



## OPEN LETTER

Hon. David Elliott MP  
Minister for Police and Emergency Services

Dear Minister,

We are writing to outline our concerns about the rise in the use and application of strip searches in New South Wales.

Various legal services have observed an increase in the use of strip searches where police have failed to ensure the preservation of privacy and dignity as required by law.

The application and overuse of strip searches in NSW has also led the Law Enforcement Conduct Commission (LECC) to commence an investigation into the use of police powers to conduct strip searches under the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) (LEPRA).

Recent figures reveal the number of strip searches in NSW has increased from 3,735 in 2014-15 to 5,483 in 2017-18. This is an increase of nearly 47 per cent.<sup>1</sup>

Outlined below are our key concerns about current strip search practice in NSW:

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<sup>1</sup> Parliament of NSW, House Business Papers, Questions & Answers Paper No. 181, 2517 – Police- Police Strip Searches, Greens MP David Shoebridge, 14 November 2018.

1. A child as young as ten years of age and up to 18 years can be required to take off all their clothes in front of two adult police officers in an unfamiliar environment. The law fails to reflect child protection principles.
2. For those who have been exposed to child or adult sexual abuse, sexual assault or domestic violence a strip search can be a trigger for further trauma.
3. A strip search may be requested by a junior officer without requiring any authorisation from a more senior officer.
4. The rise in the incidence of strip searches may be an indication that such searches are being conducted without considering if the search is '*necessary for the purposes of the search and that the **seriousness and urgency** of the **circumstances** make the strip search necessary*' (s 31(b), LEPRA).
5. Strip searches are occurring behind 'privacy screens' at train stations and other public areas which may not comply with the legislative requirement that a strip search be conducted in a 'private area'.
6. Strip searches are being conducted on the street and in public spaces. There has been recent video footage of this occurring: see <https://www.sydneycriminallawyers.com.au/blog/aboriginal-elder-strip-searched-on-busy-sydney-road/> and <https://thebigsmoke.com.au/2019/04/10/nsw-police-conduct-yet-more-public-strip-searches/>
7. The current law does not allow for transgender, intersex and gender diverse peoples to choose the preferred gender of the officer/s to be present during a strip search. The current law only allows for a search to be conducted by an officer of the same sex as the person searched.

We believe legislative change, along with cultural and policy change, may be required if the above concerns are to be addressed.

To commence the discussion about legislative change, Redfern Legal Centre has commissioned a report into strip search law and practices by the Law School at the University of New South Wales. The report will be published in June and will include some key legislative recommendations to amend strip search laws in New South Wales. The report aims to propose improvements to the law by ensuring better safe guards for members of the public and better legislative guidance for police.

Once the report is published, we hope to present the Minister with a copy and discuss ways we can work together to improve strip search laws in New South Wales.

We the undersigned thank the Minister for considering our concerns.

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