Speech By

Hon. Mark Ryan

MEMBER FOR MORAYFIELD

Record of Proceedings, 15 October 2019

POLICE SERVICE ADMINISTRATION (DISCIPLINE REFORM) AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. MT RYAN (Morayfield—ALP) (Minister for Police and Minister for Corrective Services) (11.51 am): I move—

That the bill be now read a second time.

I start by thanking the Economics and Governance Committee for its detailed examination of the Police Service Administration (Discipline Reform) and Other Legislation Amendment Bill 2019. On 12 April this year, the committee tabled its report about the bill which included only one recommendation; namely, that this bill be passed. I thank the committee for its support of the bill.

I also thank participants in the committee process. In particular, I acknowledge the efforts of then Acting Deputy Commissioner Wright, Assistant Commissioner Cowden, Chief Superintendent Horton and the members of the Queensland Police Service who participated in the public briefing to the committee. At the public briefing the committee heard from Mr Alan MacSporran QC, Chair of the Crime and Corruption Commission, who has made an invaluable contribution to the development of this bill.

Mr MacSporran corresponded with the chair of the Economics and Governance Committee requesting an amendment during consideration in detail to resolve an issue concerning the existing part 7A of the Police Service Administration Act 1990. I am advised that this correspondence was not received by the committee until after the tabling of the committee report. The chair of the committee corresponded with me, asking that I consider the issue and respond during the second reading debate and/or the consideration in detail stage.

I have considered the matters raised by the CCC chair and the views of relevant stakeholders. I am pleased to advise that once again key stakeholders have worked collaboratively in good faith to address the issue raised by the CCC chair. The process to design and implement the new police discipline system through this bill has been an example of how organisations can work together, find common ground and achieve outcomes that are in the best interests of the community and the police. I propose to move amendments to the bill during the consideration in detail stage of the bill. These amendments relate to the Crime and Corruption Act 2001 and the Police Service Administration Act 1990. The proposed amendments will be circulated in my name, and the chair of the CCC will brief relevant members today about these amendments in the same spirit of bipartisanship that has shaped this bill.

Firstly, I will deal with the proposed amendments to the Crime and Corruption Act 2001. Part 7A of the Police Service Administration Act 1990 deals with the making of discipline declarations against former members of the Queensland Police Service in relation to a complaint or grounds for a complaint that arose prior to those officers leaving the employment of the Queensland Police Service. This part was not contemplated in the drafting of the bill.

The making of a disciplinary declaration against a former officer under part 7A commences upon the Queensland Police Service forming the view that an allegation against a former officer is of sufficient seriousness to warrant the making of a disciplinary declaration. The chair of the Crime and Corruption Commission expressed concerns that the existing part 7A does not allow the Crime and Corruption Commission to review a Queensland Police Service decision not to commence the process to determine whether a disciplinary declaration should be made.

I have been advised by both the Queensland Police Service and the Crime and Corruption Commission that this issue has not arisen to the knowledge of any of the relevant parties prior to, or since, the examination of the bill by the committee. Regardless of the fact that any disagreement between the QPS and the CCC about whether part 7A proceedings should commence would be infrequent, this bill provides an opportunity to resolve the issue and futureproof the new police discipline system. The amendments that I propose to move are similar in effect and in line with other provisions already contained in the bill.

The bill implements recommendation 15 of the Parliamentary Crime and Corruption Committee report No. 97 titled *Review of the Crime and Corruption Commission* tabled 30 June 2016 by providing the CCC with an ability to apply for QCAT review of a Queensland Police Service decision not to commence disciplinary proceedings under part 7 of the Police Service Administration Act 1990. The proposed amendment will ensure that the Queensland Police Service decision-making processes for both former and current officers are able to be reviewed before QCAT and enhance the oversight ability of the CCC.

