



# **LEGAL AFFAIRS AND SAFETY COMMITTEE**

**Members present:**

Mr PS Russo MP—Chair  
Ms SL Bolton MP (virtual)  
Ms JM Bush MP (virtual)  
Mrs LJ Gerber MP (virtual)  
Mr JE Hunt MP (virtual)  
Mr AC Powell MP (virtual)

**Staff present:**

Ms R Easten—Committee Secretary  
Ms M Telford—Assistant Committee Secretary

## **PUBLIC BRIEFING—INQUIRY INTO THE POLICE LEGISLATION (EFFICIENCIES AND EFFECTIVENESS) AMENDMENT BILL 2021**

**TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 29 SEPTEMBER 2021**

**Brisbane**

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### **The committee met at 12.30 pm.**

**CHAIR:** Good afternoon. I declare open the public briefing for the Legal Affairs and Safety Committee's inquiry into the Police Legislation (Efficiencies and Effectiveness) Amendment Bill 2021. 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.

My name is Peter Russo, the member for Toohey and chair of the committee. The other committee members with me here today via videoconference are: Mrs Laura Gerber, member for Currumbin and deputy chair; Ms Sandy Bolton, member for Noosa; and Mr Jason Hunt, member for Caloundra. Ms Jonty Bush, member for Cooper, and Mr Andrew Powell, member for Glass House, are attending via teleconference.

On 15 September 2021 the Hon. Mark Ryan MP, Minister for Police and Corrective Services and Minister for Fire and Emergency Services, introduced the Police Legislation (Efficiencies and Effectiveness) Amendment Bill 2021 into the Queensland parliament and referred it to the committee for consideration. The purpose of today's briefing is to assist the committee with its examination of the bill. Only the committee members and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence.

These proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. In this regard, I remind members of the public that, under the standing orders, the public may be admitted to, or excluded from, the briefing, at the discretion of the committee. The proceedings are being recorded by Hansard and broadcast live on the parliament's website.

Media may be present and will be subject to my direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media, and images may also appear on the parliament's website or social media pages. I ask everyone present to turn mobiles phones off or to silent mode.

I remind committee members that officials 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. I also ask that responses to any questions taken on notice are provided to the committee by 12 pm on Wednesday, 6 October 2021.

The program for today has been published on the committee's webpage, and there are hard copies available from committee staff. I now welcome representatives from the Queensland Police Service who have been invited to brief the committee on the bill. The committee thanks you for your attendance here today and respectfully acknowledges on this, Police Remembrance Day, the officers of the Queensland Police Service, past, present and fallen, for their service to our state.

**BUST, Inspector Daniel, Weapons Licensing, Operations Support Command, Queensland Police Service**

**SMITH, Deputy Commissioner Doug, Deputy Commissioner (Strategy and Corporate Services), Queensland Police Service**

**UTZ, Senior Sergeant Bob, Legislation Branch, Policy and Performance Division, Queensland Police Service**

**CHAIR:** I invite you to make an opening statement.

**Deputy Commissioner Smith:** In acknowledging traditional owners, I acknowledge the Gubbi Gubbi people upon whose lands I live. I thank you for the opportunity to appear before the Legal Affairs and Safety Committee to speak on the Police Legislation (Efficiencies and Effectiveness) Amendment Bill 2021. Like the committee, I also acknowledge that today is National Police Remembrance Day. It  
Brisbane

is a very solemn day for all members of the Queensland Police Service and a day on which we honour police officers across the country who have lost their lives and ensure the integrity, courage and bravery of their ultimate sacrifice is never forgotten. Chair, the commissioner very much values this committee process and she has asked me to pass on her apologies because she is unable to attend today's briefings owing to her Remembrance Day commitments.

I again acknowledge the opportunity to introduce Inspector Dan Bust. Dan's area of responsibility is around weapons licensing, which is one of the topics that is covered in the bill before the committee. Senior Sergeant Bob Utz from the Legislation Branch has been working to deliver this particular bill to the minister, which he has introduced into parliament. They have been closely involved in the development of the bill and I am sure they will be able to assist the committee in answering any questions about the operational impacts of the bill in question.

Based on my almost 50 years of experience in policing, there are a number of topics in this bill that I very much welcome and am very supportive of. I hope I am able to assist the committee in understanding the benefits contained within the bill to the Police Service and, therefore, to the community as a whole. The measures proposed will free up valuable police frontline time, and that will assist the QPS to more effectively and efficiently deliver police services to the community of Queensland.

