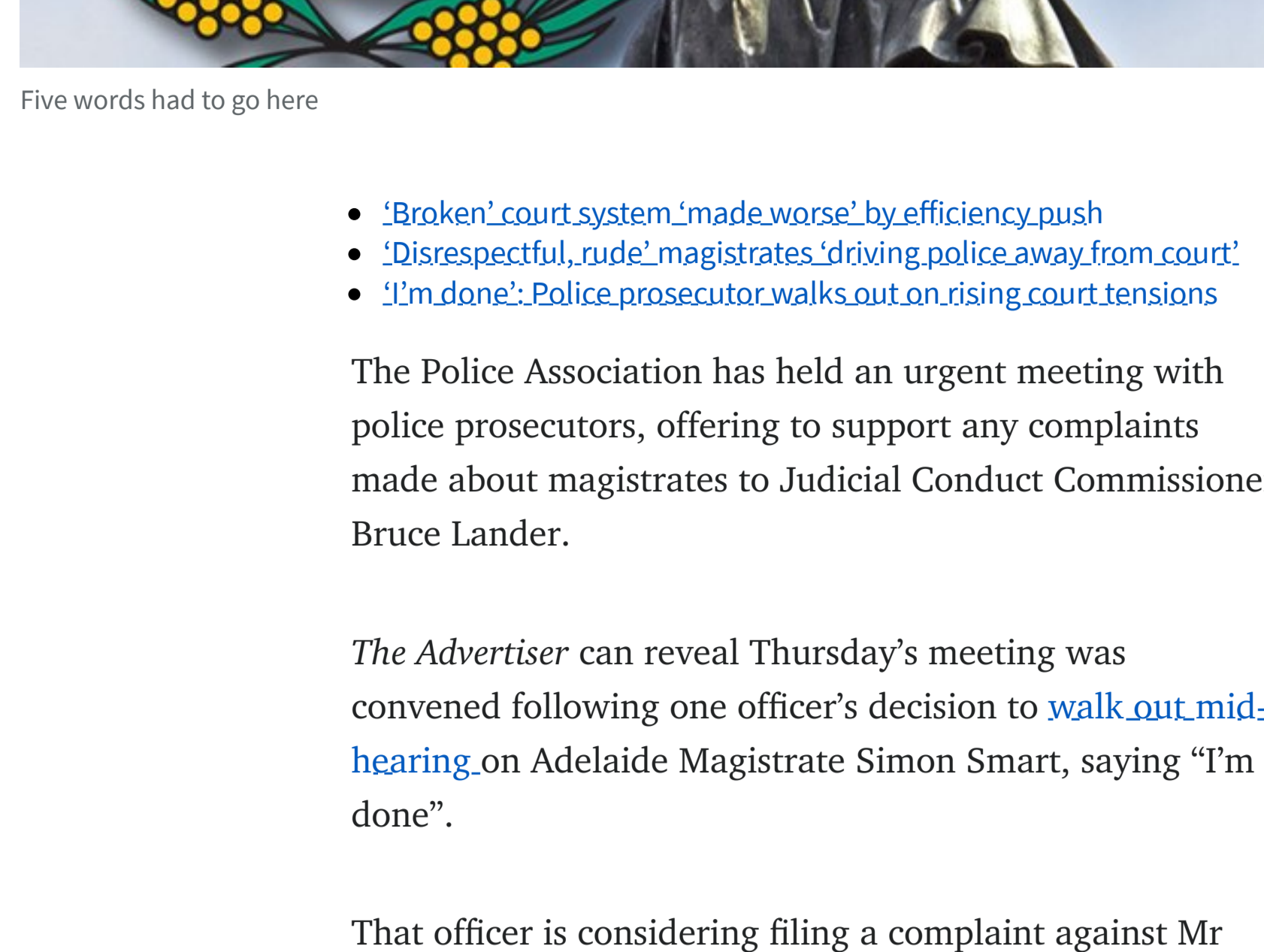


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# Police Association of SA meeting with prosecutors over tensions with magistrates caused by efficiency laws

The Police Association has held an urgent meeting with police prosecutors, offering to support any complaints made about magistrates to the state's Judicial Conduct Commissioner – following an officer's mid-hearing walkout.

