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**TASMANIAN ABORIGINAL
LEGAL SERVICE**

Tasmanian Aboriginal Legal Service (“TALS”) Written Submission:
Consultation on the Police Offences Amendment Bill 2024
October 2024

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Introduction:

The Tasmanian Aboriginal Legal Service (TALS) welcome the opportunity to provide feedback on the Police Offences Amendments Bill.

TALS is a member-based, independent, not-for-profit community legal centre that specialises in the provision of criminal, civil and family law legal information, advice and representation for Aboriginal and Torres Strait Islander peoples across Tasmania. We also have a dedicated service, SiS Tasmania, for victim/survivors of family violence and sexual abuse.

We are an Aboriginal Community Controlled Organisation incorporated under the Office of the Registrar of Aboriginal Corporations. In this submission, any reference to Aboriginal people is understood to also encompass Torres Strait Islander people.

TALS provides culturally safe, holistic and appropriate services that are inclusive and open to all Aboriginal Tasmanians. We understand that the most vulnerable people needing access to legal assistance are often also those who face the most difficulties asking for help, and we work hard to ensure everyone can access our services within and outside of traditional legal settings. We also are an advocate for law reform and for justice, equality and human rights for all First Peoples in Tasmania. Our goal is to halve Aboriginal Tasmanians' rate of negative contact with the justice system in a decade.

Response:

The Australian Bureau of Statistics, report crime in Australia is often linked to low socio-economic status, poor family relationships, unemployment, substance use disorders and low levels of educational attainment¹. However, when we assess the measures that are used to address crime rates we are met with higher rates or policing, broadening of police powers and increase in penalties, none of which address the evidenced causal factors of crime. This disconnection between causation and response is of concern to TALS.

Broadening police powers is a knee jerk reaction to an issue faced by the community and often does not provide a solution to the problem². Policing does not aim to solve the root causal factors of crime. TALS understands the community may ask for a law-and-order response to problematic behaviour; however, statistically we know these measures are unlikely to achieve the desired outcomes. It is likely to increase criminalisation with a greater cost to the taxpayer due to cost of prosecution, supervision and incarceration.

TALS implores the Tasmanian Government to invest in true preventative measures of crime instead of knee jerk reactions to public demands. We encourage the government to invest in community justice responses and restorative justice models that have greater long-term impact. We further encourage the government to invest in community service and non-government support mechanism which ultimately work to empower communities to thrive and support themselves without institutional and government intervention.

¹ The Australian Bureau of Statistics, *Crime in Australia*, 2010, Measure of Australia Progress 1370.0

² Petersen K, Weisburd D, Fay S, Eggins E, Mazerolle L. *Police stops to reduce crime: A systematic review and meta-analysis*. National Library of Medicine 2023 Jan 10;19(1):e1302.

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The Centre for Crime and Justice Studies, looked into the approach of the United Kingdom Government between 1997-2006, during which time a new law was introduced almost daily³. This paper reports, that in fact this merely resulted in higher rates or criminalisation rather than addressing the causal factors crime itself. Furthermore, it actually resulted in greater harm, this is due not only to the impact to the tax payer, but also the stigma and shame of becoming a criminalised person. People who are criminalised are often othered and excluded by the community, although this may be viewed as a deterrent, it is apparent that deterrence is not enough.

A key example of this in the proposed changes is the expansion of police 'stop and search powers' with regards to suspicion of dangerous articles. In a large meta-analysis of stop and search policing by Peterson et al. (2023),⁴ it was found that police stops do result in a reduction in overall crime rates. However, and crucially, they also result in a broad range of negative individual effects. That study found that people who are stopped by police are:

- 46% more likely to be mentally ill;
- 36% more likely to be physically disabled;
- 18% more likely to have negative views towards police; and
- 15% more likely to report higher levels of delinquency.⁵

It also found that "...the negative outcomes of pedestrian stops are considerably more pronounced for youth", and the authors concluded "...evidence of negative individual-level effects makes it difficult to recommend the use of [police-initiated pedestrian stops] over alternative policing interventions".⁶

³ C Panatazis, *The Problem with Criminalisation*, Centre for Crime and Justice 2008

⁴ Petersen K, Weisburd D, Fay S, Eggins E, Mazerolle L. *Police stops to reduce crime: A systematic review and meta-analysis*. National Library of Medicine 2023 Jan 10;19(1):e1302.

