

SUPPLY BILL 2013

Second Reading

Resumed from 14 May.

MR J.R. QUIGLEY (Butler) [12.11 pm]: I would like to begin by talking about the Department of Corrective Services and the expense the prison muster is inflicting on this community. This morning's *The West Australian* published an opinion piece by the legal writer Amanda Banks, in which she canvassed an alternative to the unrelenting, unyielding and unbending line of hard-on-crime, increased penalties and increased prison musters option, which cannot be sustained by Western Australian taxpayers. Three or four years ago the member for Warnbro, in his capacity as the then shadow corrective services spokesman, first introduced into the debate in Western Australia the concept of "justice reinvestment". He did not invent that concept, it was a concept that been trialled in, of all places, Houston, Texas, a jurisdiction renowned throughout the world for its very tough regime on crime, which includes, of course, frequent infliction of the death penalty and, to a lesser level, frequent and heavy use of imprisonment as a so-called deterrent to crime.

After investigating the new approach to crime, the Texas state government discovered that by trying to treat the causes of criminality Texas was able to reduce by some several hundred million dollars its budget allocation to penal institutions and the fixes to crime. It did so, as the member for Warnbro pointed out several years ago, by identifying with particularity those areas, initially in Houston, where offenders were residing immediately before they went to prison. In identifying those particular localities, they were able to find the gaps in services, be they housing, mental health or other contributing factors that led to aberrant behaviour. They then drew together all government agencies responsible for the delivery of those services to come up with a plan that targeted those specific areas—not generally across the state—that were delivering so many criminals into the penal institutions and costing the taxpayer so much. They then came up with programs to fill those gaps and finally assessed how this alternative fix was benefitting or failing to benefit the community.

We now know, of course, that in that tough-on-crime state, a traditional American Republican state that has delivered Republican Presidents, the government discovered that it could reduce the impost on the taxpayer of remedial sentences for criminality by several hundred million dollars. It discovered that most of the criminals were coming from suburbs with less than, I think the member for Warnbro said, about 19 per cent of the population.

Mr P. Papalia: Fifteen per cent.

Mr J.R. QUIGLEY: Fifteen per cent of the population were delivering most of the criminals into penal institutions.

The member for Warnbro bravely advocated this new approach at a time when the cry for tough-on-crime was becoming ever more rampant in this Parliament and in this state. He sought to advance this tried and proven solution, based on actual outcomes and figures and not on theory or from the heart, to an ever-increasing crime rate, with its ever-increasing cost burden on the community, and he was ridiculed by the former Attorney General for advancing airy-fairy ideas.

We have now seen—I would not describe it as a crack in the facade—the first recognition by the government of the emptiness and futility of its previous and, to a large extent, current policies of more and more imprisonment as the solution to crime. We have witnessed that because the present corrective services minister, to his credit, has acknowledged that some of the prison and corrective services' budget might need to be reallocated to stop people coming into the system. That is a first recognition of the futility of more and more imprisonment as the solution. This showed up, of course, in the juvenile justice system in the riot at Banksia Grove which was caused by a number of factors.

Mr P. Papalia: Banksia Hill.

Mr J.R. QUIGLEY: I am sorry, Banksia Hill; Banksia Grove is one of the suburbs in my electorate. Banksia Hill is the institution near Hakea. We now know that the riot at Banksia Hill was entirely foreseeable because the Inspector of Custodial Services had warned the government it was heading in this direction. The inevitable happened because the centre was overloaded and prisoners who had been settled into education programs were mixed with disruptive, unruly youths on short-term remand. The prison staff were under extreme pressure and there was an increased need for extended prison lockdowns.

