



LEGAL AFFAIRS AND SAFETY COMMITTEE

Members present:

Mr PS Russo MP—Chair

Mrs LJ Gerber MP

Ms SL Bolton MP (via videoconference)

Ms JM Bush MP

Mr JE Hunt MP (via videoconference)

Mr JM Krause MP

Staff present:

Mrs K O'Sullivan—Committee Secretary

Mr B Smith—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE POLICE POWERS AND RESPONSIBILITIES AND OTHER LEGISLATION AMENDMENT BILL 2023

TRANSCRIPT OF PROCEEDINGS

Friday, 24 March 2023

Brisbane

FRIDAY, 24 MARCH 2023

The committee met at 11.01 am.

CHAIR: Good morning. I declare open the public briefing for the committee's inquiry into the Police Powers and Responsibilities and Other Legislation Amendment Bill 2023. 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 peoples, whose lands, winds and waters we all share.

With me here today are: Laura Gerber, the member for Currumbin and deputy chair; Sandy Bolton, the member for Noosa, who is an apology for the first part and will join us at 11.30; Jonty Bush, the member for Cooper; Jason Hunt, the member for Caloundra; and Jon Krause, the member for the Scenic Rim. The purpose of today's briefing is to assist the committee with its examination of the bill, which was introduced into the Queensland parliament on 21 February 2023 and referred to the committee for consideration. Only the committee 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 omitted or excluded from the briefing at the discretion of the committee. I also 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 by Hansard and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask everyone present to turn their mobile phones off or to silent mode. Thank you.

HOUSTON, Ms Jane, Acting Executive Director, Strategy Directorate, Queensland Fire and Emergency Services

OSBORNE, Ms Carly, Acting Director, Strategic Policy and Legislation, Queensland Fire and Emergency Services

WATSON, Ms Margo, Acting Inspector, Drug and Alcohol and Coordination Unit, Police and Performance Division, Queensland Police Service

WHEELER, Mr Mark, Acting Deputy Commissioner, Regional Operations, Queensland Police Service

WILSON, Senior Sergeant Andrew, Legislation Branch, Police and Performance Division, Queensland Police Service

CHAIR: I now welcome witnesses from the Queensland Police Service and the Queensland Fire and Emergency Services who will brief the committee on this bill. I invite you to make a brief opening statement, after which committee members will have questions for you.

Deputy Commissioner Wheeler: Good morning, and thank you for the opportunity to brief the committee in relation to the Police Powers and Responsibilities and Other Legislation Amendment Bill 2023. The objective of the bill is to promote the efficiency of the Queensland Police Service and the Queensland Fire and Emergency Services through a range of amendments that will deliver operational or administrative improvements.

With respect to the amendments that impact the Queensland Police Service, the bill will do the following: expand the police drug diversion program; allow for the appointment of a person as an executive officer in the QPS rather than to an executive officer position; introduce a circumstance of

aggravation for the offence of evading police under section 754 evasion offence of the Police Powers and Responsibilities Act; and amend the Drugs Misuse Act to increase the maximum penalty for an offence against section 5, trafficking in dangerous drugs, from 25 years imprisonment to life imprisonment.

At the table with me today are officers from the Queensland Police Service who are available to assist the committee in understanding the bill. I introduce Acting Inspector Margo Watson from the Drug and Alcohol and Coordination Unit and Senior Sergeant Andrew Wilson, who is the instructing officer from the legislation branch. In addition to amendments that affect the QPS, the bill contains amendments directed at supporting the ongoing effectiveness of services delivered by Queensland Fire and Emergency Services, which I will refer to as QFES. At the table today I am joined by our colleagues from QFES who are able to assist the committee with aspects of the bill pertaining to QFES legislation. Those officers are Jane Houston, the Acting Executive Director for the Strategy Directorate and Carly Osborne, the Acting Director for Strategic Policy and Legislation.

The QPS deals with the impacts of illicit drug use on a daily basis. Illicit drugs have adverse impacts not only on the individuals who use them but also on the community. The Queensland Productivity Commission in their inquiry into imprisonment and recidivism attempted to quantify the costs of drug related property and violent crime. They estimated that the costs of crime attributable to drugs other than alcohol was \$1.5 billion in 2017-18. It is because of those impacts and the significant work that the QPS undertakes in dealing with them that I am happy to be here today addressing you about the amendments to the bill.

Those impacts are, of course, not unique to Queensland. They are felt across all jurisdictions in this country and, indeed, across the world. That is why over time jurisdictions in this country and elsewhere have implemented approaches that diverge from a traditional criminal justice response to drug possession. We know that, in a range of policing contexts, attempting to deal with the underlying causes of an issue is more effective as an approach. That is also the case with illicit drug use. Drug diversion provides an opportunity to connect the users of illicit drugs with information and, most importantly, treatment. That is not only important for the individual and their health; it is also an opportunity to mitigate the impacts of illicit drug use on the community.