The procedural requirements introduced by the amendments for review of such decisions is consistent with the approach being taken in the bill to implement recommendation 15 of the PCCC report I referred to earlier. The amendments will ensure that the Queensland Police Service provides advice to the CCC of a decision under part 7A not to issue a notice to commence the formal disciplinary declaration process. After this advice is received the CCC will have 28 days to determine whether they will review the matter in QCAT or not. If the CCC determines it is appropriate to apply for review of the decision, the CCC must provide notice of the application for review to both the Queensland Police Service and the relevant former officer. The Queensland Police Service will automatically be a party to the QCAT review, and if the former officer so elects they will also become a party to the proceeding.

QCAT will be able to either uphold or set aside the original decision of the Queensland Police Service not to issue a notice to the former officer commencing the disciplinary declaration process. If QCAT upholds the CCC review and sets aside the Queensland Police Service decision, the matter must be returned to the Queensland Police Service with a direction to issue the required notice within six months under section 7A.3 to commence the disciplinary declaration process. By moving these amendments to the bill this government has quickly responded to concerns raised by the CCC chair. Again, it must be noted that stakeholders have worked hard to ensure a workable solution was designed to overcome this identified issue and provide consistencies with the other clauses of the bill.

I will now address the second amendment, being an amendment to the definition of 'relevant criminal proceeding' contained in clause 9 of the bill, specifically in draft section 7.12(4) 'When disciplinary proceedings must be started'. Proposed section 7.12 sets out the time frames in which disciplinary proceedings must ordinarily be started. Normally, this will be within one year from the date the ground for disciplinary action arises or six months from the date the Queensland Police Service or the CCC receives the complaint, whichever is the later. However, the bill provided that if a relevant criminal proceeding is commenced against a person, any discipline proceeding is delayed and must be commenced within six months of the criminal proceedings being finally dealt with.

The ongoing trial of the new police discipline system highlighted that, in order to achieve a fair and more efficient outcome for officers and people who make complaints about police conduct, the definition of 'relevant criminal proceeding' should be restricted slightly. The proposed amendment limits the definition of 'relevant criminal proceeding' in subparagraph 4 from 'a person' to criminal proceedings brought against a subject officer or another member of the service or a former officer. The proposed amendment will ensure that the investigation and any disciplinary proceeding must be commenced within the ordinary time frames provided in section 7.12 unless an officer, other member of the service or former officer is the person charged with a criminal offence.

This ensures a more timely resolution of matters for subject officers and also ensures that, in matters where the police have charged a person with a criminal offence and that person makes a complaint against the police officers involved, such complaint must be investigated and dealt with within the ordinary time frames. This proposed amendment has the support of the Queensland Police Service, the CCC and both unions representing our police officers. It is also relevant to note that the proposed amendment will closely align with a recommendation made by the Bar Association of Queensland in its submission to the committee.

I return to the major aspects of the bill. To give this bill its proper context, I will comment on its origins. In 2016, Mr MacSporran facilitated a bipartisan meeting of relevant stakeholders, including members from the government and opposition, the Queensland Police Service and both police unions to start the process of reforming the police discipline system. This process was bipartisan throughout its entire course. Through the cooperation of these stakeholders, a memorandum of understanding that reflects the principles that underlie the reforms in this bill was formed. While this bill was being developed and drafted, stakeholders were continually consulted and had the opportunity to provide input. I am pleased to say that the spirit of the memorandum of understanding is enlivened by this bill.

It is also worth noting that this bill was introduced and examined by this House 30 years after the landmark Fitzgerald report was delivered. This bill represents the most significant change that has occurred internally to the Police Service in the intervening 30 years. It is also a reflection of the maturing of the Queensland Police Service and the Crime and Corruption Commission during that period. The need for reform of the police discipline system is obvious from the fact that it has been virtually unchanged since it was implemented as a response to the Fitzgerald report. A period of 30 years without change or modernisation is a long time in any organisation.

