Speech By

Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

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SERIOUS AND ORGANISED CRIME LEGISLATION AMENDMENT BILL

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (9.15 pm), in reply: I thank all honourable members for their contributions to this debate on the Serious and Organised Crime Legislation Amendment Bill 2016. This bill implements a new organised crime regime for Queensland. It delivers an agile, comprehensive and workable response that tackles all forms of serious and organised crime—not just outlaw motorcycle gangs but also individuals and organised crime groups who sexually exploit children or who are involved in sophisticated financial crimes or who run drug-trafficking syndicates and generate illicit profits.

The cornerstone initiatives of our new organised crime regime—the consorting offence, the public safety protection order scheme, the serious organised crime circumstance of aggravation and the organised crime control orders—will operate together to deliver a comprehensive, targeted and multifaceted regime to target these criminals. The bill delivers a reform package that is both legally robust and operationally strong.

The initiatives have been developed to pass through all stages of the criminal justice system which, as the task force emphasised in its report, is fundamental to truly confronting the threat posed by organised crime in Queensland. The bill is designed to secure actual convictions against these offenders.

The prohibition against the visible wearing or carrying of outlaw motorcycle gang colours in all public places is an additional initiative and extends the current ban beyond merely licensed premises. Queenslanders have the right to walk down the street and to drive on our roads free from the fear and intimidation that these bikie colours instil in ordinary members of our community. This government will not tolerate such fear and intimidation continuing or for it to be felt by everyday Queenslanders.

Importantly, I touch on the point that the member for Dalrymple has raised. This is not about targeting lawful recreational riders who were targeted under the VLAD legislation. We all had constituents coming up and telling us how they were being targeted. We are getting the outlaw motorcycle gang colours off the streets. What we can say to the community is that when they see their local recreational clubs—and I have the Patriots club in my electorate—that they are there as legitimate recreational clubs. The Patriots are retired veterans. The club is there for the enjoyment of members and for them to socially ride and not engage in criminal activity.

Police are provided with extensive powers under the bill to ensure the tough new initiatives can be enforced. However, in framing the provisions, appropriate safeguards and oversight mechanisms have been incorporated so that Queenslanders can be confident that the laws will be applied in a transparent and just manner. A vital distinction between this bill and the 2013 laws is that it maintains the independence of Queensland's judiciary, it respects the doctrine of the separation of powers and the importance of the rule of law and it preserves the right to a fair trial. We believe in and value these important principles and the need to ensure these key elements of an independent judicial system.

I turn now to a few allegations or suggestions made during contributions to the debate. Unsurprisingly, we largely saw the same old lines from those opposite, who are not capable of engaging in a mature, evidence based approach to public policy reform. The shadow minister has blindly criticised these important reforms from day one, claiming some sort of conspiracy theory and 'closed shop' because we actually implemented our election commitment and established a high-level task force. As we all know, the task force had a diverse membership which included key legal stakeholders, law enforcement unions; namely, the Queensland Police Union, the Queensland Police Commissioned Officers' Union of Employees and the Public Interest Monitor.

As to the unfounded claim that the task force's terms of reference were unfairly constrained, do not take my word for it. The report itself confirms this was not so. The recommendations made by the task force are evidence of this. In his introductory chapter, the chair of the task force wrote—

The Terms (of reference) required the Taskforce to consider the repeal and replacement of the 2013 suite (whether by substantial amendment or new legislation) but also, in doing so, to consider whether the provisions of the 2013 suite were effectively facilitating the successful detection, investigation, prevention and deterrence of organised crime.

He went on to say—

The Taskforce took this to mean that it was neither compelled nor constrained in its consideration of the 2013 legislation (ie, if the Taskforce considered that the 2013 suite did not require amendment then the Terms of Reference did not prevent such a recommendation being made).

Indeed, as I have said on numerous occasions, our comprehensive regime incorporates some elements of the 2013 suite, some elements of COA that have been adopted or adapted, as well as new and expanded elements and initiatives. The opposition's criticisms of the task force are a furphy and an insult to the dedicated men and women who served on the task force and dedicated their considerable experience and expertise from a wide variety of criminal justice backgrounds.

I was somewhat bemused that the shadow Attorney tried to draw on the New South Wales Ombudsman report into the consorting offence. Rather than being some revelation, the New South Wales Ombudsman report has been explicitly mentioned by this government, and I quoted the ombudsman's report in my second reading speech. That work of the New South Wales Ombudsman has been used to better target and frame the consorting offences, especially in relation to the threshold offences.