Drug diversion is not a new concept in Queensland. Queensland police have been diverting people for cannabis possession for over 20 years. We know that that program is effective. We know that the current policing drug diversion program has diverted more than 158,000 people from the criminal justice system and into a health intervention since the program began in 2001. The most recent analysis of drug crime recidivism among drug diversion recipients shows that 72 per cent of those who completed drug diversion did not reoffend for a drug related offence during the four-year evaluation period. That is consistent with other evaluations of drug diversion programs conducted in other Australian jurisdictions. Importantly, diversion has operational benefits for police. It saves police and court resources and time. It allows police resources to be focused in areas where they can have a greater impact on community safety.

The bill extends police drug diversion in several ways. The bill expands the availability of diversion to drugs beyond just cannabis. It removes barriers to eligibility, including the current requirement that a person must make admissions to the offence before being diverted and the exclusion of people who have unspent convictions for violence. The bill introduces a tiered approach to diversion. Under the current scheme, a person can only be offered drug diversion on a single occasion. The bill introduces three tiers of diversion. In the case of a first offence, a person will receive a warning and an offer of referral to a support service. On a second or third occasion, if the person accepts an offer of diversion they will be required to complete a drug diversion assessment program. If they fail to complete the program, they will commit the offence of failing to comply with a requirement.

It is important to make the point that the amendments in this bill do not decriminalise drug possession in Queensland. That is not the policy position taken in this bill. Possession of drugs will still be an offence. Police will still have the same search and seizure powers that we have always had with respect to drug offences. What is changing is the way the person in possession of drugs is dealt with. Rather than going to court and receiving a penalty—most commonly a fine—the person will be diverted to a health intervention. The QPS estimates that annually appropriate 25,000 people will be eligible for the drug diversion program. Approximately 17,000 of those people will be eligible for a warning, with the remainder receiving a tier 2 or tier 3 diversion.

This bill is explicitly directed at dealing with people who possess small quantities of drugs for their personal use. There are a number of features of the bill that collectively preserve that policy intention. The bill includes a provision that requires a police officer to be reasonably satisfied that the person is in possession of drugs for their own personal use. Given the range of drugs in scope and

given the potential that a person will be eligible for diversion with respect to the possession of different drug types at the same time, the QPS believes it is important to have an unequivocal power to send a person to court in circumstances where a police officer is not satisfied the drugs are for personal use. There are exclusions for people who have a serious history of drug crimes. Where a person commits another indictable offence connected with the minor drug offence, they will not be eligible for diversion. Subordinate legislation will prescribe the quantity of drugs that a person can possession and still be eligible for diversion.

The bill treats children and adults differently. The offer of drug diversion to adults who are eligible is mandatory. This is not the case for children. The Youth Justice Act is the primary act that governs the way that police deal with children. There is already a mandatory legislative requirement under the Youth Justice Act for police officers to consider the diversion options in section 11 of that act before commencing proceedings against a child. To treat children in the same way as adults would lock them into a linear progression compelling them to go to court once they had progressed through the three tiers of drug diversion. The bill recognises that it may be more appropriate to deal with children by way of a diversion option in those instances where a child comes to police attention on more than three occasions for a minor drugs matter. It also recognises that diversion options other than drug diversion may be more appropriate in the unique circumstances of a child who is being diverted.

While the drug diversion amendments will significantly reduce the number of minor drug offenders in the criminal justice system, the investigation and prosecution of drug producers, suppliers and traffickers will remain a priority for the government and, of course, for the QPS. To underscore this distinction, it is proposed to increase the maximum penalty for trafficking in dangerous drugs in the Drugs Misuse Act from 25 years imprisonment to life imprisonment.

The bill also contains amendments that change the way that executive officer appointments can be made within the QPS. It has become clear from a judicial review decision that section 5.2 of the Police Service Administration Act does not enable the QPS to appoint police officers generically to a rank. That is, a specific position must be advertised and appointments can only be made to the specific position advertised. Amendments in this bill facilitate the appointment of deputy commissioners and assistant commissioners to a generic rank rather than a specific position. With respect to these ranks, which have managerial responsibility for significant components of the organisation, a degree of flexibility is required in the appointment process to manage the strategic needs of our organisation.

The proposed amendments to section 754 of the Police Powers and Responsibilities Act create a circumstance of aggravation to the evasion offence, supporting the Queensland government's commitments to reducing road trauma by tackling hooning offences, dangerous driving and the unlawful use of motor vehicles. Every year there are over 5,000 recorded evasion offences under section 754. Offenders who evade police not only demonstrate a disregard for the safety and welfare of the community but also undermine the capacity of police to enforce the law. The bill addresses this issue by creating an aggravated offence which targets recidivist offenders and offenders who place the community at significant risk of harm. Where the circumstance of aggravation applies, an offender will face a maximum penalty of five years imprisonment.

