LEGAL AFFAIRS AND SAFETY COMMITTEE

Members present:
Mr PS Russo MP—Chair
Ms SL Bolton MP
Mr DJ Brown MP
Mrs LJ Gerber MP
Mr JE Hunt MP
Mr AC Powell MP

Staff present:
Ms R Easten—Committee Secretary
Ms M Westcott—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE EVIDENCE AND OTHER LEGISLATION AMENDMENT BILL 2021

TRANSCRIPT OF PROCEEDINGS

MONDAY, 29 NOVEMBER 2021

Brisbane

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The committee met at 11.00 am.

CHAIR: I declare open the public briefing for the committee's inquiry into the Evidence and Other Legislation Amendment Bill 2021. My name is Peter Russo. I am the member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share.

With me here today are Laura Gerber, the member for Currumbin; Sandy Bolton, the member for Noosa; Jason Hunt, the member for Caloundra; and Mr Don Brown, the member for Capalaba, who is substituting this morning for Jonty Bush, the member for Cooper. This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the briefing at the discretion of the committee. I remind committee members that departmental officers are here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings. Images may also appear on the parliament's website or social media pages. We ask that your mobile phones are turned off or to silent.

MARTAIN, Acting Superintendent Ben, Commander, Vulnerable Persons Group, Domestic, Family Violence and Vulnerable Persons Command, Queensland Police Service

ROBERTSON, Mrs Leanne, Assistant Director-General, Strategic Policy and Legal Services, Department of Justice and Attorney General

RYLKO, Ms Julie, Director, Strategic Policy, Department of Justice and Attorney General

STRUBER, Ms Trudy, Acting Principal Legal Officer, Strategic Policy, Department of Justice and Attorney General

CHAIR: I invite you to brief the committee. Then committee members will have some questions.

Mrs Robertson: Thank you for the opportunity to brief the committee today on the Evidence and Other Legislation Amendment Bill 2021. My name is Leanne Robertson and I am the Assistant Director-General of Strategic Policy and Legal Services in the Department of Justice and Attorney-General. Joining me to assist with the briefing and also from DJAG are Julie Rylko, the Director of Strategic Policy; and Trudy Struber, who is the Acting Principal Legal Officer in Strategic Policy. I am also joined by my colleague from the Queensland Police Service, Mr Ben Martain, Acting Superintendent and Commander of the Vulnerable Persons Group in the Domestic and Family Violence and Vulnerable Persons Command. Mr Martain is working jointly with DJAG on operational aspects of the videorecorded evidence pilot and will be pleased to assist with any technical questions in that regard.

Broadly, the bill contains three key reforms: firstly, to introduce shield laws; secondly, to implement the government's response to recommendation 2 of the State Coroner's findings in the inquest into the disappearance and death of Daniel Morcombe in relation to time limits on the testing of human remains; and, thirdly, to create a legislative framework to support a pilot for the use of videorecorded evidence-in-chief taken by police officers in domestic and family violence criminal

proceedings. The bill also makes some minor and technical amendments to provide greater clarity in relation to the operation of computer warrants in the context of bail and to ensure service as a magistrate in Toowoomba constitutes as regional experience for the purposes of a transfer decision.

I turn firstly to the shield law amendments. The shield law amendments in the bill create a qualified journalist privilege that applies when an informant has given information to a journalist with the expectation that it may be published in a medium for the dissemination of news and observations on news to the public and the journalist promises the informant not to disclose their identity as a source of the information. The amendments create a presumption that a journalist or relevant person is not compellable to answer a question or produce a document that would disclose the identity of the informant or enable their identity to be ascertained. However, the privilege itself is rebuttable and a court may order that the identity of the informant be disclosed after weighing competing public interests.

The bill provides that the privilege applies in any proceeding, except those under the Crime and Corruption Act 2001, before a court of record. The privilege only protects the identity of the informant and does not apply to all journalistic material that a journalist or relevant person may wish to keep confidential. The bill also does not mandate the protection of the identity of the informant or regulate journalist conduct. A journalist or relevant person is not obliged to claim journalist privilege, and how each person chooses to utilise the protection offered by the framework may vary depending on the particular circumstances.

There are some key definitions that are central to the operation of the shield law provisions in the bill. The bill defines 'journalist' as a person engaged and active in gathering and assessing information about matters of public interest and preparing the information or providing comment or opinion on or analysis of the information for publication in a news medium. This broad function based definition reflects the contemporary media environment and the shift away from traditional forms of news media such as newspapers.

