

CRIMINAL INVESTIGATION AMENDMENT BILL 2014

Introduction and First Reading

Bill introduced, on motion by **Mrs L.M. Harvey (Minister for Police)**, and read a first time.

Explanatory memorandum presented by the minister.

Mr B.S. Wyatt interjected.

The DEPUTY SPEAKER: Member for Victoria Park, I call you for the second time.

Second Reading

MRS L.M. HARVEY (Scarborough — Minister for Police) [1.58 pm]: I move —

That the bill be now read a second time.

The Criminal Investigation Amendment Bill 2014 amends the Criminal Investigation Act 2006 to address unintended consequences caused by section 139(3) that were not contemplated at the time the Criminal Investigation Act 2006 was introduced.

Currently, section 139(3) of the Criminal Investigation Act requires that a person arrested on suspicion of committing an offence and held pending a charge being laid must be held in the close company of a police officer, unless it is impracticable to do so. Close company does not extend to an arrested suspect being held in a lockup or other place of confinement in close proximity to a police officer. The definition of “unless impracticable to do so”, is somewhat ambiguous and not defined in legislation. As a result, whenever a police officer decides to hold an arrested suspect in a lockup or other place of confinement, the officer risks having a court decide that they have breached the legislation and ruling that any evidence obtained from the suspect is inadmissible. It is estimated that because of the requirements of section 139(3), up to 46 000 front-line police hours are being spent each year guarding arrested suspects. This is equivalent to approximately 24 police officers who are not available to perform front-line police tasking duties because they are required to personally guard arrested suspects for what can be protracted periods of time. This is especially problematic in regional areas of Western Australia where police stations operate with a limited number of officers on duty, sometimes as few as two. If one of the available officers is required to guard an arrested suspect, that officer is therefore generally unavailable to assist in the investigation of the offence or attend to other front-line policing duties that may require immediate attention.

The requirement to guard arrested suspects also poses security risks. Arrested suspects often have to be detained in inappropriate or unsuitable areas of a police station, such as detectives’ offices, the general work areas of the station and video interview rooms. Having unrestrained arrested suspects in general areas of a police station creates a risk that the arrested suspect may cause injury to officers or themselves if attempting to escape custody. There is also a risk that the arrested suspect may hear or read confidential policing information while they are being held in operational areas of a police station.

A further problem is that arrested suspects do not have exclusive access to appropriate facilities such as toilets and bedding. The lack of access to bedding is especially difficult in situations in which a person has been arrested and is being held through the night. Investigations into the alleged offence may be ongoing and the arrested suspect has to be held in a police officer’s company, often in a place not conducive to rest or sleep such as an office or interview room. Anecdotally, there have been instances in which available bedding is removed from a police station lockup, at the arrested suspect’s request for somewhere to sleep, and placed in the office or room where the arrested suspect is being held. This allows the arrested suspect to rest while ensuring compliance with section 139(3) of the Criminal Investigation Act, but this is not an ideal or practical way of operating.

It should be noted that the amendments do not mean that police will be placing arrested suspects in lockups on all occasions. The use of the more general term “custody” will allow determination to be made as to where an arrested suspect is held, dependent on the risk they pose.

Debate interrupted, pursuant to standing orders.

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