I will now refer to my colleagues from QFES to address the amendments in the bill that relate to their legislation. Following that, of course, we welcome any questions that the committee may have. Thank you.

Ms Houston: Good morning and thank you for the opportunity to brief the committee about the Police Powers and Responsibilities and Other Legislation Amendment Bill. The purpose of the Queensland Fire and Emergency Services is to deliver contemporary and effective fire, emergency and disaster management services that meet the needs of our Queensland communities. The bill includes a number of amendments to the Fire and Emergency Services Act which, while relatively minor, will deliver improvement to the services delivered by QFES and will support QFES employees and volunteers in providing those services.

The bill proposes amendments to sections 64 and 65 of the Fire and Emergency Services Act which form part of the framework the act provides for the control and prevention of fires. The act allows the QFES commissioner to prohibit the lighting of all or particular fires on land by giving a prohibition notice to the occupier of the land. A notice can be given, including following a request made by an occupier of adjoining land. The act also provides that persons may apply to the QFES commissioner for permits to light fires. The Fire and Emergency Services Regulation then provides for a number of matters relating to these applications and requests, including how they are to be made and the information that must accompany them. The amendments to sections 64 and 65 will ensure that the provisions of the regulation that stipulate these matters have an explicit head of power in the primary legislation.

Currently, section 150C of the Fire and Emergency Services Act provides that it is an offence to obstruct another person in the performance of a function under the act unless the person has a reasonable excuse. For an offence to arise under section 150C, a QFES officer or volunteer performing functions under the act must have provided a warning to the person that their conduct or actions constitute an obstruction. A warning is considered appropriate in many cases involving obstruction—for example, where a person is standing in the way of a QFES employee or volunteer and hindering them in performing a function. In that circumstance, the warning serves to make the person aware that they are causing an obstruction and allows them an opportunity to cease. However, currently the definition of ‘obstruct’ under the Fire and Emergency Services Act includes assault and it is not considered appropriate that a warning be required in cases involving assault. Therefore, the bill proposes a new section 150BA, which will separate out assaults from obstructions to ensure that the warning requirement is not required in the circumstances of an assault.

QFES officers and volunteers play a crucial role in safeguarding persons, property and the environment including in situations of fire and emergency. Therefore, it is necessary that the legislation supports those officers and volunteers by ensuring they can perform the functions conferred on them by this parliament and that the community expects of them without fear of assault or, at the very least, confident that there will be appropriate consequences in circumstances of an assault being committed. Other minor amendments will provide for consistent terminology throughout the act and to align numbering in the Fire and Emergency Services Regulation with modern drafting practices.

Mrs GERBER: My question is to the acting deputy commissioner. How does the QPS measure the success of the cannabis drug diversion program? Can you talk the committee through the statistics in relation to the cannabis drug diversion program for 2022?

Deputy Commissioner Wheeler: I will ask my colleagues to look for a bit of information about 2022. Since 2001, as I mentioned in my introduction, some 158,000 people have been through that process. We found that over the four-year evaluation that was conducted 72 per cent of those people did not go on to commit drug related offences. That is quite a large number of that cohort who did not go on to commit drug offences and also, importantly, did not waste valuable police time and court time by clogging up a system that is under pressure at times. Over the life of the cannabis program, if I can call it that, it has achieved, in our view, really positive results. I will just see if we have the 2022 results to zero in on your question.

Mrs GERBER: Are there any other metrics that you use to measure the success of the cannabis drug diversion program, aside from reoffending rates?

Deputy Commissioner Wheeler: Anecdotally, from a policing perspective—and I do not have the time and motion study with me—we know there is a significant amount of time saved in that we do not have police going to court, preparing QP9 court briefs, full briefs of evidence, spending days in court to go and prosecute really minor drug matters. It is about looking at this from a therapeutic health perspective rather than an enforcement perspective. Police time is far better off diverted to investigating, identifying and arresting people who commit, produce, supply and traffic in drugs. In terms of the time saved, it is significant. We know when this extrapolates out across all of those drug types—so all illicit drugs—and having a three-tier approach to this, the time saving for police to be able to reinvest in areas where more significant harm is being done to the community is a massive benefit for not only the QPS but also the community and, importantly, the offenders themselves. We know that, for a young person who makes a mistake with a drug that is not cannabis, it can affect their whole future ahead of them. For instance, they cannot travel to other countries in some circumstances. It does not allow them to get a job in government in some circumstances. The impact on a young person’s life where they make a simple mistake is really significant.

Mrs GERBER: In terms of talking about the time savings, can you tell us how much the drug diversion programs currently cost?

Deputy Commissioner Wheeler: Cost over the whole period or over—

Mrs GERBER: What is the cost to the taxpayer in relation to the drug diversion programs? You might need to explain how the drug diversion programs work in order to give the committee that information.