The bill defines a 'relevant person' for a journalist as a journalist's current or previous employer, a person who engaged the journalist on a contract for services or a person involved or who has been involved in the publication of a news medium and who works or has worked with the journalist in relation to publishing information in the news medium. The extension of journalist privilege to relevant persons recognises that journalism and the resulting publication of information often involves a range of people, some of whom may become aware of the identity of the informant, such as editors, producers and camera operators.

The bill defines 'news medium' as a medium for the dissemination of news and observations on news to the public or a section of the public. This definition reflects the diverse nature of journalism and the evolving nature of the modes and methods for communicating news and observations on the news.

A journalist or a relevant person may claim journalist privilege under the provisions of the bill when giving evidence at a trial or hearing. If the court decides the journalist or relevant person is entitled to claim the privilege, another party to the proceeding may then apply to the court for an order overriding the privilege and requiring the evidence to be given. The court may make such an order if satisfied that the public interest in requiring the disclosure of the informant's identity outweighs any likely adverse effect on the informant or another person and the public interest in the communication of facts and opinions to the public by the news media and the news media's ability to access sources of facts. The court may consider a range of matters that are listed in the bill when weighing the competing interests. The matters listed in the bill are examples to guide the court in making its decision, but the court may take into account any other matter that it considers relevant. The court is to state its reasons for making or refusing to make the order.

The bill extends the application of the privilege to disclosure requirements associated with proceedings in the court of record. These are processes or orders for the disclosure of information, or the delivery, inspection or production of a document or thing, such as summonses, subpoenas, interrogatories and a notice to produce a document.

The bill applies journalist privilege to search warrants to ensure appropriate protections are also available at an early stage. A journalist or relevant person may object to an authorised officer, such as a police officer, inspecting, copying or seizing a document under the authority of a search warrant if the document contains information that would disclose the identity of the informant or enable the identity of the informant to be ascertained. If the journalist or relevant person objects, the officer may ask them to agree to the document being immediately sealed and held by the officer for safe keeping pending a determination of their rejection. An application may be made to the Supreme Court for a decision in relation to the objection and if an application is made the document must be delivered to the court registry for safe keeping until the question of the objection is decided.

I turn now to the videorecorded evidence amendments in the bill. These amendments provide a broad legislative framework to support the establishment of a time limited pilot enabling videorecorded statements taken by trained police officers to be used as an adult victim's evidence-in-chief in domestic and family violence related criminal proceedings. As noted in the bill's explanatory notes, the use of videorecorded evidence-in-chief offers potential benefits to DFV victims including, for example, reducing the trauma for victims associated with retelling their experiences multiple times and reducing intimidation by the perpetrator. As the Attorney-General indicated in the explanatory speech to the bill, consideration is being given to the operation of a 12-month pilot that would run simultaneously in two Magistrates Court locations, at Ipswich and Southport, and would be subject to an independent evaluation.

The bill inserts a new part 6A into the Evidence Act that will allow an adult complainant to give evidence-in-chief wholly or partly in the form of a recorded statement in a relevant domestic violence proceeding. While this represents a significant departure from the usual rules of evidence for criminal proceedings, there is some precedent for this in Queensland under section 93A of the Evidence Act, which allows for the admissibility of statements made by children and persons with an impairment of the mind where direct oral evidence of a fact contained within the statement would otherwise be admissible.

The amendments in the bill require a recorded statement to be made as soon as practicable after the alleged domestic violence offence and it is taken by a trained police officer. In practice, the statement will usually be taken via a body worn camera that is placed on a tripod to record the interview with the victim. As we have flagged with the committee, Mr Martain has brought a camera if the committee would like him to explain it later.

To be admissible, a recorded statement must be made with the informed consent of the complainant and contain an English translation if required. It must also be disclosed in accordance with prosecution disclosure requirements contained in the bill unless the parties to the proceeding consent otherwise. A complainant must also be available for cross-examination and re-examination. This requirement operates alongside existing protections and safeguards for witnesses under the Evidence Act, including special witness measures.

Specific provisions apply to the admissibility of recorded statements in committal proceedings to ensure that a transcript of a recorded statement may be admitted as a written statement under the Justices Act. The provisions for recorded statements do not, however, affect the ability of a court to rule any or all of a statement as inadmissible and are not intended to override any other rules of evidence.