**Sean Fewster** Chief Court Reporter  
 December 13, 2018 - 1:03PM [The Advertiser](#)



Five words had to go here

- 'Broken' court system 'made worse' by efficiency push
- 'Disrespectful, rude' magistrates 'driving police away from court'
- 'I'm done': Police prosecutor walks out on rising court tensions

The Police Association has held an urgent meeting with police prosecutors, offering to support any complaints made about magistrates to Judicial Conduct Commissioner Bruce Lander.

*The Advertiser* can reveal Thursday's meeting was convened following one officer's decision to [walk out mid-hearing](#) on Adelaide Magistrate Simon Smart, saying "I'm done".

That officer is considering filing a complaint against Mr Smart, claiming a courtroom culture in which bullying and intimidation could occur.

Association president Mark Carroll said that officer may not act alone.



Police Association of SA president Mark Carroll. Picture: Sam Rosewarne | Adelaide Magistrate Simon Smart. Picture: 7 News

"There is a great depth of feeling among police prosecutors about this issue," he said.

"We will be discussing today whether to escalate the matters to the Judicial Conduct Commissioner.

"Any prosecutors in favour of that path will have the full support of the Association."

However, top barrister David Edwardson QC has spoken out in support of magistrates, insisting they are expressing "frustration" about "broken" court efficiency measures.

He has called on the State Government to end the "bloody chaos" of the major indictable charges reform scheme, authored by former Attorney-General John Rau SC.

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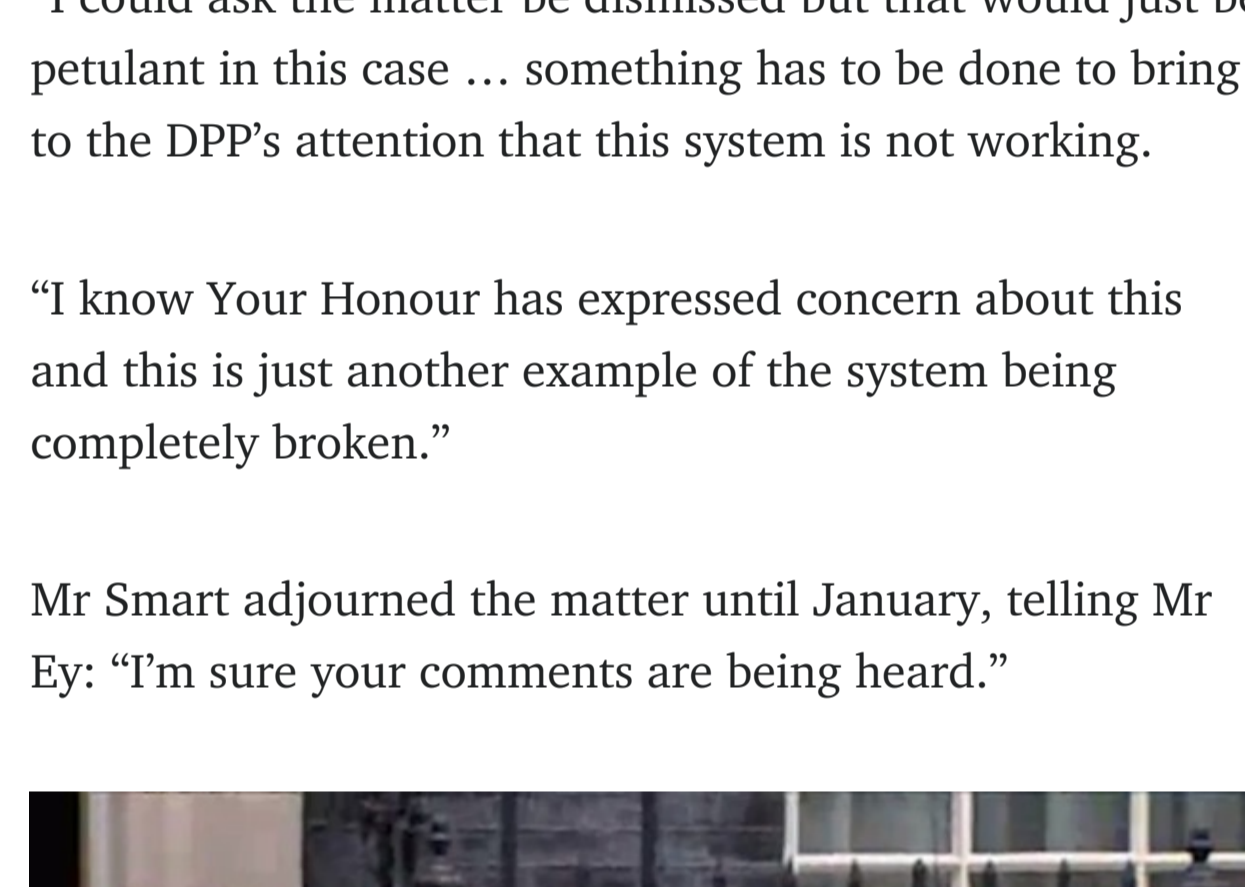
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Mr Edwardson said complaints about magistrates are "misconceived" and should be directed toward politicians who can repeal the scheme.

