

2024

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TENTH ASSEMBLY

**KNIFE-RELATED CRIME LEGISLATIVE REFORMS—JACK’S LAW
ASSEMBLY RESOLUTION OF 16 MAY 2024**

STATEMENT FOR TABLING

**Presented by
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Attorney-General
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Madam Speaker

The Assembly resolved on 16 May 2024 that the ACT Government consider increased search powers for ACT Policing consistent with Jack's Law. Jack's Law was introduced in Queensland in 2021, following the tragic fatal stabbing of 17-year-old Jack Beasley in 2019. The law allows police to use metal detection wands in designated areas without any requirement to reasonably suspect that the person being searched has a knife or other weapon.

The Assembly Resolution was passed in response to the Shadow Attorney-General's Notice of Motion which highlighted the real threat of knife-related violence to community safety in Australia, particularly in light of a number of recent stabbings in New South Wales. In June, the New South Wales Parliament passed amendments, based on Queensland's Jack's Law, to allow police to stop and scan people in certain areas without a warrant.

This Government acknowledges the damaging and lasting impacts of knife violence on individuals and on our community, for instance, the ongoing impact on family and friends of the 18 year old victim who died following the

tragic stabbing at the Weston Creek Skate Park in 2020. The recent events in New South Wales have shaken us and raised our collective awareness in terms of the devastation of knife crime. But this Government is not prepared to introduce laws which are not needed or justified in the ACT context.

The Government has considered very closely whether to introduce increased police search powers for knives in the Territory. We have been informed by statistics, an analysis of the approaches in other jurisdictions as well as engagement with our justice and legal stakeholders. We have paid close attention to the feedback we received.

As a result of this review, the Government has determined not to introduce increased police search powers at this time. This decision is for three critical reasons:

- first, there is insufficient evidence supporting the need for these powers in the ACT;
- second, these powers are not supported by justice stakeholders; and
- third, there are significant concerns about the impact that these powers would have on human rights under the ACT's *Human Rights Act 2004*.

Evidence-base

As I have stated previously, the statistics do not reveal a trend of increased knife crime in the ACT. The statistics show that the number of offences involving a knife have remained steady over the past five years. The statistics do not show that offences involving knives are significantly greater in public places and schools than in other locations in the ACT.

There has also been no gap identified in the existing suite of ACT Policing's search powers. Police already have the power to search a person in a public place or a school where they suspect on reasonable grounds that the person has a knife in their possession. While this power does not permit police to conduct a search with an electronic wand device or where there is no reasonable suspicion, there have been no operational concerns raised about existing law.

In addition, there is little evidence that random knife wandling powers are effective in reducing violence or deterring offending. A Griffith University

review of Jack's Law in Queensland after 12 months of operation found that there was no evidence to suggest any significant effect on non-weapons offences, including violence offences. The only difference was an increase in detected drug offences. This shows that these laws may actually have a net-widening impact that means that minor offenders are more likely to come into contact with the criminal justice system. This is not the intention of the laws and so in our view, not a desirable outcome for the ACT.

It is critical that we only progress law reform where there is a solid evidence base and the evidence here does not support the need for increased police search powers in the ACT context.

Stakeholder views

Reform to expand police search powers in the ACT is not supported by the majority of the justice and legal stakeholders who were consulted on the proposal.

While ACT Policing indicated in-principle support of increased powers noting that increased powers may have benefits for the community and police safety

and allow for a less invasive and faster way to search for a knife, they also highlighted that law reform may not actually deter offending or the associated risks of knife-crime. In addition, ACT Policing raised concerns about expanded powers creating increased community expectations and resourcing implications for implementation. The ACT Human Rights Commission argued that while random wand searches are inherently less intrusive than some other types of searches, they are liable to lead to a significant overall increase in more intrusive searches. This is because any indication, including false positive such as from belts or bras, may lead to additional body searches which may be in a public location.

Other stakeholders similarly strongly opposed the expansion of police powers to allow searches for knives without a warrant or a reasonable suspicion.

Significantly, the Aboriginal Legal Service raised concerns that increased powers could lead to a disproportionate increase in police interactions with Aboriginal and Torres Strait Islander people in public places. Similarly, some members of the Justice Caucus noted that the reform would create a high risk of unconscious bias, assumptions and racial profiling. This result could lead to

an increased level of mistrust of police across different communities in the ACT.

These concerns are supported by the findings of the Griffith Review which noted that the Queensland legislation had no safeguards against discriminatory targeting of certain people. It also found that wandering has been inconsistently used across different groups in the community and that there was evidence of inappropriate use of stereotypes and cultural assumptions by some police officers.

The ACT Government has listened to this valuable feedback and considers that it would not be desirable to progress this particular law reform at this time, in the face of these concerns.

Human rights

There are also significant concerns about the impact of the proposed law reform on human rights. The increased powers would limit a number of human rights under the *Human Rights Act*, including the right to privacy, right to equality and the right to freedom of movement. The powers would allow

police to arbitrarily stop and scan a person, in the absence of any reason or suspicion.

The ACT Human Rights Commission opposes increased police powers to search without a reasonable suspicion, noting that these powers would entail an unacceptably high risk of arbitrary and unlawful interference with privacy and other human rights. The Commission is of the view that the proposed powers would not be reasonable and justifiable as there is a lack of demonstrable justification for the expansion of police search powers in the ACT. The Victorian Government has accepted that legislation which allows searches without a reasonable suspicion is incompatible with the right to privacy.

As I have already touched upon, the powers would also lead to the risk of discrimination and the violation of the rights of vulnerable groups. The Griffith Review noted its concern with the informal 'rules of thumb' used by officers to select who to search. It noted that while in crowded areas, it is not practical to wand every individual, so the variation and inconsistency was considerable.

As a result, and as I have already mentioned, these powers can have net-widening impacts for those who are not carrying a knife but nevertheless come to police attention because of the exercise of these powers. It is critical to consider the flow-on effects of more individuals coming into contact with the criminal justice system. Our Government is committed to reducing overrepresentation of Aboriginal and Torres Strait Islander people in our criminal justice system. We have raised the age of minimum criminal responsibility to help keep young people outside of the criminal justice system.

Conclusion

We cannot increase police powers where it may unreasonably limit human rights and may disproportionately impact vulnerable people. The ACT Government will instead continue to consider other strategies, as needed, to address knife-related crime, including, for example, public education campaigns.

Madam Speaker, I know that recent tragic events involving knives have shocked us and that there is understandable community concern. However, the ACT Government is not prepared to introduce laws in the ACT which are not necessary in our context and which are not supported by our justice stakeholders. While the evidence does not currently support the need for

increased police powers in the Territory, the Government will continue to keep a watch on knife-related violence and explore options as appropriate.