The bill includes a range of safeguards designed to limit the trauma and protect the privacy of domestic and family violence victims. In addition to requiring the complainant's informed consent and for statements to be taken by trained police officers, other safeguards include: when determining whether or not to present the complainant's evidence-in-chief in the form of a recorded statement, the prosecution must take into account certain factors including the wishes of the complainant. There are limitations on the editing and altering of statements and there are strict provisions that limit the disclosure of copies of recorded statements similar to provisions applying in relation to statements of children and persons with an impairment of mind under section 93A of the Evidence Act. Offences are also included relating to unauthorised possession, use and publication of those statements.

I now turn to those aspects of the bill dealing with the viewing and examination of a deceased person's body. This follows the State Coroner's findings in the inquest into the disappearance and death of Daniel Morcombe. As the committee is aware, recommendation 2 of the inquest's findings, accepted by the government in principle, was that the government would amend the Criminal Code to ensure a time limit is imposed on testing human remains where the prosecution and defence fail to reach agreement on the identity of the deceased. The bill contains amendments to the Criminal Code to implement the government's response and address the underlying intent of the coroner's recommendation to ensure a deceased person's remains should be returned to their family and loved ones as soon as possible for burial by inserting a new specific provision dealing with the viewing and examination of the body of a deceased person. This new provision is intended to clarify the process for testing human remains and ensure the prosecution and court can have regard to a coroner's duties under the Coroners Act as well as the need to ensure the integrity of the body is protected, as is currently required.

Briefly, the bill also contains a technical amendment to the Bail Act to support the operation of a scheme to allow the electronic transfer of warrants between Queensland courts and the Queensland Police Service which was introduced last year. The bill makes a clarifying amendment to section 33 of the Bail Act and contains related transitional and validating provisions to reflect that judicial notice of the signature of the person who issued a warrant is not relevant to a computer warrant.

Finally, the bill makes a minor amendment to the Magistrates Act 1991 to ensure that service as a magistrate in Toowoomba constitutes regional experience for the purposes of a transfer decision. This amendment, which is being progressed at the request of the Chief Magistrate, mirrors a 2017 amendment made in relation to Gympie service. As was the case with Gympie, the distance of Toowoomba from Brisbane makes it unsustainable for a Brisbane based magistrate to travel there on a daily basis. We are happy to take questions that the committee may have in relation to the bill.

Mrs GERBER: My question is in relation to the shield laws. For the benefit of the committee, can you tell us why these laws are necessary and why now?

Ms Struber: Queensland is currently the only jurisdiction that does not have any statutory protection to protect the journalist-source relationship. While the Commonwealth and all other states and territories do provide statutory protection, there is nothing in Queensland. There is no protection under the common law to enable that. I guess it is just recognising that Queensland was out of step with the rest of Australia and allowing that protection to be given to the journalist-source relationship.

Ms BOLTON: Can shield laws not be overturned in certain situations?

Ms Struber: Shield laws offer a qualified privilege. It is not an absolute privilege. Essentially it creates a rebuttable presumption. As a starting point, a journalist or a relevant person cannot be compelled to give evidence that would disclose the identity of their source. However, recognising that there may be certain circumstances in which it may be in the interests of justice or in the public interest to override that, it can be done, but only on the order of a court. A court would consider all of the relevant circumstances and consider whether ordering the disclosure of the identity outweighs the public interest in the media being able to access information and sources and any adverse potential effects on the informant. Yes, it can be overridden but only by order of the court.

Mr BROWN: In regard to domestic violence, I understand that Victoria did a trial and in parts it was inconclusive. Have we taken any learnings from that? How will our trial be different?

Ms Rylko: Regard has been had to the Victorian evaluation, and the department has provided some information about the evaluation in the written briefing to the committee. Certainly there were some key takeaway messages from the trial that operated in Victoria. Particularly, the evaluation noted difficulties in understanding the full impacts of those digital recorded evidence-in-chief, which is what they are called in Victoria, in the absence of outcomes data from courts and a broader range of victims' representative views on their experience under the trial. That essentially resulted from the fact that there were very few recordings for the duration of that trial that were played in court.

Mr BROWN: And that will differ with our trial?

Ms Rylko: As outlined by the Attorney-General in her explanatory speech, one of the purposes of running a trial in Queensland is to enable data to be obtained about the impacts on courts and the police but also obtaining evidence around victims' experiences in giving evidence in that way.

Mr BROWN: What will be the independent body that will oversee that? Have we made a decision on that?

Ms Rylko: No, a decision has not been made. The government has made a decision that it will be an independent evaluator.

Mr BROWN: Do we have a time frame for that? Is it 12 months?