It cost taxpayers not only the cost of the imprisonments, but also millions of dollars in reparation to the institution—and for what? We have not gone forward in the process at all, but there is at least recognition by the Minister for Corrective Services that future attempts have to be better than those used in the past to stem the flow into the system otherwise taxpayers will go broke. If we were to ask taxpayers what they want built—a new prison or a new tertiary hospital—they would say a new hospital every time. If we were to ask taxpayers what

they want—better education or more prisons—they would say better education every time. There is pressure to build more prisons because we are not doing enough to stop the flow of prisoners into the system. The government has said that it is going to amend the Sentencing Act and the Young Offenders Act to ensure that more juveniles who offend on a third occasion for breaking and entering receive mandatory imprisonment. This idea was first floated by the Commissioner of Police, who wrote in a public piece that there was a loophole and that not enough juveniles are being sentenced to mandatory imprisonment because a sentencing occasion might involve two or three break and enters and that does not constitute necessarily the criteria for a third offence mandatory imprisonment. He wanted the legislation to be amended. Within 24 hours of the release of that piece, I heard the Commissioner of Police being interviewed on Geoff Hutchison's ABC radio program on this very point—namely, whether more youths should be going in under mandatory imprisonment. I heard the commissioner qualify himself by saying that, yes, they wanted more to go in if they were to receive the training that would send them back into the community more work-ready. We all know from the report of the Inspector of Custodial Services that that does not happen. We also know that that does not happen because of the statements made in this Parliament by the Minister for Corrective Services, who has talked about extended lockdowns in Banksia Hill Detention Centre. The very condition upon which the Commissioner of Police predicated his comments is not being fulfilled. Youths are going in there, lolling about in the “university of crime” and reoffending upon their release. They go back into their communities where the same problems exist, but as more qualified criminals who infect other youths in the area. This gets back, of course, to housing, mental health and family breakdowns. Lamentably, where do so many of these offenders stem from? Sadly, one has only to walk through the institution to see the number of Indigenous offenders incarcerated to know where some of the services should be directed. Some of these people are burdened with foetal alcohol syndrome, so they entered the world, which we love and enjoy, already mentally impaired and have gone on to offend.

I take one little issue with Ms Banks in her article of this morning where she said that both major political parties engage in a law and order auction and that they go into elections promising to be yet tougher on crime. It was, however, reported in *The West Australian* and other media that, last November before the election campaign started, as shadow Attorney General I said that Labor would not engage in a law and order auction and that we would not go to the community and say that we would offer tougher penalties. This was met with some concern by traditionalists in different areas who thought that my comments might be at least, if not anti-intuitive, not politically savvy. One has to go beyond the lust for a law and order auction and look at the reality of what is happening and how we can best serve the taxpayers whom we represent. I mean to say, in the previous election campaign, which was in 2008, the then opposition said it would be tougher than any party by introducing mandatory sentencing for anyone who assaulted a police officer and caused them any bodily injury. I now wish to refer to a report entitled “Mandatory Sentencing Report”, prepared by the Western Australian Police Union of Workers in April 2013. I will quote from that report because it notes that less than half of those arrested for assaulting a police officer and causing bodily harm actually receive a mandatory term of imprisonment. Mr Speaker, in view of the little misunderstanding between us the other day, innocent as it was, on the question of an extension, I would like to get in early and seek an extension.

[Member's time extended.]

Mr J.R. QUIGLEY: The report states that less than half of those arrested on the street for assaulting a police officer and causing bodily harm receive a term of imprisonment. The report addresses the tough-on-crime language of the Premier in this Parliament. The first paragraph on page 53 states —

To make a public statement that “a very strong message” —

That was sourced from *Hansard* —

has been sent by the Government to the community, by way of a legislation that promises to send those to jail who —

Quoting from *Hansard* again —

“assault and cause bodily harm to a Police Officer... No ifs, ands or buts”, —

The honourable Premier —

is an insult to the Police Officers who have experienced life-altering assaults and then watched as justice was not served.

The police union itself said that the words the Premier had mouthed in this Parliament were an insult to police from their experience of the legislation.

I now turn to the last paragraph. Members may recall that the opposition moved an amendment to the mandatory sentencing legislation that referred to mandatory sentencing except in exceptional circumstances, and that if the court were to apply the provision on exceptional circumstances, it had to reduce its reasons to writing. We were

derided for that statement, as we were accused of being soft on crime. What is the police complaint now? We said that if we left this provision to prosecutorial guidelines, it would all happen behind closed doors and neither the offenders nor the police would have any representation into who actually faced mandatory sentencing. What does this report say? It verifies exactly what the opposition was saying at the time. It goes on in the final paragraph, if I may quote again, Mr Speaker —

In 2009, Mr Kobelke —

That is the former member for Nollamara —

envisioned that the WAPOL guidelines could result in prosecutors making determinations about whether heavier or lighter penalties are imposed for assaults instead of the judiciary and was worried that people who should be going through the court system and receiving serious penalties would get off lightly because the prosecutor was the ultimate ‘gatekeeper’. Years after these comments were made, our Member accounts reiterate these concerns. Where a *prime facie* case exists for a prescribed circumstances charge, the Union believes the matter *must* be put to the judiciary for determination, not determined beforehand (at the administrative level).