While the shadow Attorney would not admit it, I thank him for effectively confirming that our regime is more effective and targeted than the New South Wales counterpart. Then the shadow Attorney went on to claim that his laws were more effective at targeting OMCG members, despite the fact that, under his legislation, how many OCMG members were convicted? How many OCMG members were convicted under the VLAD legislation? Zero—zero OMCG members. Not a single member of an outlaw motorcycle gang has been convicted under the VLAD Act, and the regime has never been tested at trial.

There seems to be a belief that the reported crime statistics do not reveal the full picture or true extent of outlaw motorcycle gangs' involvement in crime and that other sources such as unreported crime trends and community surveys should be relied upon. The task force gave a careful and detailed examination of these sources. The shadow Attorney also tried to talk up supposed reductions in extortion and, indeed, tried to take the credit for it. This flies in the face of the task force findings. The QPS Annual Statistical Review, from where the statistics relied on by the shadow Attorney are drawn, makes the following comment at page 53—

Extortion is the lowest in volume of the offences against the person categories and, as such, is prone to random variations from month to month. Overall, no statistically significant increasing or decreasing trend was detected over the ten year period.

The shadow Attorney was determined to continue to suggest that, beyond actual evidence, our legislation should be based on their own general perceptions. I guess you call it the 'it's the vibe' argument. The task force addressed the serious and significant limitations on surveys such as this, highlighting that they can provide a 'partial glimpse of public perceptions but … may distort the true views of the community'.

The next argument is somewhat hard to discuss. The member for Everton tried to claim that bikies had in fact left Queensland under the LNP regime. In the course of this debate, the member for Everton said—

There were limited convictions because our laws were about preventing crime from happening, about stopping it, about deterring it. They cannot commit crimes if they are not here, and they were not; they left ... Our laws sent criminals interstate and overseas and the crime rates reduced accordingly.

The task force specifically addressed the issue of outlaw motorcycle gang numbers in Queensland at page 82. The QPS figures showed that in July 2013 there were approximately 920 OMCG members in Queensland. As at February 2015, there were 789. In June 2015, there were 798

OMCG members in Queensland. This data shows that in the period of over two years following the introduction of the 2013 laws OMCG members in Queensland only reduced by 124—this is by all accounts an objectively small reduction, and certainly does not support the contention that OMCGs have moved interstate and left Queensland.

The lack of convictions—in particular of the anti-association and clubhouse offences—is also a lingering risk of the 2013 suite. As articulated by the task force, these legal challenges with the 2013 suite makes successful prosecution of the offences very difficult. In one particular matter examined by the task force, prosecutorial difficulties led to the dismissal of the charge and a $30,000 costs order being made in favour of the defendant.

Those opposite cannot make up their minds when it comes to bikies. They are confusing themselves, and they are trying to confuse Queenslanders. While the member for Everton claims there are no longer any bikies, what have his colleagues said? Let us start with the member for Surfers Paradise. On 12 February, he told the *Gold Coast Bulletin* he was convinced that bikies had never truly left the Gold Coast. The article quotes him as saying—

"I think they are still here," he said.

"The arrests we have had in the last few days with alleged associations with bikie gangs and the drugs with large amounts of cash show that they never left.

The member for Surfers Paradise is completely correct: the task force report found outlaw bikies simply went underground and in some cases handed in their colours or patched over to other clubs. The task force report also found repeatedly that the LNP laws had produced no convictions of outlaw motorcycle gang members under the VLAD Act. The shadow Attorney-General thinks he knows why. On 5 April he told ABC Radio—

... you can only get convictions if you have crime. We don't want convictions, we want no crime. The fact that the laws have been in effect has pushed the bikies away from creating chaos in Queensland.

The member for Surfers Paradise says the bikies never left, the member for Everton says the bikies have all gone away and the shadow Attorney says that the fact that none of the bikies charged were actually convicted means there was no crime! This just makes no sense. We know there was alleged crime because people were charged. What it means is that the 2013 laws are not resulting in actual convictions, ultimately because their laws are flawed.