A considerable amount of a police officer's time is consumed by officers having to locate and attend before a justice of the peace to swear an oath of service or declare or affirm the veracity of information contained in a document. In particular, this bill would create the Oaths Regulation of 2021, which will enable senior police officers to witness affidavits made by other police in relation to: firstly, the proof of service of documents; secondly, objections to bail; and, thirdly, sworn applications made in compliance with section 801 of the Police Powers and Responsibilities Act.

Every day police serve a sizeable number of documents as part of a variety of court processes, and proof of service, which is a fundamental part of that process, is generally required by way of an affidavit. In the affidavit what the police are simply swearing to is that they served the document and the circumstances under which it was served. Affidavits used in bail proceedings are completed by arresting officers to inform the court of information relevant to determining whether a person should be bailed or should be remanded in custody.

On average, it takes about 60 minutes for officers to leave the watch house, locate an available justice of the peace and have the bail affidavits witnessed and then return to the watch house to lodge that particular paperwork. As you can imagine, this time frame can be considerably longer when police are in rural and remote locations, which can often be aggravated by the fact that they may not be able to readily locate justices of the peace who can witness the swearing of the document. To give the committee some idea of the scope of this work, I can tell you that in the calendar year 2019 some 10,982 bail affidavits were completed by Queensland Police. By enabling senior police officers, which will include a watch house manager, to witness bail affidavits, as this bill proposes, we have calculated it has the potential to save almost 22,000 hours of police time annually.

Another significant reform being introduced by this bill is the expansion of the circumstances when a magistrate or a Supreme Court judge may issue a digital access order in relation to digital devices seized by police. Access orders issued by magistrates and Supreme Court judges allow police to require a person to provide them with information necessary to access digital devices that may contain evidence. Currently, police can only make an application to a magistrate or a Supreme Court judge for an access order if the device has been seized under a search warrant issued by a magistrate or a Supreme Court judge or it is seized from a crime scene. The bill proposes an amendment to the Police Powers and Responsibilities Act to allow police to apply to a magistrate or a judge where a digital device has lawfully been seized and there are reasonable grounds for suspecting that information on the device may have evidence of a crime scene threshold offence or a specified technology related offence.

Further provision is made in the proposed bill for the Police Service Administration Act related to the legislative framework for drug and alcohol testing of police officers and staff members who perform specific functions. In particular, the bill proposes an amendment to the definition of a critical incident, which is a trigger for these testing powers, to more closely align with the definition of a reportable death in the Coroners Act. The definition of 'critical incident' in the bill is also amended to exclude circumstances in which a firearm is used to fire less than lethal projectiles. These are the sorts of things you would have seen being used in Victoria recently during behaviour around the city of Melbourne. Beanbag rounds, less than lethal rubber bullets, even paintball projectiles are sometimes used by police to, if you like, mark people who have been allegedly misbehaving.

It will retain the capacity for testing of officers in circumstances where less than lethal munitions are used but they actually do cause grievous bodily harm. I am sure this is something the committee will want to explore. The current definition of 'critical incident' that enlivens the testing powers is any incident where a firearm is used. What we are seeking here is to exclude those weapons that are used for less than lethal rounds unless the less than lethal rounds have caused grievous bodily harm.

The bill also proposes to amend the Police Service Administration Act to allow saliva tests to be used as an alternative way to test for targeted substances. At the moment we cannot test using saliva. Technology permits us now to do that quite successfully and we are seeking the power for that to be done.

Finally, there are amendments in the bill that are proposed for the Weapons Act. That will help to streamline the operation of the permanent firearms amnesty we currently have in place. The current firearms amnesty framework does not allow for firearms dealers to retain firearms or other prescribed things that have been surrendered to them anonymously. There is a process in place where you can identify who the owner of the weapon is. This amendment seeks to deal with the circumstances where there is no identity because it has been anonymously handed in. Obviously, we are encouraging all weapons to be handed in. If they come in anonymously, this amendment proposes a framework to deal with that more efficiently.