Ms Rylko: The details of the pilot are yet to be settled. They will be prescribed in regulation under the legislative framework in the bill. The Attorney-General has indicated in her explanatory speech that consideration, as Leanne said before, is given to those two locations, in Ipswich and Southport, for a duration of 12 months.

Mr BROWN: If this were implemented, do we have any indication from the QPS of the likely resource savings or benefits on the ground? My understanding in talking to the officers at Capalaba and Cleveland is that DV probably accounts for the largest number of call-outs. Is there any indication thus far of the resource savings or benefits that will flow from this trial?

Supt Martain: We have undertaken modelling. Based on an analysis of current processes for obtaining domestic and family violence related statements, on average it takes about an hour. Looking at the experiences predominantly within the Victoria and New South Wales police, the average time it takes for a video victim statement to be obtained is about 15 minutes. Considering that we investigate about 120,000 domestic and family violence related incidents per year, we envisage that, in time, it will provide significant savings for frontline police but, moreover, will provide significant benefits for DV victims.

Mr BROWN: Is the benefit you are talking about that they do not have to come back to a station and retell the incident?

Supt Martain: That is certainly one of the benefits. What we envisage is that police officers will no longer, in most instances, need to take DV victims from their homes at all hours of the night and take them back to a police station to obtain a typed statement. There are a number of efficiencies that would be made insofar as the administrative matters that relate to taking notebook statements, taking typed statements and uploading those statements manually into our computer system. One of the benefits of body worn camera obtained videorecorded evidence statements is that they automatically upload into the cloud once officers return to their home station.

Mr HUNT: Is the idea that the police officer responds and does the double-tap when they get out of the car to activate the body worn camera? The body worn camera will initially be on the officer's vest; is that correct?

Supt Martain: In practical terms, what will happen is that our frontline officers will respond to an incident. This device that you see in front of you here—and I will demonstrate it for you—will firstly be placed on an officer's vest or their uniform. By virtue of our current policy, when officers are investigating a domestic and family violence incident they must activate their body worn camera. As you have described, they will double-tap and the body worn camera will activate. Once they have conducted their preliminary investigation and identified the person most in need of protection, they will separate the parties. They will then remove the device from their vest or their chest. They will place it onto a suction-cap tripod.

We have moved to this approach based on the learnings in Victoria and New South Wales. If it is on an officer's chest the footage is quite jaggedy—you might recall the movie *Blair Witch Project*—and we want to move away from that situation. Based on the experiences in other jurisdictions, by having the device on the tripod it provides for much better clarity in terms of the video but, moreover, much better audio.

Once we upload that videorecording into what is known as evidence.com—that is the software platform we utilise—officers then have an ability to create what is known as automatic transcription. That will provide considerable savings for frontline police and for the courts in terms of the time that it would ordinarily take and essentially the finances that it would take to transcribe something like that. I hope that explains what will happen practically.

Mr HUNT: It absolutely does and I have some familiarity with the device. The officer responds, gets out of the car and does the double-tap, and from that moment onwards all of the footage can be captured. I know that it will be captured, but is all of that footage then eligible or is it only the specific section once the tripod is set up and it is good to go in a more formal sense?

Supt Martain: You are correct in that once the device is on the tripod the legal preconditions have been satisfied—for example, obtaining the informed consent of the victim. It is only that material which is then admissible pursuant to the equivalent provisions under 93A of the Evidence Act.

CHAIR: Is the automatic transcript created able to be created into a formal record? My understanding is that it can appear at the bottom as the person is speaking. Can that be transferred over to a document?

Supt Martain: What I understand is that such a transcript will still be an aide-memoire to the court. The evidence itself will be the videorecording.

CHAIR: But a document can be produced that can be provided to the parties, including the magistrate or judge?

Supt Martain: Absolutely. It is something that will happen instantaneously. It is a click of a button. For a 15-minute recording it literally takes between 15 and 30 seconds for that to automatically transcribed.

Mr BROWN: Is the training module already set up? How long does it take for an officer to go through that training module?

Supt Martain: We have developed a training package. At this stage it comprises about 13 modules. That includes things like a refresher for police in terms of the considerations around investigating domestic and family violence and obviously the legal elements that will arise through the legislative amendments. On average we envisage that it will be near to a full day's worth of training. That will include mock interviews that will comprise investigative interviewers within the Queensland Police Service academy who will train frontline officers within both of the pilot locations on the most appropriate way to obtain video statements in a way that is victim-centric and trauma informed.

