Speech By

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MEMBER FOR MACALISTER

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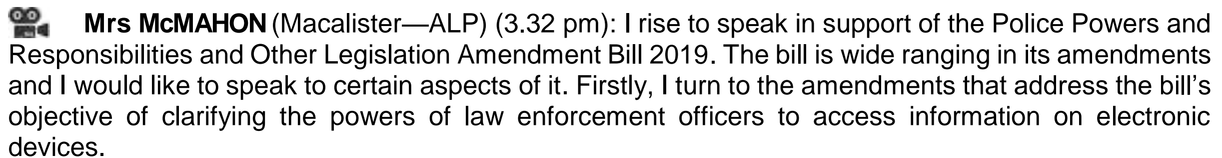
POLICE POWERS AND RESPONSIBILITIES AND OTHER LEGISLATION AMENDMENT BILL



Mrs McMAHON (Macalister—ALP) (3.32 pm): I rise to speak in support of the Police Powers and Responsibilities and Other Legislation Amendment Bill 2019. The bill is wide ranging in its amendments and I would like to speak to certain aspects of it. Firstly, I turn to the amendments that address the bill's objective of clarifying the powers of law enforcement officers to access information on electronic devices.

As the methods and means of committing many and varied offences continue to evolve, we must equip our police with the powers to investigate those developing offences. In the introductory speech, the minister said that child sex offenders, drug dealers and perpetrators of other serious crimes can conceal evidence on devices such as mobile phones. Currently, police have the power, through means of a search or crime scene warrant, to access a storage device such as a mobile phone. However, when tested it was found that that power was limited to information contained directly on the phone. The power did not provide the requirement for the owner to provide further access to applications on the device in which evidence may be found. In effect, as part of the warrant police could require the offender to provide the PIN to access the phone but could not then require the owner to provide the passwords to email or social media apps in which photos or other files containing evidence may be stored.

This amendment bill seeks to clarify the terms and provides definitions in the PPRA for the terms 'digital device', 'access information' and 'device information'. I can assure Queenslanders that this is not an extension of police powers but rather a clarification of the original legislation to ensure that it works as intended. Police officers still need to make an application for a search warrant and are required to provide information or evidence to support the reasonable suspicion of the commission of an offence or a crime scene threshold offence respectively in order to utilise these access information orders.

The definitions will apply to other pieces of legislation, including the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 and the Crime and Corruption Act 2001. The application under the child protection legislation applies if an authorised police officer suspects on reasonable grounds that a reportable offender has committed an indictable offence against the act, such as an offence under section 51A, 'Failing to comply with offender prohibition order'. The police officer may require the reportable offender to give access to information on the device or accessible through the device.

An example of when police may use this section could arise when a reportable offender is required to report to police the social media that they are using and police subsequently acquire intelligence that the offender is engaging with children on a social media application that has not been declared to police. This particular section means that police will have the power to require the offender to provide access to the device in their possession and passwords to the social media applications in question. The provisions extend to the Crime and Corruption Act 2001 whereby commissioned officers at the CCC are able to access information on those social media apps relevant to offences that they are investigating, for example, major crime or corruption in the public sector.

There are a range of amendments in this bill that others have already spoken to, but it would be remiss of me not to mention the changes to the provisions of the Domestic and Family Violence Prevention Act 2012. I was heavily involved in the rollout of the most recent large sweeping changes to the Domestic and Family Violence Protection Act which commenced in 2017. One of my roles was to assist in the development and rollout of statewide training for police officers on the new provisions, which included the information sharing provisions and the streamlining of police protection notices or PPNs. The first of those amendments is around the information sharing provisions.

Part 5A was an important shift in the approach that this government took to dealing with the scourge of domestic and family violence. It recognised that, while this act predominantly provides police and court systems with guidance and powers in relation to domestic and family violence, it requires a whole-of-government approach. The case management approach supports the high-risk teams that are now located throughout Queensland. The provision allows for government departments to share information where it is in the interests of the safety of the victims and their families.

The original legislation failed to capture the role of our non-uniformed staff—our unsworn staff and our administration and staff officers. That is right: it may come as a surprise to those opposite, but in the Police Service we do have public servants delivering frontline services. However, the original legislation only referred to the role of police officers in sharing information, not staff. This amendment seeks to expand that information sharing provision to our non-sworn staff who work side by side with other government departments to case manage our most vulnerable clients.

The other amendment I wish to speak to relates to the additional search powers granted when police give a direction under section 134A of the Domestic and Family Violence Prevention Act. I am going to assume that most members are unfamiliar with the functions of section 134A of the Domestic and Family Violence Prevention Act, so strap in and let me enlighten you.

Section 134A operates when a police officer reasonably suspects a person is named as a respondent on a DV application or a DV order, or needs to be issued with a PPN. Those documents and the protections that come with them are not enlivened until they have been served on and explained to a respondent. Ensuring that they are served and that that service is documented is an important step in protecting victims. An option under section 134A is for police to give a respondent a direction to move to another place and remain there. Those other places include a police station, courthouse or premises of an organisation that provides a community service.

Basically, the purpose is to allow for the service of the relevant domestic violence document. The reason for the direction to move to another place for the purpose of service is to remove the respondent and police from a high-risk environment. For police to manage a domestic violence incident and attempt to complete and serve all relevant paperwork at the scene can represent a high risk, not only to police officers but also to the aggrieved and the respondent.

In order to avoid that high-risk environment, it is a reasonable solution to move the respondent away from the scene to complete that paperwork. This allows the respondents to cool off and the aggrieved to make any necessary arrangements out of the eye of the respondent. In almost every case, the place that the respondent will be directed to move to is a nearby police station and they will be driven there by police.

The last amendment bill was unclear on the search powers of police whilst the respondent was under the direction of a section 134A direction. This posed a safety risk to officers transporting respondents. In all other instances whereby a perpetrator of any number of offences is in custody, technical or otherwise, police retain a search provision. This is done as a risk mitigation factor not only for the person in custody but also for police. The purpose of this search is to locate items in the person's possession that may be used to cause harm to themselves or another person. This amendment is designed to enhance the safety of our officers as they go about their duties in the high-risk environment that responding to domestic and family violence incidents create. I commend the bill to the House.