This will mean that participating firearms dealers must take any anonymously surrendered firearms to a police station; that is the current arrangement. This approach creates unnecessary risk due to the transport of the firearms—we believe it is an unnecessary process—but it also adds to the complexity for police because then we have to store the firearms at the police station and deal with them. This is a potential barrier for some people for the ongoing participation in the permanent amnesty, particularly licensed firearms dealers. They do not want to participate when there is anonymous firearms handed in because they then have that responsibility sometimes to travel quite some distance to engage with police at a police station. As I said, it creates an unnecessary operational burden on local police stations, many of which are quite remote and have very small staff numbers.

In previous amnesties most firearms that have been surrendered to dealers and, consequently, the broad participation—and this is a very welcome participation from firearms dealers—is a consideration; we think it is critical for the success of that permanent amnesty we have in place. The amendments contained in the bill will allow licensed firearms dealers to retain the firearms that are surrendered to them anonymously under the amnesty in circumstances where approval is provided to them by an authorised officer from the Queensland Police Service's Weapons Licensing branch, and Inspector Bust is here to explain that process to you.

I thank the committee for the opportunity to appear here today with my colleagues and we are happy to take questions.

**Mrs GERBER:** Thank you for the briefing. It was really informative. I, too, wanted to acknowledge that it is Police Remembrance Day. I have just come from a really beautiful service in the electorate of Currumbin. The service and the duty that police officers do, particularly at the moment with our border patrol, is commendable. It is really important to me that we acknowledge today and remember it.

**Deputy Commissioner Smith:** Thank you.

**Mrs GERBER:** My question is around the bill itself. Is there anything operationally that you think should be looked at by us as committee members in terms of the way it is going to play out at an operational level for police?

**Deputy Commissioner Smith:** There are a couple of different aspects to the bill. There is the one with respect to the firearms dealers, so that is a really specific thing, if you like, where there will be questions, I am sure, about the security of the weapons and why the process is seen as efficient. That is a very different conversation, and Inspector Bust is here to help you with respect to that. The processes with respect to the less than lethal rounds and the definition of a critical incident are a very different thing, and I am happy to explain that in more detail. That one in particular is about the testing regime. When we have a critical incident by definition now, what we are obliged to do is to look at a critical incident where there is the use of less than lethal rounds—quite often very minor, if any, injury may be caused—but in the current definition, because it was crafted to deal with those situations where a firearm that is firing a lethal projectile is used, the scheme provides too much of a burden, if you like, when we are using less than lethal rounds in situations that unfortunately became quite familiar on our televisions recently in Victoria.

The types of rounds that are used—and were quite frequently, it appears, used in Victoria—will include what are known as bean bag rounds, rubber bullets and sometimes in operational circumstances we will use paintball. They will only ever be used by specialist police. These are not Brisbane

things that deploy to all of our police, but they are used by our Public Safety Response Team members who are specially trained in crowd and riot situations where control has to be regained. So that is a different thing to the firearms related matter. With regard to the amendments with respect to the electronic devices, again that is quite a different thing. Each of them has its own operational issues that probably could be fleshed out and I am happy to do that.

**Mrs GERBER:** Okay. Thank you very much.

**CHAIR:** Do you want the deputy commissioner to flesh out those issues?

**Mrs GERBER:** I was probably more referring in relation to the Oaths Act and the amendments that are occurring there operationally. I know there is a lot of work that the police need to do beyond the scope of those amendments and whether or not there is scope for us to consider some further changes that need to be made there in order to make it more expedient for police operationally in that area.

**Deputy Commissioner Smith:** At the risk of disclosing my age, very early in my police career working in a place called Wallumbilla, the processes and procedures that largely we are talking about today go back to the Justices Act, which was passed by the parliament—then it was a Legislative Council and a Legislative Assembly, it was that long ago—in 1886. Unfortunately, in some instances the world has moved on so dramatically but our legislation has not kept pace with it. What we have is a series of responsibilities, one of which we are looking at here that will create great efficiency for the Police Service.

The purpose of the affidavit or the purpose of swearing with respect to service really is about ensuring that if the person fails to comply with what they are required to do by the document that is served we can then say to a court or whoever, 'We actually explained this to the person. They received the document and I'm swearing before this tribunal or court that we did serve it. I did serve it. They understood because I explained what the conditions were.' With respect to the bail, that is quite a different situation because the document itself is explaining why we are attesting to certain facts that we propose should lead to an objection to bail being granted. Largely, that is around ensuring that if a police officer is subsequently challenged about the veracity of the information, potentially in a perjury or some other corruption related proceeding, there is a process to say, 'You swore to tell the truth and if it's alleged that you didn't you've breached that particular oath.'