More confusing for the people of Queensland was the contribution of those opposite referencing the submissions of the Queensland Law Society and the Queensland Council for Civil Liberties. The shadow Attorney is apparently worried about the consorting offence impacting the civil liberties of people who are not engaging in criminal activity, while their own law is specifically based on association alone. Which is it? Impose mandatory sentencing on the association of individuals or criticise the government's regime by calling for more civil liberties? It is the same old LNP—very, very divided and very, very mediocre.

Our regime is based on the activity of individual criminals acting in organised ways. Our consorting offence is based on criminal histories and incorporates important safeguards and oversight mechanisms so blatantly missing from the LNP laws.

We also heard the shadow Attorney, along with his colleagues, promote the very sophisticated argument that the bill is too big! The shadow Attorney carried on about how comprehensive the bill was, saying about my explanatory speech—

... it went carefully through all the provisions of the law—450 pages of them. We heard the Attorney-General go through them, every jot and title, and the first thing that comes to anyone's mind is the excess of complexity, of intricacy, of paperwork and reports that this new legislation brings forward.

I used to be a lawyer. I was not a criminal lawyer, but I know that if my criminal lawyer mates got 450 pages of legislation like this by breakfast, by the time lunchtime came around they would have six High Court challenges ready to go and 21 rolled gold defences to meet these new provisions.

The shadow Attorney must have been in his own world—getting a large piece of legislation and finding challenges by lunchtime? The shadow Attorney must have been confused about what he was talking about. It sounds like the member is having flashbacks to how the 2013 laws were passed. We remember how that happened, don't we? On 15 October 2013 the then government tabled their bills at 2.30 pm and at 2.45 pm the then attorney-general moved to have them declared urgent so they would not go to a committee. The opposition had not been provided briefings on the bills. The urgency motion was passed shortly after 3 pm. The second reading of the bills commenced at 7.41 pm. Debate continued until the early hours of 16 October and was passed at 2.47 am on 16 October 2013.

The hypocrisy of those opposite complaining about time frames and openness of debate knows no bounds. Those opposite introduced and passed legislation overnight. In contrast, we had a commission of inquiry to better understand and target organised crime. We established a high level task

force to draw on the expertise of experts from various sections of the criminal justice system. The task force provided a detailed, comprehensive report—a report that was made public. The government responded to the report with a comprehensive, targeted and effective legislative regime, with that legislation introduced into the House. It went to a parliamentary committee, including public submissions and public hearings, and it is continuing through parliamentary debate.

It speaks volumes about their laziness and lack of capacity to deal with serious issues of public policy for those opposite to claim they cannot deal with a comprehensive piece of legislation. Indeed, the shadow Attorney tried to mock me and mock this legislation as being 'workmanlike' with 'complexity, intricacy, paperwork and reports'. Let me be very clear: when it comes to important issues like public safety and targeting serious and organised crime, I am not afraid of doing the hard work, doing the heavy lifting, the hours of reading and the extended consultation required to deliver a comprehensive and effective regime. Surely the people of Queensland would demand nothing less from the first law officer of this state and from their government. Indeed, surely the people of Queensland demand it of someone presenting themselves as the alternate first law officer and as the alternate government in this parliament. The attitude of those opposite in complaining about the complexity or size of legislation is quite telling. Forget about whether or not a witness to a parliamentary committee hearing did not read the legislation; I am concerned that the shadow ministers did not read the legislation.

Today we heard another argument about how this legislation has progressed. While the member for Coomera complained about not having long enough and that we were ramming the legislation through, the member for Beaudesert wondered why we took so long. It is hard to keep up with the divided members opposite. Apparently the bill does not do anything, but it is too comprehensive; we are ramming it through, but we are not acting quickly enough. Perhaps we are rushing the bill through too slowly. It became very clear tonight—we heard it from one of those opposite who said, 'In government the LNP will bring the VLAD laws back.' They will bring the VLAD laws back. What does that mean? Two years on they have not learnt a thing; they did not listen to the community in 2015 and they are still not listening to the community.

