



**Submission to the Legislation Committee  
Parliament of Western Australia  
Criminal Investigation Amendment Bill 2009**

**Search and Seizure Debate**

**Provisions**

Current provisions under s. 69 of the Criminal Investigation Act 2006 enable Police to search people and vehicles in public places providing the places is prescribed, or is the subject of a written declaration or if a police officer "reasonably suspects" there is a need to safeguard a place and/or the people in a place. The declaration or the 'for safeguarding purposes' provision remains valid for 48 hours only. **The amendment seeks to delete the clause relating to the prescribed place in favour of the declaration approach and to give the Police Commissioner the power to make a declaration that is valid for 2 months.**

**Youth Legal Service is opposed to this amendment on the grounds that it removes one of the checks and balances inherent in the current prescribed area, as declared by parliament. Furthermore, this increase in powers has potential for misuse when areas can be declared without the necessary publishing in the Government Gazette as the declaration remains valid whether or not it is published.**

Police have the power to remove a person from or refuse entry of a person to a public place unless he/she consents to being searched (The Police do not need a "reasonable suspicion" to do this). Such public places are declared by a Senior Police Officer (Inspector or above). This allows the Police to enforce restrictions on the types of things that can be taken into public venues (places). The Police have the power to seize articles, however, unless these articles are relevant to an offence or are unlawful to possess, the articles must be made available to the person for collection on leaving the place (s.69 CIA).

**Youth Legal Service believes these powers are already significant and sufficient to deal with behavior of patrons of the prescribed area.**

**General Search Powers**

If the Police REASONABLY SUSPECT that a person has in his/her possession any thing relevant to an offence, the Police may do a basic search or strip search of the person. The Police may seize anything relevant to an offence that they find (whether or not it is the thing the Police suspected was in the possession or under the control of the person) (s.68 CIA). **The proposed amendment (s70A) seeks to increase the seizure power to include any thing that may endanger people or the public place.**

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What is a “thing relevant to an offence”?

This is anything that is intended to be used, obtained, has been used in an offence or may afford evidence of the commission of an offence (s.5 CIA).

**The proposed amendments remove the reasonable suspect requirement and also the need for the person to consent.**

**Youth Legal Service asserts the view that the existing powers are sufficient in respect to seizure and consent to search, to increase powers in un-necessary and can lead to a misuse of powers, impingement on the rights of law abiding citizens, and will have a detrimental effect on Northbridge Patronage.**

**The Bill smells suspiciously of discrimination against particular groups, namely Aboriginal Persons and Young People and does not appear to address the issue of violence in Northbridge. Furthermore, in the face of recent legislation making custodial sentences mandatory for some assault public officer offences, the likelihood of more people being drawn into the criminal justice system cannot be overstated. In particular, a person who is lawfully going about his/her business is likely to react negatively to undue police attention and consequently may fall foul of the mandatory sentencing provisions.**

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