This is exactly what the WA Police Union is now saying. The police union then cites several cases—Senior Constable Bentink, Senior Constable James and I think it was Constable May—all of whom sustained significant injuries. One would think their injuries would have fallen into the class of the very strong message that the Premier was talking about in this chamber; that is, the offence of assault and cause bodily harm to a police officer—no ifs and/or buts. But that did not happen because it was all determined at an administrative level behind closed doors where neither the accused person nor the arresting officer got a look in. We have always said that if justice is to be served, these matters must all be determined in an open court. The judiciary might have said—as the magistrate may well have said in the case involving Senior Constable Bentink, who was assaulted on the apprehension of an involuntary mental patient who was on the street after absconding from a mental ward—“Taking into account his mental condition and taking into account his illness at the time, for the following reasons I am applying the exceptional circumstances provision”, and given those reasons in writing. But that does not happen. If it had been open to the victim who sustained serious injuries to institute an appeal against those exceptional circumstances, justice might have been done in the way the opposition implored this house to have it done; that is, in an open courtroom, and not just by an email to Constable Bentink advising him of the outcome when he did not even get a look in.

However, he has learnt, as the police union has learnt, that the Premier is not as good as his word; that the former Attorney General was not as good as his word; and that the current police minister is especially not as good as her word. The current police minister, the member for Scarborough, says that since the introduction of this legislation, assaults involving injuries on police have dropped. That is not correct according to the police union. There are statistics, statistics and damned lies; and the last assertion falls within the category of damned lies. As this report on mandatory sentencing points out, the statistics group together all assaults on public officers. We know that the 2008 proposed amendments to the legislation included not just police as public officers, but also other classes of public officers, as you well know, Mr Speaker. The statistics referred to all public officers. Although there might have been a drop in the number of assaults on other public officers, such as Public Transport Authority officers, ambulance officers and other public officers that are included in the legislation, the police union points out that there has been an 8.5 per cent increase in assaults involving injuries to police officers. Did this tough-on-crime law work? Not according to the police union.

If we go back to justice reinvestment and look at the actual causes of crime, the Commissioner of Police himself identified one of the largest causes of these types of violent assaults, and it is the one that this Parliament and the government have found too difficult to deal with. It is the river of alcohol that is poured into our streets until the early hours of the morning, probably exacerbated by other drugs as well, especially in recent time by amphetamines. Leaving that aside, the extended licensing hours and the amount of alcohol that is being poured out there into the streets, especially into the entertainment area, has been identified by the Commissioner of Police as the direct cause of the trouble for his officers—for the officers whom we ask to go out and police the streets. But the Parliament and the government hold up their hands and say, “All too hard. It’s the liquor industry at stake here. We can’t do anything about this. The cat’s out of the bag. We can’t wind back the licensing hours. We can’t wind back the amount of alcohol being served. Too bad, too sad. What we will do to ensure our re-election is just go out and tell porkies. Go out and tell them that we’re going to introduce legislation that says if you go out there in this condition and break an officer’s jaw, no ifs, no buts, you’ll be in.” That we now know, from the report of the police union, is not true. I encourage the media and all members of Parliament to approach this whole question of winding back the crime rates more intelligently than we between us collectively have been able to in the past.

We heard the Chief Justice deliver a magnificent speech from your chair, Mr Speaker, before you were sworn in. He implored us all, saying we are all good people and have been elected by our community as good people, to collectively come together to come up with good solutions for our community. Justice reinvestment requires more than just a bit of a take from the correctional services portfolio to try to find 100 grand here or 50 grand there. It will require assistance across the ministries of housing, health, justice, correctional services and the Attorney General, in the other place.

Mr P. Papalia: First a concession that the current policy doesn't work.

