

MEDIA RELEASE

WANDING SEARCH POWERS UNDERMINE FUNDAMENTAL RIGHTS



NEW SOUTH WALES
BAR ASSOCIATION

5 June 2024

The New South Wales Bar Association opposes the Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Bill 2024, because it undermines fundamental rights by allowing arbitrary wandering searches.

President of the NSW Bar Association, Dr Ruth Higgins SC, said the proposed reforms would have a profound and adverse effect on the civil liberties of people in NSW.

“The people of NSW should not be subject to arbitrary wandering searches by police officers. In a free society, people should have the right to attend public places, such as railway stations, without being exposed to arbitrary police interference.”

“The proposed safeguards to be applied to these powers are at best inadequate and at worst illusory.”

“While only certain places may initially be declared to be designated areas in which searches are permitted, those places can be expanded by regulation. Prior offending in the area is required, but there need only be, for example, one offence committed by a person armed with a knife or other weapon in the previous 12 months. That is not a meaningful protection.”

“All police searches are inherently invasive. The proposed wandering searches do not require reasonable suspicion, and non-compliance is an offence. The likelihood of a ‘false find’ is high. A wandering search, even after a ‘false find’, may then provide grounds for the exercise of other more invasive powers under the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW).”

“The Bill is modelled on law reforms introduced in Queensland, which have been evaluated by Griffith University. That evaluation found no evidence that wandering has any significant effect on crimes of violence.”

“The NSW Bar Association shares the concerns of the Aboriginal Legal Service (NSW/ACT) that First Nations people, and young people, may be subjected to a disproportionate number of searches. The risk that these reforms will further disenfranchise and marginalise vulnerable people is significant”, Dr Higgins said.

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