CHAIR: Is the pilot in relation to actual breaches of the domestic violence act rather than the first instance when a matter may be reported? There is a distinction. Someone makes a complaint and it is done under the domestic violence act, but is this not really to deal with a breach of that original order?

Ms Rylko: I can confirm that the provisions in the bill relate to criminal proceedings. It hinges on the definition or meaning of a domestic violence offence, which is in new section 103B of the Evidence Act provisions inserted in new part 6A. That can include a breach which is an offence under the Domestic and Family Violence Protection Act, but it may also include a criminal offence such as an assault which occurs in a domestic violence context. To answer your question, it does not relate to civil proceedings for a protection order under the Domestic and Family Violence Protection Act.

CHAIR: My understanding is that there are already provisions that allow for the use of the body worn camera evidence to obtain an order against a respondent.

Ms Rylko: The provisions of the Domestic and Family Violence Protection Act provide that the normal rules of evidence do not apply. They are very different to a criminal proceeding.

Mrs GERBER: My question goes back to the shield laws. I wanted to hear from the department about the social media platforms and news journalists being able to use various social media platforms and whether there has been any specific consideration of that as part of the shield laws. Are there some specifics in the bill around that?

Ms Struber: The definition of news medium within the bill is broad enough to capture social media platforms. However, whether or not a particular social media platform is a medium for the dissemination of news and observation on the news to the public will depend on the particular facts and circumstances of the case considering how that platform is used generally and how it is used in that particular context by that particular person.

It was considered in the development of the bill. A recent case that may be of interest to the committee in this regard is the Federal Court of Australia case of Kumova v Davison. In this case the court considered whether or not a Twitter feed was a news medium for the purpose of the New South Wales shield laws. The New South Wales definition is very similar to the Queensland definition. In that case the court determined that, while Twitter generally could be a news medium for the purpose of shield laws, it was not to be a news medium. That was based on the self-proclaimed reason for that particular person using the Twitter feed and the information that was published on the Twitter feed. A substantial amount of that could not in any way have been considered news.

Yes, broadly, shield laws could apply to social media. They can apply to a range of different things. The definition is very broad to recognise that it is an evolving environment and there are a lot of different modes and methods of communicating news. Ultimately, whether or not a particular person's use of a social media platform is protected by the shield laws will be determined on a case-by-case basis by the court.

CHAIR: What about who is classified as a journalist?

Ms Struber: Again, the definition of a journalist in the bill is very broad. It is a function based definition considering their activities—that they are engaged and active in the gathering and assessment of material that is of a public interest and then preparing that information or providing comment, analysis or opinion on it for publication in a news medium. It is wide enough to capture people who do not necessarily perform a traditional journalist's role—such as academics who may publish things or student journalists. Again, whether a particular person is a journalist will depend on exactly what activities they are undertaking and it will be a matter for the court to determine on a case-by-case basis.

Ms BOLTON: Would that mean that somebody who, as a standard, runs a commentary on current topics of interest could be considered under the law a journalist?

Ms Struber: Potentially, yes. It will very much determine on what they are doing—what they are publishing, the nature of the activities they are undertaking. There are very broad definitions of 'journalist' and 'news medium' to ensure that nobody is unintentionally excluded. It gives the court the flexibility to consider exactly what that person is doing and how they are publishing material and determine whether the protection of the shield will apply.

Mrs Robertson: In that regard, new section 14R inserted by the bill has a number of criteria that the court may have regard to. It is not an exhaustive list or a mandatory list, but it does include factors such as whether the person complies with a recognised professional standard or code of practice and whether or not the person is regularly engaged in the activities mentioned in the section. As Trudy has mentioned, we have tried to keep it broad but we have also tried to have a bit of rigour around it, for obvious reasons, having regard to the provisions in other jurisdictions.

CHAIR: Can someone talk about the computer warrants and the need to amend the Bail Act?

Ms Rylko: This is a technical amendment that arises really because of the provisions in section 33 of the Bail Act. The Justices Act 1886 sets up a framework for the use of computer warrants. The proceedings and improved procedures for computer warrants are prescribed by regulation, which includes warrants issued under the Bail Act. Section 68 of the Justices Act provides—

The creation of a computer warrant by a person under the approved procedures has the same effect as the issue of the same type of warrant under the person's hand.

and—

… a requirement under an Act that a warrant be issued by a person, issued under a person's hand, or signed by a person, is taken to be complied with if the person creates the warrant as a computer warrant.