Insp. Watson: When it comes to the cost, that is a Queensland Health question that we are happy to take to them and bring back for you. When you talk about how the drug diversion program works, are you asking about the mechanisms to get the person into the program or the health intervention component?

Mrs GERBER: The health intervention.

Insp. Watson: I can very briefly at a high level talk about that but, again, Queensland Health is the best to answer that particular question. However, each assessment is an individual assessment.

Mrs GERBER: I understand all of that. I am just after the practical details of how the drug diversion programs work in relation to cannabis at the moment. If that is a question on which you need to get specifics from Health, I am happy for you to take that on notice and bring that back.

Insp. Watson: Perfect.

Mrs GERBER: The first part of the question as well.

Insp. Watson: Yes.

Mrs GERBER: I turn to the quantity of the prescribed drugs being proposed. I note that the draft bill takes the quantity out of the act and sticks it in the regulation, so the quantity will be prescribed by regulation. It is the same with the drug type. At the moment the PPRA says that it is cannabis and it is anything less than 50 grams, but the draft bill proposes to put all of that in regulations; is that correct? It will all now be prescribed by regulations—both the quantity and the type of drug as in cannabis, heroin, methamphetamine, cocaine or anything else.

Deputy Commissioner Wheeler: That is correct. There is a range of illicit drugs that are defined under the act.

Mrs GERBER: It will now be in the regulations?

Deputy Commissioner Wheeler: That is right. It goes into the regulation.

Mrs GERBER: Coming at it from the perspective of being in the criminal law, an act of parliament needs to go through the parliamentary process to be changed whereas regulations do not need to go through that same process. Does the QPS see any difficulty in relation to it being in the regulations in that potentially it can be changed at any time or modified without having to go through the parliamentary process, as in both the drug type and the quantity?

Deputy Commissioner Wheeler: Essentially, what you are saying is that regulations can be changed via a ministerial arrangement. I understand that significant subordinate legislation—I am not the expert on this—would generally be discussed in cabinet. I am probably going a little bit outside of my lane here, but from my previous dealings significant subordinate legislation is not just a stroke of the pen. In terms of this arrangement, we are confident that this is an appropriate arrangement because things change.

Mrs GERBER: Are significant aspects meant to be in the act—they should be in the bill and then go through parliament so they are in the act? I note that previously it was in the PPRA: it was less than 50 grams and the drug was specified in the act so that there is certainty and clarity moving forward, not just for the police who are having to enforce the law but for all other agencies that need to engage with that law.

Deputy Commissioner Wheeler: With the amounts that are being prescribed, I think it is really important to understand that those amounts came about from clinicians, scientists and operational police and are also in line with the Penalties and Sentences Act. What is really important is the evaluation that will be conducted of this legislation. We are comfortable with where it sits. Obviously I am not involved personally in the drafting and the framework of this, but there are many other instances where subordinate legislation contains things around amounts, definitions and issues that, if necessary, can be changed at a point in time under the right circumstances through a ministerial arrangement.

Ms BOLTON: Acting Deputy Commissioner, in your opening statement when you were talking about three tiers. Correct me if I am wrong, but when you spoke about the second tier you said 'if they accept' the offer of a diversion program. Is that correct as in it is a choice?

Deputy Commissioner Wheeler: If we get to a point—either tier 2 or tier 3—and the person the police are dealing with decides that they simply do not want to participate in a drug diversion assessment program, we then revert to a normal process where we would either issue a notice to appear or take prosecution action in another way, whether that be by arrest or by complaint and summons. The idea is that we want people who are willing to participate in this process. If someone point-blank says to a police officer, 'I do not want to participate in a drug diversion assessment program,' it would seem a nonsense to then issue the notice for them to go to a drug diversion assessment program, waste the valuable time of Queensland Health and also the police involved and have them begrudgingly turn up or perhaps not turn up at all. We would then have to take prosecution action for contravening the requirement. That is the idea. If you do not want to participate, we will talk to you and provide all the options, but then we would take prosecution action. I hope that answers the member's question.

Ms BOLTON: Yes, thank you. With regard to children you said that it was if they are literally brought to the attention of the police on more than three occasions. Given that there are great concerns around early intervention, three occasions does sound like a long time before there is some kind of assistance or program offered.

Deputy Commissioner Wheeler: Firstly, the Youth Justice Act is the overarching legislative authority in dealing with children. In the circumstance where a young person is found by police to possess a small quantity of any drug, under this arrangement the provisions of section 11 of the Youth Justice Act still come into play—that is, the officer could take no action, the officer could issue a caution or there could be other restorative justice processes. In the bill you will notice that drug diversion is a divertible option as well.

We know that crime prevention starts in the home. The arrangements and reasons for youth crime and youth offending are incredibly complex. What we need to be able to do is tailor the approach in dealing with young people in a way that does not constrain police in putting them straight into a three-tier model and sending them on a trajectory where they will almost certainly end up in court if they are found on three occasions.