Mr MacSporran has commented that this bill is a highly relevant piece of work that will ultimately completely reform the flawed system that we have had in the past and that it will address issues, such as timeliness, fairness and consistency, that have dogged the police discipline system for decades. I consider Mr MacSporran, as the chair of the Crime and Corruption Commission, to be in a unique position to judge the value of these amendments. As his organisation provides oversight of both the police and the public sector, he has provided invaluable insight into the improvements that should be made to the practices and processes of our police discipline system. Accordingly, his comments and his support of the bill should be given much weight. Mr MacSporran acknowledged the cost to the community of training our police officers and provided context around an important facet of the police discipline system proposed by this bill when he stated—

> Fundamentally relevant to its reform process is the notion that the investment in the training and equipping of a police officer is a significant investment for taxpayers, that if the conduct is not so serious as to warrant dismissal from the service every attempt should be made and will be made under these proposals to correct bad behaviour, to have the officer gain some insight and to become once more a valuable member of the service. If you can save them they should be saved, if the conduct is so serious that they fundamentally undermine confidence in the service they should be weeded out and for that purpose some of the sanctions will be ultimately more serious than those in the past.

This bill moves our police discipline system from a model that only imposed punitive measures to a model that corrects, instructs and enhances officer behaviour. This change not only improves the performance of affected individual officers but benefits the Queensland Police Service and the broader community. This improvement is one of many that will enhance the practices and processes of the proposed police discipline system.

Another important initiative is the abbreviated disciplinary proceedings, the ADP. Rather than always conducting full disciplinary hearing proceedings, the ADP process allows a prescribed officer, with the approval of the CCC, to invite a subject officer to quickly and efficiently resolve a matter. The ADP process is not a light-touch option. The ADP process is not limited to low-level complaints, as it may be used in serious complaints where the circumstances are known and the subject officer admits to his or her offending conduct, and the discipline sanction that can be imposed can be severe. Further, any disciplinary sanction may be imposed at the conclusion of the ADP process.

However, simply focusing on the disciplinary sanctions that may be imposed through the ADP process causes an important aspect of this process to be overlooked. The ADP process can only work with the cooperation and participation of the subject officer with the prescribed officer. This leads to the subject officer gaining insight into his or her own behaviour, learning from his or her mistakes and maximising his or her ability to return to appropriate behaviour.

As testament to the confidence in the ADP process, since last year a trial has been conducted that illustrates the potential benefits of the ADP process. As of 1 October this year, 78 subject officers were offered ADP. Of those, 48 accepted ADP and their matters have been finalised, 12 were still active, and in 18 instances the ADP process was considered inappropriate due to a lack of agreement between the parties. Although it is difficult to quantify the efficiencies gained by this trial, the ADP process resolved more than 50 per cent of complaints before it without requiring a full disciplinary hearing and no appeals were necessary. It is evident, on the face of it, that the ADP process dramatically streamlines the police discipline system and enhances efficiencies. The trial has been successful, with representatives from both the Queensland Police Service and the CCC praising the ADP process and emphasising its value.

Mr MacSporran, in his comments before the Economics and Governance Committee, highlighted that the independence of stakeholders is a fundamental component of the police discipline system. He emphasised that the CCC jealously guards its independence in this process. Similarly, then Acting

Deputy Commissioner Wright commented that the State Discipline Office, under his command, is independent of the Ethical Standards Command. This independence is important. It ensures integrity and accountability within the police discipline system and promotes confidence in the system by subject officers and the community alike. To assist in maintaining this independence, the bill establishes a police discipline system that is balanced and fair by ensuring decisions may be appropriately reviewed by the CCC and QCAT. We are fortunate in this state to have a professional police service in which we place our trust to protect our community.

I reinforce my earlier comments on this point—the overwhelming majority of police officers perform an incredibly difficult job with honesty and integrity. These police officers have earned our respect, but this respect has to be guarded with eternal vigilance to ensure a police discipline system that is robust, effective and fair and one that ensures community confidence in the Queensland Police Service can be met and maintained. I believe this bill achieves this objective and is a testament to what can be achieved through stakeholder cooperation and collaboration. I commend the bill to the House.