The lack of attention paid by those opposite to the details of this legislation might explain why those opposite have failed to support so many key areas of the new regime. Those opposite did not even support efforts to tackle boiler room fraud—the sophisticated organised crime that can be devastating for Queenslanders. The lack of support for—indeed, the lack of interest in—tackling this sort of crime is particularly disappointing from Gold Coast based members because we know the Gold Coast has been a hub of boiler room fraud and phoenix business structures that can devastate investors and pensioners, often robbing them of their life savings. In their own dissenting report they said there were only two elements with merit: drug trafficking and child exploitation. They did not touch on financial crimes at all despite the devastation they can cause. Those opposite are not supporting the extensive efforts in this legislation to tackle individuals and organised criminals engaged in child exploitation material. It is certainly disappointing to say the least. It is a shame that so much of the contribution from those opposite failed to engage with the actual legislation before the House. They failed to show interest in or support for the very detailed and effective regime that this legislation will provide for Queensland.

We have also heard several members opposite make blanket claims that the 2013 laws have been copied by South Australia and Victoria. That is not correct. Victoria has not implemented laws like the 2013 laws. What they have established is a form of consorting offence. Under their legislation it is called unlawful association, but it operates as a consorting offence, just like what was recommended by the task force and that is provided for in this new regime but with an important exception. The consorting regime in Queensland's new legislation is operationally more robust and simpler to implement.

While South Australia has introduced laws modelled on the 2013 anti-association offence, the clubhouse offence and recruitment offence, South Australia has not enacted a VLAD Act. Again, it is simply not correct to claim that Victoria and South Australia have copied the LNP's 2013 suite of VLAD laws. This is more than just semantics. It goes to the underlying strength of our new regime: that it provides a range of effective and robust measures to tackle organised crime in all its forms.

Unfortunately, we have seen some reporting and deliberate misconstruction by those opposite of the new licensing regime. The 2013 laws imposed disproportionate regulatory burdens and unnecessary restrictions across a range of occupational licensing laws. This government believes it is possible to strike the right balance between the rights of individuals to obtain legitimate, lawful employment and to protect the community. The bill amends a range of occupational licensing laws to address the failings of the 2013 laws. In particular, the bill will substantially enhance procedural fairness and transparency in licensing decisions, which was seriously undermined and compromised by the 2013 laws.

A number of members have expressed concerns about amendments in the bill relating to probity assessments under occupational licensing legislation. The occupational licensing acts affected by the bill will continue to provide for scrutiny and vetting of people wishing to work in regulated occupations or industries. If a person fails to meet the required probity standards, then they will be refused a licence. The approach taken to prevent the infiltration of criminals into particular industries is targeted to the needs of those industries. In addition to retaining a range of restrictions that were in place prior to 2013, the occupational licensing acts will include new provisions, or rely on existing provisions, that place mandatory or discretionary exclusions on anyone who: has been convicted of particular criminal organisation offences, including recruiting; has been convicted of a prescribed offence, with the circumstance of aggravation, under the Penalties and Sentences Act 1992; is subject to a control order or registered corresponding control order; or has contravened a public safety order, restricted premises order or a fortification order under the Peace and Good Behaviour Act 1982. In this way, the new regime is intended to exclude people with a proven history of breaking the law from obtaining licences and other authorities under the relevant occupational licensing acts.

Occupational licensing legislation will still permit chief executives to ask for, and receive, criminal history reports about licence applicants from the police to assist in assessing the suitability of applicants to hold an occupational licence. As recommended by the task force, the bill is designed to remove the requirements introduced in 2013 for chief executives to refer every licence application to the police for an assessment as to whether an applicant is a criminal organisation or an identified participant in a criminal organisation. The task force found that the 2013 requirement for all licence applications to be referred to police for this type of assessment 'requires a deployment of QPS and government resources which is disproportionate to the risk posed by the potential infiltration of organised crime groups to the respective industry and to community safety'.

Turning specifically to liquor licensing, in accordance with the task force recommendations and consistent with other occupational licensing acts, the Liquor Act 1992 will continue to include the application of general fit-and-proper-person and suitable-person tests, which were in place prior to 2013, as part of the licensing decision-making framework. These probity tests provide the Commissioner for Liquor and Gaming with a broad discretion to consider a number of matters when assessing applications, including an applicant's criminal history. The bill will strengthen the probity tests in the Liquor Act by specifically providing that the commissioner may have regard to the new organised crime offences and the terms of control orders. In addition to this, the commissioner will retain the ability to consider other offences when deciding an applicant's suitability and any other matters specific to the approval.

