

COMMUNITY LEGAL CENTRES TASMANIA

21 July 2026

Department of Justice
Office of the Secretary
GPO Box 825
Hobart TAS 7001

via email: haveyoursay@justice.tas.gov.au

To the Department of Justice,

Re: *Sentencing Amendment (Publication of Criminal Activity) Bill 2026*

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to provide comment on the *Sentencing Amendment (Publication of Criminal Activity) Bill 2026* ('the Bill').¹ We do not support the Bill on the basis that there are alternatives available that will stop the publication of criminal activity whilst also ensuring that disadvantaged groups are not further marginalised.

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located through Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

Over the last five years, concern has been expressed by governments in a number of Australian jurisdictions that some offenders -particularly young offenders- are publishing or sharing photos, videos or other material of criminal conduct with the intention of boasting about the conduct. As a result, 'post and boast' laws have been introduced in Victoria, New South Wales, Queensland, the Northern Territory and South Australia.² The laws have been introduced in an attempt to deter offenders from using social media to glorify criminal conduct, intimidate victims or encourage copycat offending. Relevantly, in all these jurisdictions, the 'post and boast' offence is restricted to a small range of relevant offences as the following table highlights.

¹ CLC Tas would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

² The Criminal Code Amendment (Post and Boast Offence) Bill 2025 has passed the Western Australian Legislative Assembly and is currently before the Legislative Council.

Post and Boast Laws in Australian States and Territories

Jurisdiction	Law	Relevant Offences	Maximum Sentence
Victoria	section 195V of the <i>Crimes Act 1958</i>	• Theft (but only if the stolen property is a motor vehicle) • Burglary and Aggravated Burglary • Home Invasion and Aggravated Home Invasion • Carjacking and Aggravated Carjacking • Robbery and Armed Robbery • Affray and Violent Disorder • Inciting, attempting, or being an accessory to any of the above offences	Maximum two years imprisonment
New South Wales	section 154K of the <i>Crimes Act 1900</i>	• a motor theft offence • a breaking and entering offence • a serious assault offence • a robbery offence	Maximum two years imprisonment
Queensland	section 26B of the <i>Summary Offences Act 2005</i>	• an offence involving driving or operating a vehicle • an offence involving violence or a threat of violence • an offence involving taking, damaging, destroying, removing, using, interfering with or entering property • an offence involving a weapon	Maximum two years imprisonment
Northern Territory	section 276H of the <i>Criminal Code Act 1982</i>	• recklessly endangering life and serious harm, negligently causing serious and related offences involving vehicles and vessels • miscellaneous offences against the person (such as drink or food spiking, acts intended to cause serious harm or prevent apprehension, serious harm and harm)	Maximum two years imprisonment

		• assaults or assault with intent to steal • theft and related offences • criminal damage	
South Australia	Section 21AA of the <i>Summary Offences Act 1953</i>	• driving or operating a vehicle or vessel • an offence involving the use of, or threat of using violence • an offence involving a weapon • an offence involving interference with, damage to, or destruction of, property • theft or an offence of which theft is an element • criminal trespass or an offence of which trespass is an element	Maximum two years imprisonment

The proposed Tasmanian Bill differs from other Australian jurisdictions. Rather than creating a new offence, the Bill seeks to amend the *Sentencing Act 1997* (Tas) so that a court must treat the publication of material that boasts or glorifies criminal conduct as an aggravating factor when sentencing the underlying offence.

In New South Wales, a post and boast law was passed and came into effect in April 2024³ with a review of the provision being carried out two years later by NSW's Bureau of Crime Statistics and Research (BOCSAR).⁴ The BOCSAR data found that the offence disproportionately impacts young people and Aboriginal and Torres Strait Islander people with 75 per cent of those charged being Aboriginal people⁵ and 59 per cent involved young persons.⁶ Unlike the Tasmanian draft Bill which applies to all offending, the NSW 'post and boast' provision was initially limited to two offences; a motor theft offence and a breaking and entering offence.⁷

If the Bill is passed, there is no reason to suggest that Aboriginal and Torres Strait Islander peoples will not be disproportionately impacted. Tasmania already has a high number of Aboriginal and Torres Strait Islander people in prison with the most recent Census

³ Section 154K of the *Crimes Act 1900* (NSW) came into effect following the passing of the *Bail and Crimes Amendment Act 2024* (NSW).

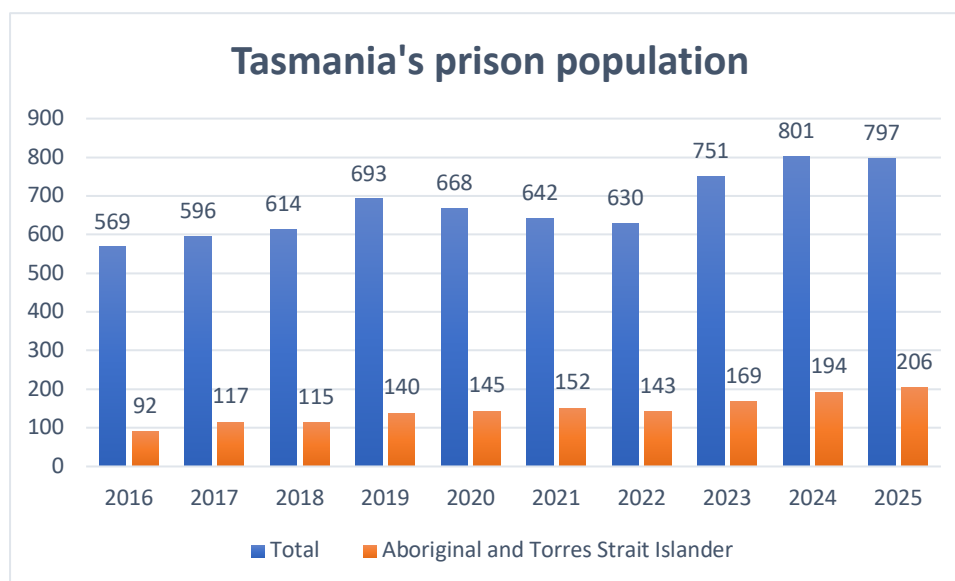
⁴ New South Wales Government, *Information Sheet: Performance Crime Offence* (Information Sheet, April 2026). As found at <https://www.nsw.gov.au/sites/default/files/noindex/2026-04/information-sheet-performance-crime-offence.pdf> (accessed 14 July 2026).