"It's not bullying, it's frustration – this whole thing is a symptom of an unfair piece of legislation," he said.

"This frustration is happening every day in our courts as police are sent down, like lambs to slaughter, because of this legislation.

"The finger should be pointed at the previous government for creating this bloody chaos and, quite frankly, this legislation should be repealed."



Valdman's cartoon from *The Advertiser* on Thursday.

The efficiency measures [came into effect in March](#) and, immediately, a [rape case was adjourned for 14 months](#) and a drug case for 18 months.

That rape case [was called on early and sent to trial on Thursday](#) – at the request of the accused.

By November, there had been numerous clashes between magistrates, police prosecutors and DPP staff over requests for adjournments, often to obtain forensic evidence.

Magistrates began [dismissing cases when prosecutors missed legislated deadlines](#), prompting the Police Association [to complain of "rude and dismissive" attitudes](#) towards officers.

In court today, another case was adjourned until 2019 because the DPP had refused to accept a brief of evidence provided by police prosecutors.

The court heard the DPP had rejected the brief because the laws required them to be filed within four weeks of a court date – and it arrived in four weeks and two days.

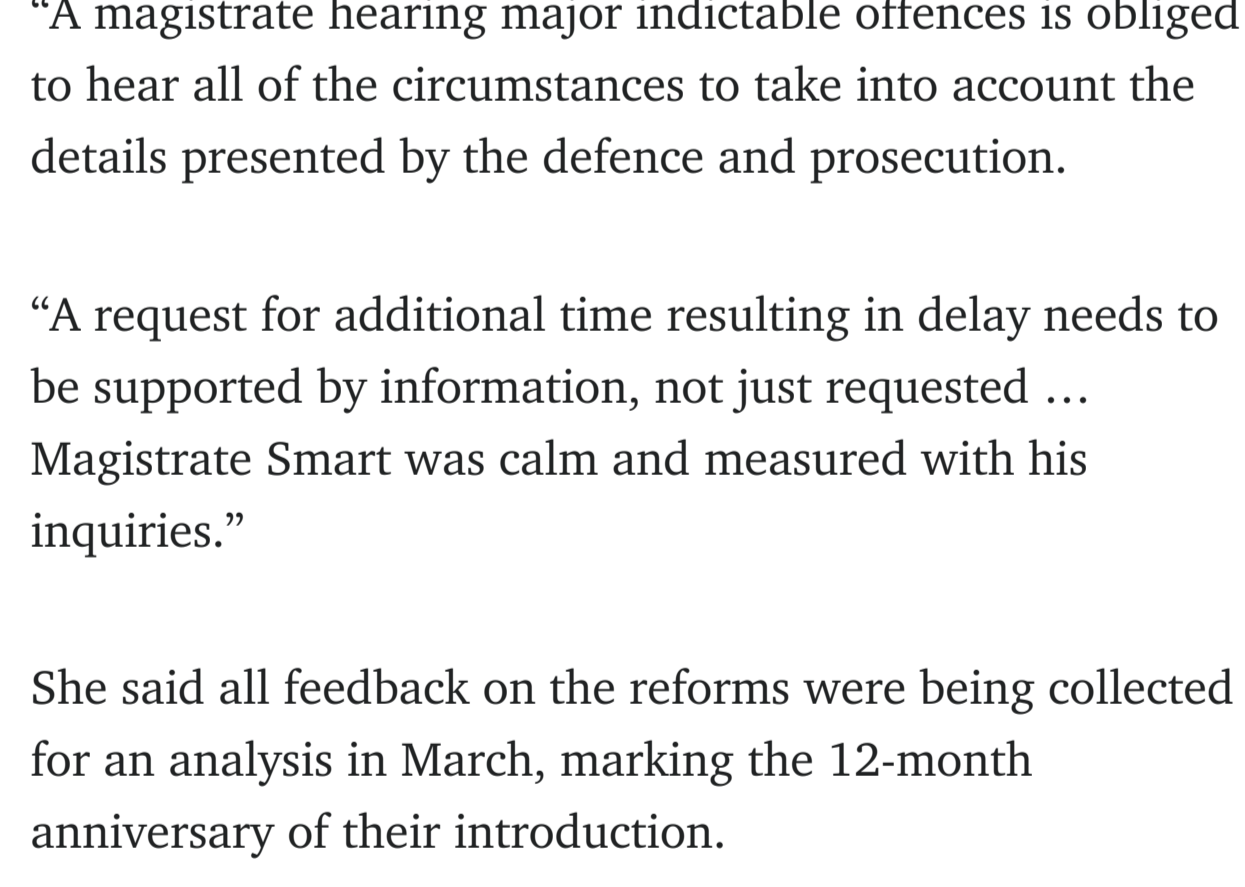
Stephen Ey, for the accused, told Mr Smart he found that "incredulous".

"This is just a licence for laziness," he said.

"I could ask the matter be dismissed but that would just be petulant in this case ... something has to be done to bring to the DPP's attention that this system is not working.

"I know Your Honour has expressed concern about this and this is just another example of the system being completely broken."

Mr Smart adjourned the matter until January, telling Mr Ey: "I'm sure your comments are being heard."



Adelaide Lunchtime Newsbyte: December 13

Outside court, Mr Edwardson said delaying matters for up to 18 months was "absolutely ludicrous".

"Magistrates have been put in the impossible position of having to oversee investigations – that's not their job, it's not their responsibility," he said.

"You've now got this massive feud between competing interests and the inevitable consequence is charges that should never have been dismissed being issued.

