

Media Release

Chiefs of Staff, News Directors

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New Law Reform paper focuses on Tassie self-defence law

The Tasmania Law Reform Institute at the University of Tasmania is seeking submissions to its latest Issues Paper on *Self-defence*.

The Paper has been prepared in response to concerns that the law of self-defence in Tasmania, contained in s 46 of the *Criminal Code* (Tas), is potentially too lenient and “out of step with modern standards.”

It has been suggested that the subjective aspects of the defence as it currently stands may allow defendants charged with a violent offence to rely on mistaken or irrational perceptions arising from mental ill-health or intoxication to secure an “undeserved” acquittal.

Professor Kate Warner, the Director of the Institute, states that s 46 of the *Criminal Code* is open to different interpretations.

“It is not clear to what extent the personal characteristics and attributes of an accused may be taken into account in determining whether the degree of force used in self-defence was unreasonable.”

The Issues Paper examines:

- To what extent subjective factors should be taken into account in assessing the reasonableness of an accused’s response to a perceived threat
- Whether the fact that an accused is intoxicated (by alcohol or other drugs) or mentally unwell should be relevant factors in this assessment
- Whether the current law is too restrictive in situations where a victim of family violence uses pre-emptive or objectively excessive violence against their abuser
- Whether a partial defence of mistaken self-defence should be introduced (reducing a conviction for murder to manslaughter)
- Whether a partial defence of killing for self-preservation should be introduced (reducing a conviction for murder to manslaughter)

The Paper also considers whether the current law governing defence of property is too restrictive in cases where an individual uses unreasonable force to defend their home against an intruder.

The Issues Paper is available online here: <http://www.utas.edu.au/law-reform/>

The TLRI asks for responses by 20 February 2015.

Information released by:

University of Tasmania, Communications and Media Office

Phone: (03) 6226 2691 or 0447 537 375

Email: Media.Office@utas.edu.au