With young people we are interested in intervening at an early stage—intervening early, keeping kids out of court, keeping kids out of custody and reducing reoffending are the four pillars of the Bob Atkinson report—and working with them to tailor the approach and treatment for them. The most important thing is being able to involve the family and also to be able to use those traditional diversionary approaches more than twice—in fact, at times more than three or four times—because young people may offend over different periods of their young lives. Being able to involve the family allows police to tailor the approach to each individual child, particularly for our young disadvantaged, vulnerable people in our First Nations communities across the state. I hope that answers that question.

Ms BOLTON: Yes. With regard to the diversionary programs and the success of them and data on them, do those who have contracts to deliver those programs have to report back? Is there any methodology to determine how successful they are? Are there any follow-ups with individuals after the programs are delivered?

Deputy Commissioner Wheeler: If you are talking about a drug warning where they would be referred to a support service—an NGO, in effect—the arrangements around NGOs, their funding and KPIs, are generally looked at by the department that is engaging them. With regard to the drug diversion program itself, which is with Queensland Health, Queensland Health has significant data on those outcomes. We know individually what the outcomes are because those arrangements and outcomes are recorded on QPRIME. For instance, did they attend to start with? We know if they do not attend because there is action taken after that which would be in certain circumstances contravening the requirement to attend. We can drill down into individuals across whatever period of time necessary through the data that is contained in QPRIME.

Ms BUSH: I see the value in the drug diversion program and in its expansion. Deputy Commissioner, it is going to represent a fairly major cultural shift for QPS to approach it from a medical model more than a policing model. I am interested in hearing from you who is going to lead that culture piece within the QPS right throughout Queensland? Who is monitoring, overseeing and evaluating police performance in that diversion?

Deputy Commissioner Wheeler: You are right: when we introduce new powers or new approaches and policies there can be cultural training or cultural approaches required. What we see here are some positives, particularly around the police time saved. This is not new for police. Police are adept at changing and spinning on a coin if necessary. We saw that with the COVID response, where police officers were doing jobs they had never done before. We are in a good space to be able to introduce that.

It will run centrally, but the most important thing is the training aspect and the reason for it. The policy intent, the benefits of the policy and the savings to police and the community will be explained well through training. Whenever we do these things—whether it be Jack's Law, which is a recent one—we have to develop robust training processes. Training is not just about someone doing a computer-based training program, ticking the box and moving on. That does not change culture.

What we know changes culture is good leadership, particularly at the non-commissioned officer level—so making sure those sergeants and senior constables who are out on the road, day in and day out, dealing with these challenging circumstances are aware and on board. We look for change champions in the workplace. That is across the state. We back that up with robust products that police can read, understand and refer back to if necessary.

One thing police do well is understand legislation and change to suit that legislation. I hope that answers the question. It will be a centrally controlled model. Anecdotally, the staff I speak to—and I am talking about hardened detectives who work in drug squads and the like—are happy about this because, instead of wasting their time dealing with small-time people who often have chronic underlying health conditions, they can divert their attention to producers, suppliers and traffickers who trade on other people's misery.

Ms BUSH: The other area I am interested in is the intersection with the Youth Justice Act. Thank you for your responses to the other members' questions. The response back from QPS is that you do not want to be constrained in being able to offer whatever relevant cautionary or diversionary program there is, but there are still young people who are being charged where their principal offence is a drug offence. In fact, I think it is the third highest charging rate for all young people. There is still a substantial number of kids getting charged where the principal offence is a drug offence. Tell me about those young people. Why have they not been offered other approaches? Why have they not been suitable for another approach?

Deputy Commissioner Wheeler: We are always trying to increase our diversionary approaches in dealing with children. Sometimes there are constraints around things like how many times a young person has been cautioned, restorative justice or other diversionary processes, but police go to great lengths in general to try to look at this from an intervention perspective and treat it as a health issue rather than taking a prosecutorial approach because of, if nothing else, the time it takes. You cannot arrest your way out of solving complex problems. It does not work. You get the same result.

What we see from time to time are young people who have been through the process already or they just do not want to participate in the cautioning or diversionary process on offer. I do agree with you: I would rather see a higher level of diversionary approaches taken rather than prosecution processes. We see this with other bills that are being discussed at the moment and have gone through. We will also highlight that there will potentially be more young people in custody. That is not what we are looking for here. We are looking to try to reduce the number of young people who make a simple mistake and can potentially affect their whole future as adults.

Ms BUSH: I guess that goes to my earlier question: where does the buck stop? If we know in a particular region that we are still seeing a high number of people being charged with drug offences, who is ultimately responsible for that?