⁵ The BOCSAR data found that between April 2024 and September 2025, NSW Police initiated 112 legal actions for 'post and boast' offences. Of these, ten were for a diversion under the *Young Offenders Act 1997* (involving four Aboriginal and six non-Aboriginal young people) and 102 were a court legal action (involving 77 Aboriginal people and 25 non-Aboriginal people).

⁶ The BOCSAR data reported that between April and September 2025, 66 post and boast charges were finalised in the NSW Children's Court.

⁷ Since the review, NSW has broadened the 'post and boast' offences to also include a serious assault offence, or a robbery offence: section 154K(1)(iii)-(iv) of the *Crimes Act 1900* (NSW).

reporting that one in four persons in prison identify as Aboriginal or Torres Strait Islander.⁸ And, over the last decade the number of Aboriginal and Torres Strait Islander prisoners has more than doubled as the following graph highlights.



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2025*, Table 14.

Importantly, Tasmania is a signatory to the 2020 National Agreement on Closing the Gap which seeks to reduce Aboriginal and Torres Strait Islander over-representation in the criminal justice system.⁹ The agreement commits Tasmania to reducing the number of incarcerated Aboriginal or Torres Strait Islander persons by 15 per cent.¹⁰ Given that the number of First Nations prisoners has doubled over the last decade, explicitly requiring a sentencing court to recognise the publication of criminal conduct as an aggravating factor may see harsher sentences imposed on offenders and will mean that Tasmania is less likely to meet its commitment.

Similarly, it is likely that the Bill will also disproportionately impact younger people. Whilst the *Sentencing Act 1997* (Tas) does not generally apply to offenders under the age of 18 years of age,¹¹ young adults (aged 18-25 years of age) brains are continuing to mature leading to their being more prone to impulsivity, sensation-seeking and risk-taking behaviors.¹²

Finally, we would note that the State Government's proposed draft Bill sits in contrast with the Federal Government's social media ban for children under the age of 16 years,

⁸ According to the Australian Bureau of Statistics, 23 per cent of the Tasmanian prison population is Aboriginal or Torres Strait Islander compared to 5 per cent in the broader Tasmanian population. ABS *Prisoners in Australia*, Table 15. Also see Tasmania 2021 Census All persons QuickStats.

⁹ Department of Premier and Cabinet (Tas), *Closing the Gap*. As found at <https://www.dpac.tas.gov.au/for-communities/aboriginal-affairs/closing-the-gap> (accessed 14 July 2026).

¹⁰ Closing the Gap, *Closing the Gap Targets and Outcomes*, Target 10. As found at <https://www.closingthegap.gov.au/national-agreement/targets> (accessed 14 July 2026).

¹¹ Section 5 of the *Sentencing Act 1997* (Tas).

¹² Elly Farmer, The age of criminal responsibility: developmental science and human rights perspectives (2011) 6(2) *Journal of Children's Services*, 86.

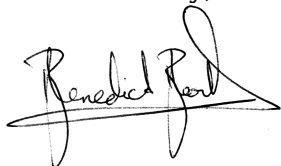
with the onus on social media companies rather than children.¹³ As a consequence, there are no penalties for children who access social media, but social media companies face penalties if they do not take reasonable steps to prevent children under 16 years from having accounts.¹⁴

Similarly, rather than penalising offenders who publish content glorifying or boasting about their criminal conduct, the police should instead be given the power to issue a removal notice to social media companies requiring them to take down the content. Such laws already operate in Queensland.¹⁵ As it stands, we are not aware of any Tasmanian provision requiring social media providers to remove content.

As well as an onus being placed on social media companies to remove criminal conduct, we also strongly recommend a targeted education campaign to persons at risk of offending who may boast about the crime online. Importantly, both of these proposed reforms are likely to play a role in Tasmania meeting its Closing the Gap commitment and diverting younger offenders away from the criminal justice system.

If we can be of any further assistance, please do not hesitate to contact us.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Benedict Bartl', with a stylized flourish at the end.

Benedict Bartl
Policy Officer
Community Legal Centres Tasmania

¹³ *Online Safety Amendment (Social Media Minimum Age) Act 2024* (Cth) which amended the *Online Safety Act 2021* (Cth).

¹⁴ Section 63D of the *Online Safety Act 2021* (Cth).

¹⁵ Chapter 21A of the *Police Powers and Responsibilities Act 2000* (Qld).