Then it relates to the interplay with section 33 of the Bail Act, which does provide at the moment that a defendant who fails to surrender into custody in accordance with the bail undertaking and is apprehended under a warrant issued in relation to that failure under other sections of the Bail Act commits an offence.

As part of that proceeding it requires that the production to the court of the warrant that has been issued for the defendant's apprehension is evidence and, in the absence of evidence to the contrary, conclusive evidence of the undertaking and of the failure to surrender into custody and that the issue of that warrant was duly authorised by the decision or order of the court. It also provides that judicial notice be taken of the signature of the person who issued the warrant and that that person was duly authorised to issue the warrant. The amendments in the bill ensure that, consistent with the provisions in the Justices Act, where a computer warrant is issued the judicial officer does not have to take judicial notice of the signature on the warrant because it is irrelevant.

CHAIR: Normally it is the magistrate who signs them, or is it a JP? If you do not know the answer, that is okay.

Ms Rylko: I do not know, Chair—not off the top of my head.

CHAIR: That is all right. Returning briefly to the shield laws for a moment, there is some reference in the explanatory notes that the Commonwealth and other Australian states are looking into some form of statutory evidential privilege to protect against the disclosure of the identity of journalists. There has been some reference to the model in Victoria. Can the department highlight the difference between the Queensland laws and the Victorian laws?

Ms Struber: All other Australian states and territories, including the Commonwealth, have some kind of shield laws at the moment. Most of the jurisdictions have a particular journalist privilege that is specific to journalists. Tasmania has a slightly different model in that it applies more broadly to professional relationship confidentiality.

In relation to the jurisdictions that have specific shield laws, they are very similar. The framework established by the bill and the provisions in other jurisdictions do have common foundational elements. They all establish a qualified privilege, creating a presumption that a journalist cannot be compelled to disclose the identity of their informant. They all provide that the privilege applies to court proceedings and disclosure requirements. They all provide that the court may override the privilege.

There are a range of differences between the framework proposed in the bill and the frameworks in other jurisdictions. For example, the definition of a journalist varies between jurisdictions. In the majority of jurisdictions, the definition is narrower and it focuses on whether the journalist is engaged in the profession or occupation of journalism. Victoria has that definition within its shield law framework. The bill also sets out matters that the court may consider when determining whether or not someone is a journalist. Victoria is the only jurisdiction aside from Queensland that does prescribe those matters. The other jurisdictions do not include that.

The extension of privilege to other people is broader in the bill than what occurs in other jurisdictions. Other jurisdictions apply the privilege to the employer of the journalist, but only South Australia also applies it to a person who is engaged in a contract for services. That is a key difference between the amendments proposed in the bill. Victoria is also the only other jurisdiction that expressly provides within its evidence law for journalist privilege to apply to search warrants. They are some key differences between the framework applied in the bill and that in other jurisdictions.

CHAIR: I go to the issues that came out of the Supreme Court in relation to the CCC. I understand that, in relation to the rules about compulsion to give evidence before like bodies in other states, there is no privilege that attaches there. Anyone can be asked to provide evidence to those commissions. It does not matter what state you are in.

Ms Struber: The majority of jurisdictions do not expressly state a position in relation to journalist privilege and their integrity or corruption bodies. Victoria is the only jurisdiction that expressly addresses journalist privilege, and it does so by specifically excluding the privilege. Under the Independent

Broad-based Anti-corruption Commission Act 2011, a person is not entitled to claim journalist privilege in investigations and hearings of the Victorian Independent Broad-based Anti-corruption Commission. The position in other jurisdictions is not as clear-cut. It depends on the particular frameworks. In some instances it will be a matter for the courts to determine as to whether the privilege applies in those contexts.

Mrs GERBER: When we were looking at the necessity for shield laws and their implementation, did the department analyse any adverse outcomes that had happened previously as a result of not having shield laws?

Ms Struber: The current position in Queensland was examined as part of that and the impetus for looking at the different models as well. The legislation in other jurisdictions was also considered. The application of the shield laws in courts in other Australian jurisdictions was also considered as part of the development of the framework.

Mrs Robertson: The committee is probably aware that a consultation paper was released earlier this year, if my memory serves me correctly. I understand that the results of that consultation process are now available on the website.

Ms Rylko: It is the Department of Justice and Attorney-General website.

Mrs Robertson: They have published it which may help the committee. When we did the briefing, it had not been put up at that stage but it is now there.

CHAIR: That concludes this briefing. We thank everybody who has participated today. Thank you to our Hansard reporters and the secretariat. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public briefing closed.

The committee adjourned at 11.41 am.