

MEDIA RELEASE

NEWS FROM THE UNIVERSITY OF TASMANIA

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ATTENTION: Chiefs of Staff, News Directors



Tasmanian Law Reform Institute recommends consolidation of arrest powers in Tasmania

A new report released today by the Tasmania Law Reform Institute (TLRI) has recommended that arrest powers in Tasmania be consolidated into a new dedicated Act that deals solely with the issue of arrest.

The report follows the release of an issues paper on the topic in 2006.

The issues paper looked at the laws that deal with arrest currently available in Tasmania. The paper also compared the Tasmanian provisions with arrest laws in other jurisdictions.

The issues paper identified that there has been a proliferation of arrest powers in recent decades, which has led to arrest laws in Tasmania being unnecessarily complex, inconsistent and uncertain.

According to Ms Terese Henning, Senior Lecturer in Law at UTAS, the number of arrest powers has continued to increase.

“There are now 50 different Acts which contain more than 90 powers of arrest in Tasmania. This is an increase of nearly 20 Acts and 20 powers in the five years since the release of the issues paper.”

“Having so many different laws can create inconsistencies. It can also make the law inaccessible for both the arresting officer and the person being arrested, and lead to a significant increase in the cost of delivering justice, especially if the lawfulness of an arrest is questioned in court,” Ms Henning said.

The TLRI believes the best way to avoid these problems is to consolidate all arrest powers into one dedicated Act.

“Having one Arrest Act will lessen the complexity that the police face in the field when they execute an arrest. It will achieve greater understanding for people executing, and people subject to, an arrest.”

The report also contains a number of recommendations that relate to the introduction of protective provisions for vulnerable persons, including young persons, persons with impaired mental or physical functioning, Aboriginal and Torres Strait Islanders and persons who are of non-English speaking backgrounds.

“There are currently no protective measures in Tasmania’s arrest legislation that target the arrest of vulnerable groups other than children. The TLRI recommends that all vulnerable persons should be subject to certain protective provisions, including a requirement to inform the arrestee of their right to

communicate with a family member, friend or responsible person at the time of their arrest and a requirement to defer questioning until an interpreter is present where necessary.”

Additionally, the report considers the laws around the process of arrest and makes a number of recommendations in relation to the use of force, entry to private premises, the use of arrest warrants and private citizens’ power of arrest.

For further information please contact Ms Terese Henning, Senior Lecturer in Law, University of Tasmania on (03) 6226 2079.

The full report can be downloaded from www.law.utas.edu.au/reform

Information Released by:

Media Office, University of Tasmania

Phone: (03) 6226 2124 or 0447 537 375

Email: Media.Office@utas.edu.au