I would propose to you that to some extent the very fact that a police officer is creating a document and if that document is not faithfully recording the truth, irrespective of some of the processes that go back to oaths and suchlike back into the century before last, we are applying processes that were fit for the time but probably do not have a real place today. There is the related issue, which I think you probably are getting at, and that is it just takes time. Knowing where you can find a justice may be something quite simple in the CBD in Brisbane, but being able to do it in a location where it is ad hoc—it is not a regular thing—finding someone who is available and willing to do it at particular times creates a lot of inefficiency and I would argue that it actually does not create any benefit to the overall process itself. I think there is a further part to your question: is there more that we could do? Yes, definitely, and I think there are things that perhaps this committee or others at an appropriate time could explore. I will say that I was not around in 1886—I should say that—but I could go back quite some time and say that processes that we undertook back in the 1950s, sixties, seventies through to the eighties have got little place today with electronic capability that is just not being utilised, but of course that is not what is in the bill before us today.

**CHAIR:** Deputy Commissioner, whether you are a police officer or a senior police officer or an officer in charge of a police station who is witnessing a document, isn't the crux of the matter that whoever witnesses the document is not attesting to the truth of the contents; they are just witnessing a signature?

**Deputy Commissioner Smith:** Absolutely, Chair. What it does is it provides that independent corroboration that Doug Smith, police officer, claims that as his document and he has put his signature to it and Bob Utz, witnessing police officer, said, 'Doug Smith claimed that as his document.'

**CHAIR:** Yes.

**Deputy Commissioner Smith:** Then if it turns out that there are untruths in it, Bob Utz can say, 'Doug told me that was his document and if he's lied in that that's the document that he claimed was truthful.'

**CHAIR:** Yes, but the witnessing person is not attesting to the truth?

**Deputy Commissioner Smith:** They are not there to attest matters of fact; they are there to attest that I claim that as my document.

**CHAIR:** But you signed it.

**Deputy Commissioner Smith:** Yes.

**CHAIR:** Has there been any investigation of what occurs in other jurisdictions in relation to this space?

**Deputy Commissioner Smith:** There has, and I will get Senior Sergeant Utz to answer that.

**Snr Sgt Utz:** To give you a comparison, currently in the Northern Territory any police officer can witness an affidavit. In Victoria it is anyone above the rank of sergeant. They also allow electronic witnessing in Victoria. South Australia have recently passed an act allowing any police officer who is not a probationary constable to witness affidavits. In other jurisdictions there are broader ranges of police who can witness statutory declarations, but what we are focusing on here is the affidavits. You have the three other jurisdictions where police can witness.

**CHAIR:** Thank you.

**Ms BUSH:** I will start by also acknowledging Police Remembrance Day and thank everyone for attending today. It is difficult being on teleconference, but I understand that we have someone there from Weapons Licensing. My questions are particularly in relation to the proposed amendments in relation to weapons, particularly clauses 32 and 33 extending the period of time that a firearms licence holder may temporarily store a firearm on behalf of another person from three to six months. I am interested in the application of that to somebody who might be under a DVO and how that would work.

**Insp. Bust:** I may have to take that one on notice. I just want to make sure that we give you the exact information because you are dealing with two specific different pieces of legislation. There are certain elements under the domestic violence act and I just want to make sure that we give you the right information. In terms of the Weapons Act, the temporary storage is outside of the control of other pieces of legislation. Without wanting to give the incorrect information to the committee, I might come back after taking that one on notice.

**CHAIR:** Thank you, Inspector.

**Snr Sgt Utz:** If I may, it does exclude under the Weapons Act being able to use that for the storage of weapons. The Weapons Act does require for the person, if they are given a DVO or a police protection notice et cetera if they are at the court, to within one business day surrender them to the police. If the police officer attends at the person's house to notify them that an order has been served, it is immediately seized by police. It has no application to domestic violence. There are specific sections which control that and which state that that must be surrendered or put out on consignment, so it will not apply to anyone who is facing a DVO, police protection notice or where it is part of a release condition.