Mr J.R. QUIGLEY: Yes. We have, on at least a nod, the early indication from the Minister for Corrective Services that it is starting to dawn on him that the current policy is not working. But we cannot as a Parliament pay lip service to this because crime will continue and the people we represent will have to pay more and more in taxes on a futile game of chasing our tails and pouring more into a penal system that is not actually reducing the crime rate. I go back to this report—not a Labor report but the police union report—that says that what we were told about “hard on crime and hard on assaults on police”, to quote again from the police union, “is an insult to the Police Officers who have experienced life-altering assaults and then watched as justice was not served”. We need a more intelligent approach to this whole issue or we are going nowhere and we are just going to break the bank. As they learnt in Texas, there is a better way. What will we end up doing, floating prison hulks on the Swan River to try to house them all? The number is up to 5 000.

Mr D.J. Kelly: There's room at James Price Point.

Mr J.R. QUIGLEY: No, member. But many Indigenous people are being incarcerated. That would be a disastrous option. Thank you, Mr Speaker. May it please the chamber.

MR D.J. KELLY (Bassendean) [12.42 pm]: I rise to speak to the Supply Bill. As it is National Volunteer Week I thought I would begin by raising a few issues about volunteers in my electorate. The Bassendean Volunteer Fire and Rescue Service is a fabulous volunteer organisation in my electorate, but its future is very much under threat. There is talk of the volunteer fire brigade being required to move from its current home in Bassendean to Forrestfield. The Bassendean Volunteer Fire and Rescue Service is not just any old fire and rescue brigade; it has a special history. It started more than 100 years ago in 1911 as the West Guildford Brigade. It changed its name in 1922 and in 1934 moved to Parker Street, Bassendean, where it is still based.

The brigade celebrated its hundredth year of service in 2011, and a dinner was held to mark the 100-year celebration. The events of that night were recorded in Department of Fire and Emergency Services *24seven Magazine*. I will quote from that article where it reads —

The Chief Operating Officer Craig Hynes congratulated the Bassendean VFRS on their continuous professionalism and dedication across 10 decades.

He said —

“It is incredible to think that hundreds of civic spirited volunteers have served the brigade and attended countless incidents over such a long period of time,”

He went on to say —

This centenary is a tremendous achievement and credit to all those volunteers who have devoted their time, skill and energy to the brigade and community.

“Congratulations go to volunteers and thanks to the many family members and friends whose support and encouragement is greatly appreciated.

The article goes on to record that the member for Swan Hills, Frank Alban, was there that night representing the Premier, and is reported as saying —

“Bassendean's volunteer firefighters, past and present, should be commended for their dedication to safeguarding the community over some years.

“Volunteer brigades like Bassendean have a long and proud history and are rightly held in high esteem by their communities.

“They are particularly rare in the Perth metropolitan area, so this milestone is a memorable and historic occasion.”

There were plenty of acknowledgements that night for the work the brigade does. It was also noted at that event that three of the members, Norm Stagoll, Bob Stoner and Roy Weatherburn, have each done more than 50 years' service with the brigade.

Given the fine service that this brigade has given the community over 100 years, it is very disappointing that now their future is uncertain. There is a plan to move the career firefighters to a new fire station in Kiara, which is being built. The question then is: what will happen with the volunteers? They have been told through various channels that the state government is now proposing that they move, not to the new location for the career firefighters out to the new facilities in Forrestfield. In the community's view that would be a disastrous decision. The local Mayor, John Gangell, is strongly opposed to the move and was quoted in the *Eastern Reporter* on 5 February as follows —

“I have been advised that there are moves afoot to, once again, relocate the brigade and decommission the station,”

“The station is heritage listed and is an important icon to the residents of the Town and a testament to the success of the volunteers.

“The brigade uses the building to house its extensive awards and memorabilia, and regularly provides access to the public to view its proud achievements.

“It would be a travesty to see the brigade separated from its traditional headquarters and training facility and I am very aware of just how strongly this community feels about this issue.”