It is the intention of the bill that probity assessments are based on a person's own conduct and actual criminal behaviour. The bill also strengthens the ongoing monitoring of licensees, permittees and approval holders under the Liquor Act to ensure they continue to be fit and proper and suitable to hold a licence or other authority. It does this by amending sections relating to disciplinary or relevant action for licences, permits and other approvals to refer to the new organised crime offences and by clarifying the matters to which the commissioner must have regard in considering whether the holder continues to be a fit and proper or suitable person. Further, I am advised that, under the current provisions enacted in 2013—the VLAD suite of legislation—no persons have been disqualified from holding a licence, permit or other approval under the Liquor Act on the basis of being a criminal organisation or participant in a criminal organisation. Regarding the ID scanning provisions contained in the Liquor Act 1992, the bill amends section 173EQ to clarify the matters that the Commissioner for Liquor and Gaming may have regard to in deciding whether an individual is a suitable person to operate an approved ID scanning system.

There are currently only two approved operators of approved ID scanning systems in Queensland, which demonstrates that this is a very specialised industry. Currently, when examining an application to be an approved operator, the commissioner must consider whether the applicant is a suitable person to operate an approved ID scanning system or, if a corporation, whether each executive officer is a suitable person. There are no particular limits on what the commissioner can look at in determining suitability, although the section does specify that a criminal history report can be obtained in relation to the person. Examples of suitability considerations are also included in the section, and relate to whether the applicant has the skill, knowledge and experience required for operating an approved ID scanning system and whether the applicant demonstrates the ability to comply with statutory obligations relating to privacy. To reiterate, the legislation is clear that the commissioner has a broad discretion to consider a range of matters when determining suitability, including the new criminal organisation offences.

Turning now to tattoo licensing, currently under the Tattoo Parlours Act 2013, the chief executive must decide to refuse a licence if an 'adverse security determination' has been made by the Police Commissioner about an applicant or licensee. Adverse security determinations may be based on

criminal intelligence held by the Police Commissioner. Additionally, neither the applicant, licensee, nor the Office of Fair Trading is provided with the reasons why an adverse security determination is made about a particular applicant or licensee.

The amendments contained in the bill will establish a more transparent process for assessing the probity of tattoo licence applicants and licensees based on a fit and proper person test. The fit and proper person test will focus on a person's own conduct, which is consistent with the task force's recommendations, and more closely align with the approach of other existing occupational licensing frameworks such as the Security Providers Act 1993. In cases where a person is operating a tattoo business on behalf of a corporation, partnership or trust, the chief executive will be able to make enquiries about, and consider, probity matters concerning the directors, partners or trustees. Assessment of a person's suitability for a tattoo licence will include consideration of the person's criminal history and whether it is in the public interest to grant that person a licence. In conclusion, this bill affirms this government's commitment to deliver a considered and effective response to serious and organised crime and to ensure that Queensland is a safe place to live.

I once again thank all honourable members for their contributions during the debate. I have believed in every piece of legislation I have put before the House and each policy reform is important in its own right, but in terms of policy engagement, public submissions and thorough legislation this has been a particularly comprehensive but rewarding process and one that will result in good outcomes for the people of Queensland. I thank those who have been genuinely engaged in this policy reform since last year. That extends to members of the House whose support I appreciate as we have engaged in this detailed and comprehensive reform, and that includes the crossbench members. In particular I thank the committee members, the committee secretariat and the chair, the member for Ferny Grove. I think we can all agree that, in terms of legislative review, the Legal Affairs and Public Safety Committee certainly does its fair share.

Commissioner Michael Byrne QC, the Hon. Alan Wilson QC and the members of the task force all contributed to the public discussion and research in this important policy area. I thank them for dedicating their extensive expertise and experience across the justice system towards this significant policy reform. I would like to again thank the Premier for her strong leadership on this issue and the member for Rockhampton for his work while police minister and for his genuine partnership throughout this process. I thank Minister Ryan for his support, and I look forward to continuing to work together as we move to implement the new regime. I also thank the officials from the Premier's and ministers' departments and the Commissioner of Police, who worked with us throughout this process. I especially want to thank the hard working officials from the Department of Justice and Attorney-General, whose dedication and expert knowledge of the criminal justice system is second to none—thank you so much.

Through this bill we have delivered on our election commitment to the people of Queensland to enshrine a comprehensive organised crime regime that all Queenslanders, including our law enforcement agencies, can have confidence in. This new regime will tackle serious and organised crime in all its forms. It is operationally effective and legally robust, and I commend the bill to the House.