**Ms BUSH:** Great. Thank you, Senior Sergeant. That is perfect.

**CHAIR:** Inspector, does that relieve you of that response?

**Insp. Bust:** It certainly does. Thank you, Chair.

**Ms BOLTON:** I, too, joined fellow MPs on the Sunshine Coast at Kawana remembering our police fallen but also those here with us now and their families. My question is to Inspector Bust. Regarding the enabling of approved licence firearms dealers to retain surrendered weapons, would this provide an opportunity for an illegal trade or swap of surrendered firearms and less accountability for what is out there in the community if it is not handed into police? I am just wondering what safety mechanisms or assurances there are.

**Insp. Bust:** We conduct provenance checks on every single firearm that is surrendered under the amnesty. When I talk about provenance checks, it is basically establishing the origin of that particular weapon. Checks are conducted on QPS systems. They are also conducted on national systems and, if the need arises, we can go to other jurisdictions and get that information from them. Just because a firearm comes through and it is anonymous does not mean it is treated any differently, so every single firearm that is surrendered under the amnesty goes through the same checks.

**Mr HUNT:** I have a double-barrelled question. I am just interested in the practical difference between urine testing and saliva testing, particularly in critical incidents. I have administered a terrible lot of urine testing in a former job, but I am not familiar with saliva testing. Does the saliva testing have the capacity to replace UTs entirely?

**Deputy Commissioner Smith:** I will give a simple answer if I may: no, it does not. I think from your previous experience, through the chair, the saliva testing will be for those things where the remnants are reasonably recent. What is trapped in your saliva will be something that is recently consumed. Of course, that does not have longevity in the body that results from something that might

have occurred some time ago, whereas with urine testing—I am not a scientist; apologies for that—it takes at least 48 hours for things to clear your body. It will not take the place of urine testing, but what it does is gives us another opportunity to very quickly potentially include or potentially exclude suggestions of substances that have been improperly taken.

The member will be familiar with this, I think, that it is usually the case that the critical incidents that we are talking about attract a lot of media attention. Having the ability to very quickly exclude things that may draw some negativity in the media can be a really important thing. Having the ability to use saliva testing which can often get a quicker turnaround will be something that I think will be useful to us—I hope only occasionally—but, no, it definitely does not take the place of urine testing.

**Mr HUNT:** What sort of illicit substances do you think you will be able to capture with the saliva test?

**Deputy Commissioner Smith:** Senior Sergeant Utz has the list in front of him.

**Snr Sgt Utz:** The set-up of the devices cover a whole range. As you would be aware, we have roadside drug testing. We use the saliva testing to do those. Typically it will cover opiates, amphetamines and cannabis, but it can also pick up a number of other drugs, especially some that are not illicit.

It is a two-test process. The initial test gives a rapid positive or negative indication. The second swab test is then sent off to the scientist where it is then properly analysed. From my understanding, the initial test results are virtually instantaneous—might be a couple minutes—but it is just a positive or negative result. It will not show you the type of drug. It will just indicate that there is a drug present, and the testing is done otherwise.

**Mr HUNT:** That is very useful. Thank you very much.

**CHAIR:** In fact, it is not an alternative to urine testing?

**Snr Sgt Utz:** It is an alternative. There are different times when you would look at using it. It does not replace it. The saliva test shows recent usage; you are looking at the last 24 hours. A urine test will not show if someone three hours ago took a drug. When you have a critical incident, we are not so much worried about whether the person may have taken something a week ago; it is whether they are impaired now. Where we have a police officer who wants to become an undercover officer and is applying to undertake the course, we want to see if this person has any history of drug use. We will go to the urine to see what their lifestyle characteristics are. Different times dictate the different usage.

With urine testing, we have got to bring in a nurse and support staff. That can considerably slow down the time that it takes to actually run these processes through, and, as you can imagine, with a critical incident it is also the police who are affected by it. They have been in a situation where someone was shot et cetera, so they are under a traumatic time as well. With the saliva test, our teams can fly up there fairly quickly, it is a lot quicker process and we get a quick result to show that it is negative. If it comes back as a possible positive, again that slows things down. It gives a rapid result to indicate it is all clear, it is all good.

There is no reduction in the oversight mechanisms. You still have a commissioned officer who is there overseeing it. The commissioned officer must be more senior than the officer that is testing. If there is an inspector involved, we would have a superintendent or higher undertaking the testing. There is no lessening of the oversight. It is just catching up with technology to make things quicker, easier and also cheaper. It is a fraction of the price.