Deputy Commissioner Wheeler: There is one safeguard for that. When a police officer puts a young person before the court where they should not, the magistrate has the option to order drug diversion or, in fact, to take no further action. It is a learning process. When we have commissioner performance reviews, for instance, or we do our local business reviews we look at a range of statistics, a range of offences and a range of metrics. From time to time we identify different places where the diversionary rate is much lower than other areas. It means we have to dig into why that is. If it is down to a particular officer, for instance, that then becomes a leadership issue at the local level to make sure checks and balances are in place and also we are making sure that officers understand the provisions of the Youth Justice Act. The simple answer to your question is that we do monitor it. Where we can, we try to intervene. The safeguard is: if a young person appears in a court when they should not, the magistrate has the ability to defer.

Mr KRAUSE: Has the QPS canvassed the opinion of police on the beat about this bill before us today? In the last couple of weeks I have had the opportunity to canvass the views of some local officers and most of them think it is madness. Has the QPS undertaken that process and sought that view?

Deputy Commissioner Wheeler: There has been engagement with unions through this and also engagement at the local level. I concede that there will always be police who are unhappy when we go down different paths with different issues. My colleagues are wonderful people, but one thing police hate at times is change. The other thing they hate more is the way things are at the moment. Sometimes we are dealing with difficult circumstances where we have, particularly police who have been around for a little while, police who can be a little bit set in their ways.

In terms of the issue around an approach being seen to be soft or being seen to be not strong enough or not robust enough, what I would say is that this process is tough because it is getting to the underlying issues and the roots of what the problem is. We have canvassed people across the state. I mentioned before that the people I have spoken to, including what I would call hardened detectives from areas that deal with drug offences regularly, see the benefits—not only that therapeutic and health intervention is a better approach but also that they can divert and devote their time to criminals who are supplying, producing and trafficking drugs. I concede that there will be people out there not happy and could well contact local members and the media. We would expect that.

Mr KRAUSE: It seems that some of this discussion is getting a little bit ahead of itself. We presume as parliamentarians that some of these substances have been subject to criminal sanctions and banned in the past for good reason, from a health perspective and from a societal perspective, and this bill is altering that setting. It interesting that Health is not here, because in some of the commentary from the minister—I think in the introductory speech or other comments—it has been referred to that this is about treating this as more of a health issue than a criminal issue, yet we have the police here briefing us. I want to ask about the departmental brief where it sets out the proposed prescribed divertible quantities. I make reference to a dangerous drug which is a drug defined in section 4 of the Drugs Misuse Act at schedule 1 and the quantity being one gram per millilitre. Can you confirm which drugs would subject to schedule 1 of the Drugs Misuse Act? Is it heroin, cocaine, ice and speed?

Deputy Commissioner Wheeler: Yes, that is correct.

Mr KRAUSE: If you go down the page, table 2 has the list of dangerous drugs and the quantities which will be subject to diversion. The first is 4-Bromo-2,5-dimethoxyamphetamine. What is that? Does it have a more common name?

Deputy Commissioner Wheeler: These are versions of amphetamine.

Mr KRAUSE: The quantity for that is 0.02 grams. The list continues: 4-Bromo-2,5-dimethoxyphenethylamine, which could be a similar sort of amphetamine, 0.02 grams; cannabis, 50 grams; fentanyl, 0.0025 grams; ketamine, 0.2 grams; lysergic acid, three tickets or tabs; lysergide, three tickets or tabs; MDMA, four pills or tablets or capsules; phencyclidine; 0.2 grams; psilocin, 0.04 grams; and psilocybin, 0.04 grams. We are moving that into a different category of treatment by police. Are you able to tell the committee here today about the health impacts of each of those drugs, because we are the ones who are reviewing this bill and moving it from more of a criminalisation process where people might be charged with possession to a diversion program? Can you tell us how it is justified from a police perspective and a health perspective? I know they are not being decriminalised, but they are being moved down the order of criminalisation. Can you give us that advice?

Deputy Commissioner Wheeler: You are asking me if I can give you advice on the impact each of these drugs has on the health of a person? Is that the question?

Mr KRAUSE: It is, because from a criminal law perspective it is the ultimate statement from the parliament about what should and should not be done or taken. In the past, the parliament has said that these substances are banned and subject to charging, and now we are not going to say that. I would like to know how we have reached that conclusion and how it is considered. We have heard about it from a criminal perspective, from a policing perspective. What about from a health perspective?

Ms BUSH: Point of order—

CHAIR: Can I say—

Deputy Commissioner Wheeler: If you want me to answer, I am happy to answer it.

CHAIR: I am just saying that I think some of that question is getting pretty close to policy but I will allow you to answer it. If you are happy, I will not stop you.

Deputy Commissioner Wheeler: I am happy to provide a response on behalf of QPS. Clearly I am not a clinician; I do not work for Queensland Health. I do not have a science degree to understand exactly what impact each of those drugs has on a human being. What I do know from three decades in policing is that drugs cause immense harm to the community and immense harm to the individual. I think that goes without saying.