Mayor Gangell says further on —

“I am very aware of how strongly this community feels about this issue and I cannot see how moving a successful Brigade to a location away from its traditional home will encourage volunteers to stay in the brigade and deliver the important community service that they have proudly and unselfishly done since 1911,”

Importantly, as well as being opposed by the local council, the move is opposed by the brigade members themselves. In that same article in the *Eastern Reporter*, the brigade captain, Mike Smith, is reported as saying —

“Our members don't want to move, it's further to drive, further to respond,” “We've had quite a few call-outs in December and in January and trying to get to Forrestfield in traffic will slow our response time dramatically.

“We need to get to the area quickly because on those large fires where there are high winds, you need to respond quickly because it's a dynamic situation.”

Another officer, Steve Page, is reported as saying —

“The good thing about Bassendean is we've got the crews to be able to man the vehicles even on a shift change, which not many other stations can do,”

“Going from Bassendean to Forrestfield it will take you about half-an-hour in traffic and delay your turn-out times, it's going to be crazy. At the moment we can turn a truck out in 10 minutes.”

Mr Page said he would like to see volunteers moved next door (to the current career officers' headquarters) following their move to Kiara.

This move is strongly opposed by the local community. It is strongly opposed by the volunteers. Some estimates are that at least half the volunteers will leave the service if they are forced to move to Forrestfield. We urge the state government to end the uncertainty around the future of the Bassendean Fire Brigade and provide it with a long-term facility within the Bassendean community.

Obviously, there are a number of other volunteer groups within the Bassendean electorate that I acknowledge as part of National Volunteer Week. One of them is the Ashfield Community Action Network, who are a great bunch of people currently working to revitalise the Gary Blanch Reserve. They instigated a fantastic new facility to honour one of Ashfield's great residents, Roy Hookway—that is, the Roy Hookway platform on the Swan River. The network is trying to get some traction to see Coulston Road developed as a centre to provide a main street, if you like, to Ashfield. The group says that its desire to see that area developed is being frustrated by the Ashfield precinct plan, which was put forward some years ago to redevelop Ashfield in, I suppose, a very ambitious way. It involves moving the Ashfield train station and realigning Guildford Road. It does not appear that the state government has an appetite to either move the Ashfield train station or realign Guildford Road. If that is not going to happen, the government needs to bite the bullet and tell the community of Ashfield that it is not going to happen and revisit the Ashfield precinct plan. If the money is not there, do not delay other things happening in Ashfield, such as the revitalisation of Coulston Road, by this much grander plan still being in place. I urge the Minister for Transport, as he is here in the chamber, to revisit the plan. The Ashfield precinct plan

does not appear as though it is going to have legs. Let us relook at it and do something else for the people of Ashfield.

Mr T.R. Buswell: I know you're in a hurry, but is that a planning-driven process or a transport-driven process?

Mr D.J. KELLY: My understanding is that both departments are involved. There is an officer group level committee involving both the City of Bayswater and the Town of Bassendean, planning and transport. It is a state government plan, but the local governments are involved. It is also tied up with the redevelopment of the CSBP site, but it appears to the residents of Ashfield that it is going nowhere. If it is going nowhere, let us do something else.

Mr T.R. Buswell: Maybe if you just correspond with us, we can try to get some time lines.

Mr D.J. KELLY: Thank you. The Bassendean Preservation Group, I understand, has a new chairperson—Ted Bentley. Congratulations to the group on the fine work it does. Some of the great sporting clubs include the Bassendean Bowling Club, the Bassendean Cricket Club, the Bassendean Amateur Football Club, the Bassendean Junior Football Club, the Bassendean Tennis Club and the Little Athletics in Eden Hill and north Bassendean. Those clubs and their volunteers all do a fantastic job. In National Volunteer Week, I thank them for the work they do. I also note the Bassendean Junior Cricket Club and the Ashfield Sports Club. I had the pleasure of tossing the coin before the senior soccer match that was played on the weekend, the local derby, between Ashfield and the Morley Windmills. It was a great day out. The Ashfield Sports Club has a great committee down there and I congratulate it on the work that it does.