**Deputy Commissioner Smith:** If I may just add, the individual police officer who is involved in these critical incidents has to be acknowledged in these processes. They need the assurance that we do not think they are intoxicated as well. So we have the ability to be able to say to someone very quickly, 'Thank you for that saliva test. Just relax. We know you do not have any recency with respect to intoxicating substances.' I have to emphasise that point because in the media attention to incidents like this, people often forget the stress and the trauma that it causes to the officers involved, and anything that we can do to give them comfort that we do not think they are abusing substances and that has led to poor judgement has to be acknowledged.

**Mrs GERBER:** I have a question around the expanding digital access orders for seized digital devices. I just wanted to understand a bit better. This part of the bill allows for a magistrate to make an access order for a digital device in a search warrant that has been issued. Does that also encompass, for example, if you obtain that digital access warrant, you get the passwords, the person complies with that warrant, gives you the password in order to be able to access the digital device, that is a laptop,

and you find evidence of a criminal offence that is different to what you were originally searching for or what the original search warrant was designed for, is that evidence still able to be used in the prosecution of further offences? Operationally, how will it play out?

**Snr Sgt Utz:** Currently under the access order schemes, we can obtain it where a magistrate or Supreme Court judge issues a search warrant and that can be issued for any offence. We can also obtain one currently where we set up a crime scene which is established for a four-year imprisonment offence or deprivation of liberty. Once we have the access order that then enables us to require the person to provide us their password or access. The power already exists under our power to seize to actually search and interrogate a phone or a computer system or have another person do it on our behalf. That does not change that. It does not limit the usage of evidence we find subsequently. The proposed power that we are putting in limits the level that we can apply to a magistrate. So we have expanded it to cover where the search warrant has been issued by a Justice of the Peace or we have lawfully seized it. For example, say we pull over a car and we find drugs, firearms and telephones. The person does a runner. We grab them. We seize the phone. As long as it has been lawfully seized under the PPRA and it meets the threshold of a crime scene threshold offence or one of three technology bases—so that is, for want of a better term, your upskirting person who is filming, or the revenge porn scenarios—they are three-year imprisonment offences and would fall outside the crime scene threshold, but because they are technology-based, we really need to have access to the devices to prove it.

If the magistrate or a Supreme Court justice is satisfied that it is reasonably probable that there is that evidence on the phone, we get the access. There is no limitation then around evidence we cannot use if we discover offences have been committed. It does not mean that we will always go to the enth degree for every possible one. It is in the interests of justice that there be sufficiency of evidence, but it does not prevent us from chance discovery. If we find other evidence, that can be put before the court.

**Mrs GERBER:** I want to understand what the impact is of not doing this. It feels like we have had this technology for a very long time. Why now for this bill? What is the impact of not doing it now?

**Snr Sgt Utz:** Since the mid to late nineties we have had a forensic capability around phones and computers. Enhancements in technology with encryption and protection software means that we can be shut out of being able to access it. To overcome this, if we cannot get into certain devices or phones, we need to have the password. That is why we have had to go down the path of creating the offence that if they fail to comply with the magistrate's or judge's orders, they commit a five-year imprisonment offence by not providing. Sometimes for the offenders that is the easy option because it might be a far more serious offence that they could be facing. It does not mean that everyone will listen.

It does overcome some problems. It does not matter the seriousness of an offence. We can rock up to the scene of a murder which has just occurred. We will set up a crime scene. The offender has done a runner. All of a sudden he is found somewhere and we grab him and we grab the phone. We cannot make an order because the phone has not been seized under the warrant. Even if we have a warrant and the person is running down the street and we grab him there and seize the phone, because it is not at the warrant premises, we cannot access it and we cannot apply for a further one because it is outside the place under the warrant.

People generally do not want to be found. There will even be occasions where they will front up to a police station and hand in their phone, knowing that we cannot then make an order. It just becomes unworkable.

The proposed legislation will enable us to put the evidence before the court. We still have to lawfully seize it, whether it is under the PPRA or under a JP's warrant. The level for us to get it is far higher than if we went to the magistrate or the judge in the first place, because it has to be that crime scene threshold offence rather than an offence. It is still getting judicially considered. It is at a higher level which I think increases the safeguards around it. There is still that judicial over-viewing of it. Then once we do have it, we have a range of protections and safeguards in place to protect the confidentiality of the information.