The policy intent here is to try to treat the underlying cause of these drugs. The drug amounts that you have referred to have all been established via professional advice from clinical scientists and also, importantly, operational police who are dealing with this issue every day and, also very importantly, in line with the Penalties and Sentences Act. I cannot tell you the exact effect it has on people individually. What I can say is that drugs do damage to the community and do damage to individual health. I am sorry that I cannot take it any further than that.

Mr KRAUSE: Acting Deputy Commissioner, in response to a question from the member for Currumbin about the amounts and the description of drugs being set out in the regulations rather than the bill you said that was supported by you on the basis that things change over time. Could you expand on that and tell the committee how things might change in relation to the drugs that are listed and the quantities? Is it possible that the quantities might be increased? Could you elaborate on your statement about why it should be in the regulation and not the act itself?

Deputy Commissioner Wheeler: All I can say is that an evaluation may determine that there are amounts that need to be revised or revisited, or alternatively a new drug comes on the scene. We see changes across the world in this environment, unfortunately. Those could be some of the issues around that.

Mr KRAUSE: My point is that they will not come back to this committee if they are in the regulations. It would just be made by a ministerial regulation. I have a couple of other questions. You mentioned that there might be 17,000 people in the system at the moment that this process would apply to. I got that figure from the member for Currumbin and it is in the briefing. Is that people in the court system who are charged with possession at the moment?

Deputy Commissioner Wheeler: No. That would be projections on people who would be eligible.

Insp. Watson: Seventeen thousand is the warning stage.

Deputy Commissioner Wheeler: That is the first tier.

Mr KRAUSE: That is the first stage. Is that based on the number of charges that are made at this point for possession or warnings given at the moment for possession? I assume it is based on actual data.

Insp. Watson: The projection has been done on data that we did through an evaluation period. We have looked at a four-year capture of data and tracked the eligibility across that four years to be able to do the modelling.

Mr KRAUSE: Is that 17,000 over four years?

Insp. Watson: That is the first year—the 17,000 for the warning stage.

Mr KRAUSE: Does that modelling give you any idea of how many people are using these substances subject to the bill who do not come into contact with the police in any way?

Deputy Commissioner Wheeler: Are you asking the number of people out there using drugs in general?

Mr KRAUSE: Yes. You would be able to model how many it might apply to. Does that modelling give you a projection of how many do not come into contact with police but are still using the same substances?

Deputy Commissioner Wheeler: I guess we do not know what we do not know. We know what we know when we encounter people publicly or we execute a search warrant at a private premises. What people are using behind closed doors, where we have no lawful authority or need to interact with them, is an unknown. I think we have some information here based on self-identifying and surveying in certain circumstances about what an estimate might be. From a policing perspective, to give you some certainty around how much of it is going on in the community, that is a really difficult proposition.

Mr KRAUSE: I understand that.

CHAIR: I want to move on, if that is okay. Jason, do you have a question?

Mr HUNT: Thank you very much for coming in. I want to thank you and all the Queensland police for the work you do. You have spoken anecdotally about some of the discussions you have had with police, and I found that feedback to be very useful because it—

CHAIR: Jason—

Mr HUNT: I am getting there, Chair. This is my first and only question and I will take some latitude, thanks.

CHAIR: We are running out of time.

Mr HUNT: I have spoken to police and it is almost like you are citing them directly—talking about how potentially useful some of these changes are, particularly in labour savings so they can get on the front foot to do more proactive policing. My question is directed towards QFES. I still find it quite astonishing that QFES staff get assaulted in the course of their duty. Are you able to drill down into that further and let us know whether these protections are enough and whether there is anything else you would like to see over and above the proposition at the moment?

Ms Houston: You are referring to the amendments in the act that provide a separate assault offence in the FES Act which will not require a warning? Is the question in relation to additional powers? Is that what you are referring to?

Mr HUNT: I was just after how widespread the problem is and whether you think you need anything over and above what is proposed.

Ms Houston: The amendments do not relate to broader widespread issues. However, as the explanatory notes to the bill note, it applies to assaults on persons performing functions under the act. Therefore, a person will be committing an offence if they assault someone who is exercising powers—for example, the powers of a rural fire brigade officer under section 68, an authorised fire officer under section 53 and an authorised rescue officer under chapter 4, division 4 of the act.

Mr HUNT: Are there additional protections that you might like to see?

Ms Houston: That would be a matter that is outside the scope of this bill. It would be a policy decision for government in terms of any additional protections.

CHAIR: Acting Deputy Commissioner, in relation to the Drugs Misuse Act, since I can remember the drugs have always been in the schedule. When you needed to work out anything, you always went to the schedule.

Deputy Commissioner Wheeler: That is correct.

CHAIR: Also, these reforms have been spoken about amongst Queensland police and Queensland Health for a long time. This is not just a recent invention.