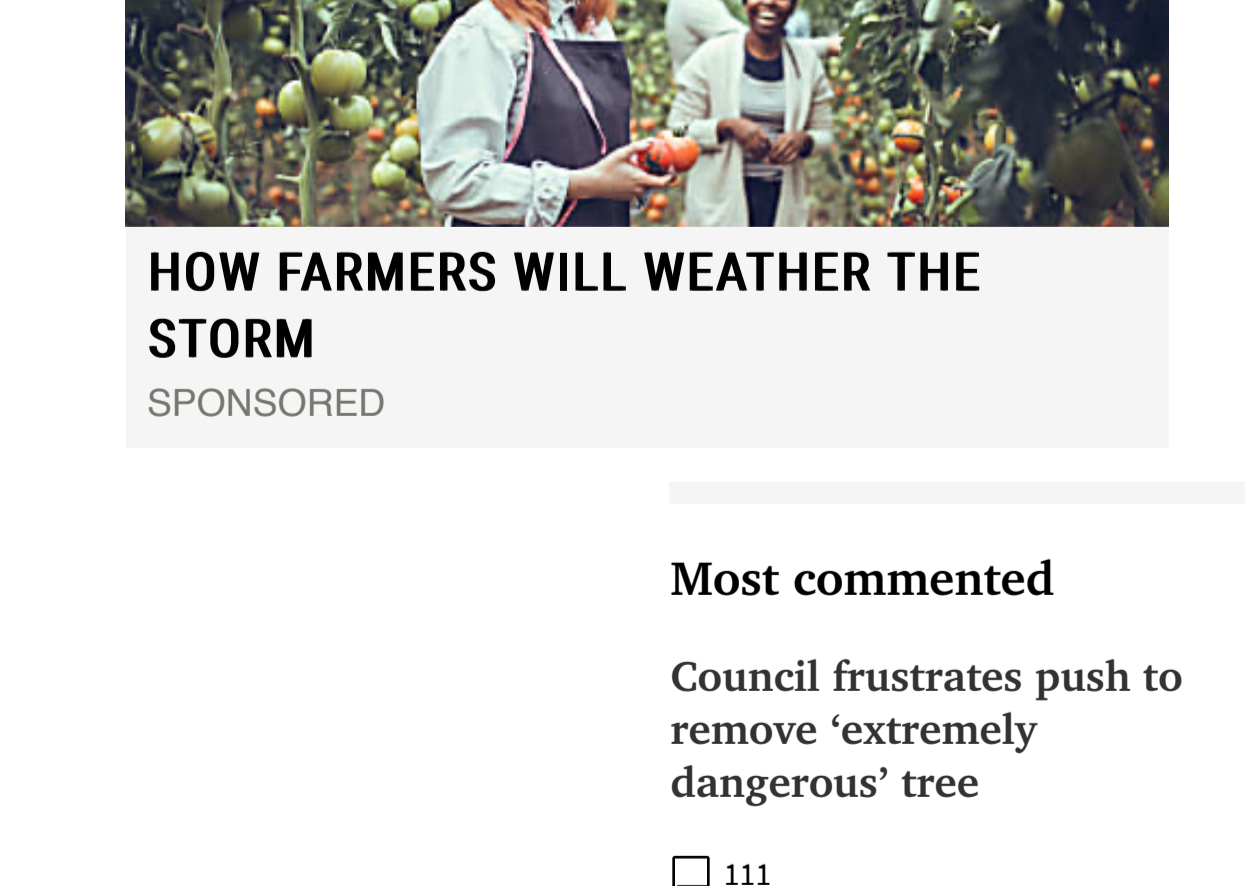
"This should never have been happening."

Mr Carroll agreed but said police should not have to bear the brunt of that frustration.

"There are many complex issues that need to be addressed ... delays from agencies such as Forensic Science SA, for example, are not within the control of police prosecutors," he said.

"Magistrates should be expressing their displeasure at the new efficiency laws, not at the police prosecutors and investigators that are diligently trying to gather evidence within the current framework."

He said any change to the system "will need to be accompanied by a substantial commitment to resourcing".



Barrister David Edwardson QC says magistrates are frustrated, not bullies. Picture: Bianca De Marchi.

The state's Chief Magistrate, Judge Mary-Louise Hribal, said she had reviewed an audio recording of the exchange between Mr Smart and the prosecutor.

"I consider Magistrate Simon Smart's handling of the matter was appropriate and proper – this is how our adversarial justice system works," she said.

"A magistrate hearing major indictable offences is obliged to hear all of the circumstances to take into account the details presented by the defence and prosecution.

"A request for additional time resulting in delay needs to be supported by information, not just requested ... Magistrate Smart was calm and measured with his inquiries."

She said all feedback on the reforms were being collected for an analysis in March, marking the 12-month anniversary of their introduction.

"It is understandable that a new legislative scheme is often challenging for everyone involved," she said.

"We will continue to consult with all parties, including the DPP, police and defence."

Attorney-General Vickie Chapman emphasised the importance of the anniversary review.

"Any quick fix or repeal of this legislation would only leave us in the position we were before, which saw massive delays within our justice system," she said.

"The previous system was not working – to simply return to that system is a knee-jerk reaction.

"Repealing legislation without due consideration or making policy on the run will only hinder our justice system more."

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