drug-related, offences, and the impacts of this on the affected individuals and the criminal legal system in Queensland.

### **Human rights impacts**

The Committee has quite completely failed to reflect on the extent of the bill’s inconsistency with the Human Rights Act and that, without better evidence of the proposed laws’ efficacy, there is insufficient justification for such broad and extraordinary powers. Serious concerns around the bill’s human rights implications were raised in a number of submissions, including from the Queensland Human Rights Commission, the Queensland Council for Civil Liberties and the Women’s Legal Service Queensland, but the Committee has simply glossed over the expert evidence available to it and the bill’s inconsistency with the Human Rights Act.

On the evidence before the Committee, it cannot sensibly be satisfied that the bill is likely to achieve the legislative purpose against which the limitations on human rights must be weighed. That is, the impacts of an extended and expanded suspicionless wandering trial on the rights to privacy and freedom of movement, freedom of religion, freedom from cruel, inhuman or degrading treatment or punishment, and equality before the law are not justified by the objective of protecting the public from violent crime, because it is not clear that this limitation of human rights will achieve that objective.

Based on the material before it, the Committee should have at least identified that there are less restrictive ways to achieve that objective, such as retaining the requirement for reasonable suspicion. There is a real risk that such alternatives may have been overlooked because of heightened public attention on, and the notoriety of, the tragic death of Jack Beasley. To put this another way, Parliament is at risk of passing a bill that unreasonably and unjustifiably limits human rights and will not achieve the objective of reducing knife crime, because of the political sensitivity surrounding this particular issue.

It is also clear from the material before the Committee that the people most likely to have their human rights impacted by the bill include already disadvantaged and vulnerable Queenslanders, particularly First Nations young people. In circumstances where the state is again seeing significant numbers of young people, mostly First Nations, held in police watch houses for extended periods, the Committee has clearly not given due attention to the evidence that this bill could contribute to the ongoing over-incarceration of First Nations young people.

The assurances provided by QPS that police will receive training to reduce racial profiling and bias in the exercise of these powers do not sufficiently reduce the risk of human rights violations, given the bill leaves so much to the discretion of individual officers. Relying on the judicious judgement of individual officers is an inadequate protection. Furthermore, asking the community to trust that police will act in compliance with human rights standards is unrealistic given recent findings of police misconduct by the Independent Commission of Inquiry, which uncovered concerning evidence of racism and misconduct.

### **Recommendations**

The bill in its current form is not based on sufficient evidence or justification for an expanded trial. The Government should take a more measured approach and extend the trial only in the two SNPs that were targeted during the first trial, to gather greater evidence about efficacy preventing knife offences.

If the bill is passed, it should be subjected to an independent review that explicitly considers:

- (a) Whether the extended and expanded wandering powers have been targeted only at areas with a demonstrated proportionately higher prevalence of knife offences occurring over a sustained period (i.e. more than six months)
- (b) Whether the bill resulted in the deterrence of knife carrying and violent crime
- (c) How police are exercising their discretion in selecting who to target for wandering, whether these powers are being used to identify, search and/or charge people for non-violent offences such as possessing illicit drugs, and the impact of such "net widening" if it has occurred



Michael Berkman MP