⁵ Ibid, p1.

⁶ Ibid n 1, p1-3.

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The proposed amendments with respect to the expansion of police authority to conduct searches will serve only to exacerbate the well-documented negative individual effects as articulated above. This is an unduly punitive response to crime concerns. Mentally ill people in Australia are twice as likely to be homeless as compared to the general population.⁷ Youths are also more likely to be homeless than the general population.⁸ Homeless people are commonly charged with offences (like possessing dangerous articles) that specifically relate to the realities of living on the street.⁹ Of specific relevance to TALS – Indigenous people are six times more likely to experience homelessness.¹⁰

A purported aim of the amendments would be to “deter offending”. Longitudinal analysis of the effects on overall crime rates as a result of expanded stop and search practices show marginal results: one ten-year study on stop and searches in London simply concluded “...claims that [stop and search] is an effective way to control and deter offending seems misplaced.”¹¹

The inevitable outcome of the proposed expansion of stop and search power by Tasmanian Police will therefore be the increased prosecution of marginalised groups (i.e. indigenous, mentally ill, homeless people). Homelessness rates in Tasmania

⁷ Australian Bureau of Statistics, *Mental Health and experiences of homelessness*, 2014
<https://www.abs.gov.au/statistics/health/mental-health/mental-health-and-experiences-homelessness/latest-release#cite-window1>

⁸ Australian Human Rights Commission, *Homelessness*, [Homelessness | Australian Human Rights Commission](#)

⁹ McNamara L, Quilter J, Walsh T and Anthony T (2021) Homelessness and contact with the criminal justice system: Insights from specialist lawyers and allied professionals in Australia. *International Journal for Crime, Justice and Social Democracy* 10(1): 111-129

¹⁰ University of Technology Sydney, *How policing impacts the homeless* (2024)
<https://www.uts.edu.au/news/business-law/how-policing-impacts-homeless#:~:text=People%20who%20are%20homeless%20often%20endure%20constant%20and%20intrusive>

¹¹ M Tiratelli, P Quinton, B Bradford, *Does Stop and Search Deter Crime? Evidence From Ten Years of London-wide Data*, *The British Journal of Criminology*, Volume 58, Issue 5, September 2018, P 1212–1231

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increased 44.8% between 2016 and 2021.¹² Tasmania has the highest proportion of mental illness of any state or territory in Australia.¹³ A significant and vulnerable portion of the Tasmanian community is at risk of unnecessary interaction with the justice system because of the proposed amendments.

A more rational, but less expedient response to concerns about crime is non-police interventions. Access to mental health care services reduces crime.¹⁴ Access to affordable housing reduces crime.¹⁵ Improving diversion opportunities, rather than simply increasing charge rates, reduces crime.¹⁶

Conclusion:

If the government is sincere in its objectives to tackle crime, it should allocate appropriate resources to address social disadvantage rather than changing laws to further criminalise and arguably target the vulnerable people in our community.

¹² Australian Broadcasting Company, More Tasmanians than ever homeless, census data shows, as Labour blasts 'decades of Liberal neglect' (March 2023) <https://www.abc.net.au/news/2023-03-24/tasmania-homelessness-numbers-growing-census-shows/102136722>

¹³ Australian Broadcasting Company, *Higher proportion of Tasmanians living with mental health condition, census data shows* (June 2022) <https://www.abc.net.au/news/2022-06-30/mental-health-a-bigger-issue-in-tasmania-census-data-shows/101194880>

¹⁴ Deza, McLean & Solomon, *Local Access to Mental Healthcare and Crime*, 2020, National Bureau of Economic Research_27619

¹⁵ E Nelson, *An Econometric Analysis of the Impact of Affordable Housing Policy on Crime Rates*, March 2024, <https://www.colgate.edu/sites/default/files/2024-05/Nelson%20Honors%20Thesis.pdf>

¹⁶ Cowan, D., Strang, H., Sherman, L. *et al.* Reducing Repeat Offending Through Less Prosecution in Victoria, Australia: Opportunities for Increased Diversion of Offenders, 109–117 (2019)

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If you have any questions or would like to discuss anything in the contents of this report, please reach out to me directly.

Warmest regards,



Jake Smith (He/Him)

Chief Executive Officer

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