If a police officer saw an inappropriate photo on a phone and released it, they have then committed an offence for either unlawful disclosure, misconduct, or even computer hacking around unlawfully accessing the seized device where they could face imprisonment. Misconduct can also come into a whole range of things.

It is a higher threshold going in, but we would have protections around as it would if we seized the device under the magistrate's warrant to protect the privacy of that information anyway.



Technology grows with time and we have always got to play catch-up. Otherwise we are behind the 8-ball in a lot of instances where we can't—no matter how substantial or significant the offence is and what grounds we would have to be able to get it, we just cannot make the application these days if it is seized outside of a warrant issued by a magistrate or a judge.

**CHAIR:** In a nutshell, there are mechanisms in place that would protect the privacy of the individual?

**Snr Sgt Utz:** Absolutely, yes. There are a whole range of safeguards in place. It does not mean that we retain the device anyway. Once we have seized it, we have got to go to a magistrate and make application if we need to retain it for longer than 30 days. There are significant penalties for disclosing anything that we learn during the course of carrying out duties as a police officer. It may be just information. It could be business-related information. Offences are committed if we disclose it because we have learnt it because of our occupation.

**CHAIR:** Again, specific to the offence you are investigating?

**Snr Sgt Utz:** It might be something that does not even relate to the offence. We might find something as we search the phone that might be embarrassing to the person. We cannot disclose that. Because we have learnt it through our search of it as a police officer, confidentiality then applies and we cannot release that. Of course we can release evidence to a court and where we need to work with other bodies to deal with things, that is fine. However, if we were going out to harm a person's reputation or anything like that, that would then become an offence.

**Ms BUSH:** A lot of the member for Currumbin's questions have cleared this up. Coming back to the Oaths Regulation particularly, I want to mention the interplay of how this works in regional and rural communities and making sure we have the right capabilities and systems in place for our regional and remote communities to respond to these changes. Perhaps it is a question to the deputy commissioner or whomever he would like to delegate that to.

**Deputy Commissioner Smith:** Could you just repeat what you would like me to answer?

**Ms BUSH:** It is in relation to the efficiencies of the Oaths Regulation and how our regional and remote communities will respond to these changes and what capacity they have to respond and what work we have done in that space to prepare them for that.

**Deputy Commissioner Smith:** From a policing perspective—there are two sides to this. There is the potential impact on the whole system of justice, and we want to make sure the integrity of the justice system is not compromised by anything that we are proposing. Equally, what we are submitting here is that the changes create an efficiency but do nothing to delete or dilute the integrity of the justice system. Hypothetically, if I was a police officer back at Wallumbilla—and I hope the commissioner does not do this to me—the ability to serve documents and make affidavits or whatever is often the easiest part of all of our processes. Getting those documents when you have service or when you are preparing affidavits et cetera to witness my signature on the affidavit can often be the challenging thing.

We have to remember that we still have a large number of police stations in Queensland where there is a single officer. In a case like that, the single officer, under these proposals, would be able to get his or her signature witnessed by a senior officer rather than have to try to find a justice of the peace. In some of our remote locations where populations are evaporating, it is hard to find a JP. There are some instances where a police officer—and I was speaking to one recently at Bedourie who had a real problem in trying to get a JP other than that one that was at Mount Isa, which is hundreds of kilometres away.

From a policing perspective, we would submit that this is actually creating an efficiency. It does not, however, dilute the efficacy of the processes that lead to court appearances because, as the chair rightly pointed out to me earlier, the actual content of documents, particularly the affidavits, is not what is being attested to. It is the fact that it is my document. I think on balance you still have the integrity of the justice system preserved, but there is an efficiency that is being created for the Police Service and therefore the community. We have measured this in the thousands of hours. I hope that answers your question.

**Ms BUSH:** Yes, thank you.

**CHAIR:** There were no questions taken on notice if my memory serves me correctly.

**Deputy Commissioner Smith:** I think we answered that one.

**CHAIR:** That concludes this briefing. Thank you to all the officials who have participated today. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's parliamentary webpage in due course. I declare this public briefing for the committee's inquiry into the Police Legislation (Efficiencies and Effectiveness) Amendment Bill 2021 closed.

**The committee adjourned at 1.19 pm.**