I will just mention a slightly different group of volunteers. Old Perth Road is a shopping area that has much potential but it is sadly lacking in some facilities. Not that long ago a group of locals got together at a pub and talked about what could be done to liven up the street—local people doing little things. Lo and behold, out of that a few interesting things have appeared. One example is yarn bombing, I think they call it. A couple of trees outside the Bassendean hotel in Old Perth Road have been covered in delightfully coloured yarn. They just look great. I understand the yarn bombers are Nataasha Lethbridge, Suzanne Clark, Lani Retter and Debbie McMahon. That is a great example of something that just comes out of nothing because local people want to improve their street.

Talking about volunteers, Bassendean lost one of its great volunteers this week. I want to mention the passing of John Cox, who died recently at age 80. John, amongst other things, is a former Mayor of the Town of Bassendean. He was the mayor from 1984 to 1995. He was granted status of freeman of the town in March 1996 for his exceptional contribution to the community and was awarded the Order of Australia Medal in September 2002 for his service to the Town of Bassendean through local government. He was a valuable volunteer and most recently served as the president of the Eastern Regional Returned and Services League of Australia sub-branch. He also served as an RSL state trustee, president of the Bassendean seniors, a justice of the peace, a life member of the RSL, a life member of the local government association and a life member of the Bassendean Volunteer Fire Brigade, which I mentioned earlier. His passing is a great loss to the community and our condolences go to his wife, Frieda, his two sons and the rest of the family. We have lost one of our characters and we will be lesser for it.

I want to mention something from the federal budget, which was announced last night. We all remember that Metronet was a big issue in the state election campaign. As part of the Metronet plan, the Ellenbrook line would have come down Tonkin Highway and there would have been overpasses built at the intersections of Benara Road and Tonkin Highway; Morley Drive and Tonkin Highway; and Collier Road and Tonkin Highway. I said in my inaugural speech that if cabinet members had to get to cabinet meetings every day by coming down Tonkin Highway, we would get a train and we would get that corridor cleaned up. Labor did not win the election and there are no plans by the state government to do anything about either the Ellenbrook line or the traffic congestion on Tonkin Highway. The good news in last night's federal budget—again to the minister—is that the federal Labor government has allocated, I understand, \$140 million to fund the overpasses at Benara Road and Tonkin Highway; Morley Drive and Tonkin Highway; and Collier Road and Tonkin Highway.

Mr T.R. Buswell: We submitted those as part of our application for funding, so we did have something to do with it.

Mr D.J. KELLY: Fantastic. We will see them rise then. My understanding is that the federal Labor government has committed \$140 million to a project that it costed at \$255 million. The federal government is willing to kick in over 50 per cent of the costs. I simply urge the state government to take that funding in both hands and build those three overpasses. The only other bit of gratuitous advice I can give to the minister is that when the government builds the overpasses, he should make sure there is still room down the middle for a train.

[Member's time extended.]

Mr D.J. KELLY: When the train is inevitably built by the next Labor government down Tonkin Highway from Ellenbrook, this government should not put us to the extra expense of having to rebuild the overpass. It should not build the overpasses on the cheap; it should accommodate the train line and allow space for it to go down there.

The only other issue I wish to raise, given it is National Volunteer Week, is to point out another special group of volunteers in my electorate. There are dozens of volunteer union delegates in the electorate of Bassendean. They do not often get credit when we talk about volunteers, but union members in a workplace who decide to put up their hand to be a delegate in their workplace do that work in their own time, in most cases, and obviously without any additional pay. They are true volunteers. They are putting up their hand to do a very difficult job in many cases. When a worker in the workplace wants legal advice, for example, about their employment, often the first person they go to is not their local lawyer but the local union delegate. Local union delegates are vital sources of legal information to their members in the workplace. They often represent those members on issues directly with their employer. At times, that can generate some heat so the delegate gets a bit of heat from the employer for participating in that role. It is an absolutely vital role to assist workers exercise their legal rights in their workplace, and it is one that the delegates sometimes get a bit of grief for. During National Volunteer Week, I thank all union delegates, whether they are from United Voice, the Australian Education Union, the Australian Nursing Federation or a bunch of other unions in my electorate. They do a fabulous job and should be recognised during this week.

Mr T.R. Buswell: Metalworkers.

Mr D.J. KELLY: That is right, and anyone else the Treasurer would like to mention. They do absolutely fantastic work and I wish to acknowledge them today during National Volunteer Week.

Debate interrupted.

[Continued on page 593.]