Speech By

Daniel Purdie

MEMBER FOR NINDERRY

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EVIDENCE AND OTHER LEGISLATION AMENDMENT BILL

Mr PURDIE (Ninderry—LNP) (4.43 pm): I too want to acknowledge the contribution from the member for Cooper and thank her for her bravery in sharing those personal stories not just with us here in the House but for anyone who might be watching or for anyone who might read *Hansard*. It takes a lot of emotional energy to tell a story like that. From someone who has not lived that experience but has witnessed it closely, I appreciate her doing so.

I rise to make a contribution to the Evidence and Other Legislation Amendment Bill 2021, which was introduced to parliament and referred to the Legal Affairs and Safety Committee on 16 November 2021. The main three objectives of the bill are: to establish a statutory framework that allows protection against the disclosure of the identity of journalists' confidential informants, known as 'shield laws'; to introduce a legislative framework to support a pilot enabling videorecorded statements taken by trained police officers to be used as an adult victim's evidence-in-chief in domestic and family violence related criminal proceedings; and to provide a specific process for the viewing and examination of the body of a deceased person in a criminal proceeding to implement the Queensland government's response to recommendation 2 in the findings of the inquest into the disappearance and death of Daniel Morcombe.

The committee invited stakeholders and subscribers to make written submissions on the bill. Five submissions were received. The committee also held a public hearing on 1 February 2022. The explanatory notes advise that consultation on the shield law aspects of the bill were guided by feedback on the discussion paper entitled *Shielding confidential sources: balancing the public's right to know and the court's need to know*. Feedback was received via online surveys and written submissions from a range of stakeholders including media organisations, legal stakeholders, academics and individual community members.

The consultation report indicates that the majority of stakeholders supported the introduction of shield laws in Queensland. The proposed laws establish that a journalist can make the claim for protection in court and it is up to the court to grant that interest or decide if the public interest outweighs the claim, in which case the journalist can be compelled to reveal their source by the court.

The controversial element of the proposed shield laws is that they do not extend to the Crime and Corruption Commission which flies in the face of the 94 per cent of survey respondents and 56 per cent of submitters who supported the extension to the CCC. The Bar Association of Queensland submitted that 'an investigation into alleged corruption may stem from a whistle-blower' and that, as such, 'the same shield laws should apply in matters before the Crime and Corruption Commission'.

QCCL stated that the CCC 'has enormous powers' and that 'those powers should be subject to more supervision, not the other way around'. They also said that 'a journalist should not be frightened of dealing with issues' that the CCC 'might be involved in and therefore threatened with the prospect of it being able to override an immunity which other bodies'—other courts of law—'may not be able to'.

Australia's Right to Know coalition of media organisations considered the exemption of the CCC from the application of this bill as 'nonsensical'. There is little to no reason not to extend it. A court can still overrule the privilege and it will mean they need to prove on the balance of probabilities that the

public interest outweighs any likely adverse effect. The CCC must be a body that the public trust and that it has the full ability and independence to thoroughly investigate matters that are brought before it. The extension to the shield laws to the CCC will ensure informants are protected where appropriate and encourage more to come forward.

The next part of the bill introduces a legislative framework to support a pilot enabling videorecorded statements taken by appropriately trained police officers to be used as an adult victim's evidence-in-chief in domestic and family violence related criminal proceedings. These amendments to allow videorecorded evidence are intended to reduce the trauma for domestic and family violence victims—and never has there been a more pertinent time for this trial to occur. Allowing videorecorded evidence is a significant change that will assist many in reporting crime, particularly victim survivors of domestic and family violence. The trauma for a victim to retell their story can be extensive, and we need to do everything we can to make the process of reporting abuse easier.

The proposed trial is a result of the 2015 *Not now, not ever* report, which recommended that the Attorney-General implements 'alternative evidence procedures for victims of domestic and family violence providing evidence in related criminal matters to reduce the trauma of this experience'. Footage will only be recorded by trained police officers—most likely on their body worn cameras—with a complainant's 'informed consent'. While the police minister is here I might go off script a little bit and talk about that training.

Mr Healy: Woo hoo!

Mr PURDIE: Mate, it is all good. I listened intently to the Attorney-General's contribution in her second reading speech. I think she indicated there might be some amendments around police training to give clarity around it and how important it is. Currently 93A statements are taken by qualified police officers predominantly in the child abuse sphere where they do the one-week ICARE training, which is the interviewing children and recording evidence model, which I commend and applaud.

There are some prickles with obtaining statements like that. We heard our shadow Attorney-General talk about the training an experienced and educated prosecutor has in leading a witness through their evidence-in-chief which they can do in court. Often with the luxury of pre-trial briefings and meeting with the witness, they can do that. A police officer taking an ICARE interview cannot lead a witness through their evidence. They have to ask open-ended questions. They cannot lead the witness in any way. In a recent court decision which is now case law, for a strangulation offence the prosecution no longer has to prove that the victim was choked.

Mr Ryan: They lost their breath.

Mr PURDIE: That is exactly right—that their breath was impacted.

Mr Ryan: Good court decision. It was appealed.

Mr PURDIE: I appreciate that. In a 93A statement, as the minister rightly knows, the police cannot lead that evidence. If the police take this evidence on a body worn camera they cannot lead that evidence. The victim might at that time talk about the physical act of being choked. The police officer can encourage the person and ask, 'What happened then? How did that make you feel?' If the victim does not actively volunteer that her breathing was impacted, that essentially does not meet the element of the offence of strangulation. I have not seen any recent stats on that, but I know that when you look at a DV homicide—which unfortunately I did a few times—that was often a precursor. When you looked back through the offender's history, it was often a precursor that they had a strangulation offence.

We have to make sure that in relation to 93A statements officers are appropriately trained. I am concerned about eliciting that information. A trained prosecutor, as the member for Clayfield pointed out, could lead that evidence through a witness in evidence-in-chief, but police might not be able to get in a 93A statement.

I also want to raise another matter. Maybe the Attorney-General can address this later. I may have missed the point. I know from my experience and colleagues who are still working in this space that the Justices Act in relation to 110A and 110B is often the biggest hurdle about getting recorded versions before the court. It states that the Magistrates Court will not accept a statement that is not signed in accordance with the Justices Act. In a recent ruling from Southport, apparently a magistrate excluded videorecorded evidence because it could not be tendered because it was not signed in accordance with section 110 of the Justices Act. I know this does make some amendments to the Justices Act. I do not think that has been amended. I could go on about that, but the minister has acknowledged that he is aware of these issues.

I want to make sure the training is adequate. There is a lot of police training now because police need to be upskilled. There has been a lot of mission creep over the years, and now police need to be everything to everybody. A lot of the training is CAPs books they do online. Often police do that on their own time—they stay back to do it—and you are under the pump. I spoke to someone the other day and

he has 13 outstanding CAPs books he needs to do. We need to make sure this ICARE model or these 93A amendments, which we support, is not fast-tracked because we do not want victims having to go to court, eventually being led through their evidence-in-chief where they might then give evidence that their breathing has been impacted, but because that was not elicited in the ICARE interview, or whatever it would be called, that could be a benefit to the defendant. There are some things we need to clarify.

There are other amendments in the bill. We heard the member for Cooper talk about amendments in relation to the coronial report for Daniel Morcombe, and I certainly cannot add anything better or more clearly than the member for Cooper did.