Deputy Commissioner Wheeler: No. There is a bit of history here and it goes well back to before 2020. This is not a new approach that we have come up with in the last couple of months. There were different times and different circumstances as to the timing of being able to make sure we get our research right and we engage as best we can. We have engaged with former police commissioners. You will note that former commissioner Jim O'Sullivan, former commissioner Bob Atkinson, former commissioner Ian Stewart and former deputy commissioner and former commissioner of QCS Professor Peter Martin all recently came out publicly and provided their thoughts on this approach. Between them, they have hundreds of years of policing experience. We have also engaged with police at the operational level—and I keep talking about hardened drug squad detectives—to get their views. We know that for this to work police need to embrace it and police need to be on board. I do take the member for Scenic Rim's point with respect to some police not being very happy, but we are a hierarchical organisation with a rank structure and ultimately we have to execute the policies and the laws that are passed by the parliament.

CHAIR: Jon and Laura, I understand you have a question about QFES.

Mr KRAUSE: Laura has a question and I have a question about QFES.

CHAIR: I am conscious of time. If you are happy to keep going, we will keep going, but I am sure the witnesses have other things to do today.

Mrs GERBER: Thanks for your indulgence, Chair. I have one question for the acting deputy commissioner. It is a question my community have posed to me so I want to pose it to you. How do police propose to keep the community safe from serious drug users who fund their habit by committing property crimes if these drug users will now be diverted to a health program rather than taken off the street through a criminal justice response?

Deputy Commissioner Wheeler: Can I give you an example of where a person commits a burglary to steal money to buy drugs. That person does not get the diversionary options. If it is—

Mrs GERBER: Only if they are caught at the time of the burglary, but if they are just caught with the drugs and all the police have is the evidence of a gram of methamphetamine then they would be offered the diversion program.

Deputy Commissioner Wheeler: If there was no nexus to another indictable offence, that is right, but our traditional policing approaches still apply. It is broader than just finding someone in the street with a quantity of divertible drugs. In terms of the issues you are talking about, we absolutely empathise with every victim of crime. Our policing methodology is around high-visibility policing. It is around identifying those who are creating the greatest risk to the community, identifying who they are, locating them, locking them up, if appropriate objecting to their bail and holding them in custody or alternatively putting really strict bail conditions around them.

As you know, I have worked on the Gold Coast for a period of time. The people of Currumbin went through a lot years ago through those times, but it is the same for every community. We have police out there 24/7 keeping the communities safe while we are all in bed asleep. They are doing those patrols. I do not see the nexus—that a person, whether they be young or an adult, with a small quantity of drugs then means they are committing burglary offences and stealing vehicles. It is not automatic. This is not about that. This is about trying to divert them.

Mrs GERBER: That is not what I was trying to imply by the question.

Deputy Commissioner Wheeler: Okay.

Mr KRAUSE: I have a question for Ms Houston or Ms Osborne in relation to the amendments to the Fire and Emergency Services Act. I declare that I am a member of a rural fire brigade and still have my FMS current, I think. I should also say that I have met the individual who was subject to an assault in the Gold Coast area in 2020 which I think is the genesis of this amendment and have heard his story. We welcome the amendment but I want to clarify. This amendment does not deal with broader concerns that have been raised over a number of years now about the legal status of volunteer rural firefighters in terms of their place within QFES?

Ms Houston: No, this amendment specifically deals with the assault offence, creating a separate offence.

Mr KRAUSE: Have those concerns which arose out of a Crown Law opinion in 2011 been dealt with through another process or another legislative amendment?

Ms Houston: They are broader policy decisions for government. They are not part of this amendment.

Mr KRAUSE: I know you did not say it, but I think you are saying that it has not been dealt with. That is the only question I had. We appreciate the amendment in relation to the assault provisions. I note for the record that there are other matters which have been of concern for a number of years.

CHAIR: There being no further questions, there is a question on notice regarding the drug diversion program. It is seeking an outline of how the program currently works in terms of a health response.

Deputy Commissioner Wheeler: So that I understand the question, this is the health component—how it operates?

Mrs GERBER: And the cost.

CHAIR: The next component of the question was the cost of the program. The next component seeks statistics from 2022 including the measures for success.

Deputy Commissioner Wheeler: Can I clarify: is it for the calendar year 2022?

Mrs GERBER: However you calculate it is fine—financial year or calendar year. I just wanted the statistics from the last year in relation to the success of the diversionary programs. To do that, you might need to tell us what the metrics are—how you measure that success.

Deputy Commissioner Wheeler: Sure.

CHAIR: If possible, would you be able to have those responses to the secretariat by 2 pm on Wednesday, 29 March so that we can include the information in our deliberations?

Deputy Commissioner Wheeler: We will meet that deadline.

CHAIR: If there are any issues, communicate directly with the secretariat. I declare this public briefing closed.

The committee adjourned at 12.04 pm.