CRIMINAL CODE AMENDMENT BILL (NO. 2) 2013

Second Reading

Resumed from 17 September.

MR J.R. QUIGLEY (Butler) [4.11 pm]: This Criminal Code Amendment Bill (No. 2) 2013 comes before the chamber by way of an amendment to the mandatory sentencing provisions contained in legislation passed by the present government in its first term four years ago. The amendments are to include amongst the class of victims in respect of whom orders of mandatory sentences of imprisonment will be made those officers guarding and detaining children in institutions. The amendments will be made to sections 297 and 318 of the Criminal Code to include persons appointed under the Young Offenders Act 1994. At the outset, I say that the opposition will not oppose this legislation, because the government claims a mandate for it. In the remaining 59 minutes afforded me by this auspicious chamber, I want to expose the lie of the Liberal government that has been the basis of the mandatory sentencing debate. For my speech I will largely rely upon the report prepared by the Western Australian Police Union of Workers of April 2013 and at the conclusion of the speech, I will seek to lay it on the table for the rest of the day. In a press release, the Premier said that mandatory sentencing would send a very strong message to the community from the government by way of legislation that promises to send to jail those who assault and cause bodily harm to a police officer—"no ifs, ands or buts". In its report, the police union says of the Premier's assertion that it —

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

That is from the first paragraph on page 53 of the police union's report on the government's legislation. The police union absolutely debases the Premier's assertion that people who assault police and cause bodily harm will go to jail, no ifs and no buts. The police union says that the Premier's statement is an insult to police. This is the Premier, who looks to the Labor Party with the chant of a hollow tin man about how we are soft on crime because we point out the problems of this legislation. The police union itself says that what the Premier said in relation to the original legislation to introduce mandatory legislation is an insult. When the now Attorney General spoke in the other place on the original legislation before he became Attorney General, he said that mandatory penalties were viewed as a tool to be used "sparingly"—they always carry with them certain risks and they lose public impact if they are overused. In this particular case, they will be introduced to cover those persons guarding and detaining youths in custodial institutions. What we want to find out during the second reading debate is how many of these youths have actually been charged with assault occasioning bodily harm upon a person appointed under the Young Offenders Act in the last two years and of those people, how many did not receive a term of imprisonment. The Attorney General's assertion just puts the lie to the whole basis of the amendment coming before the Parliament today. The police union, in its very well researched and constructive report on mandatory sentencing, which is the only report on mandatory sentencing that has been published to date—I hope it is picked up by the media—set out both the government's rationale for bringing mandatory sentencing in and what has gone wrong with it. It is hard to see under the present legislation and the present prosecutorial guidelines anyone or any youth receiving a mandatory term of imprisonment that would extend his current prison term. That is why we are not fighting this legislation on the ramparts, as it were—it is virtually ineffectual.

The police union notes that the Law Society of Western Australia issued a media statement saying the courts should retain their existing discretion in determining sentences on criminal charges—that is, not for this Parliament to impose mandatory sentencing. I will come to this in a moment because this report published by the police union sets out the statistics on what has happened over the last several years. We see that, as opposed to what the government would say the effect of its original mandatory sentencing legislation was, the number of charges laid against people of assaulting a public officer that resulted in imprisonment from September 2009 to September 2012 was 33. During that same period 54 charges were either downgraded under the prosecutorial guidelines, dismissed or withdrawn. Therefore, of the people charged with assault occasioning bodily harm of a public officer, less than half of them do, even though the Premier said they would go to jail no ifs and no buts, and as many have their charges downgraded as are imprisoned—that is, by the prosecuting staff or the DPP—to avoid the harshness of legislation. When I say "as many", in fact 32 were downgraded and 43 were imprisoned. So it was 0.1 per cent short of the 50 per cent. However, when we take into account the dismissed and withdrawn charges, the number is massive.

We need to look also at what happened during this same period to the number of assaults on public officers. The police union points this out in its very helpful table published at page 21 of its report. That shows that in the whole of the state, between September 2009 and September 2012 there was a 5.4 per cent increase in the number of assaults on public officers, and there was an 8.6 per cent increase in the number of offences.

So much for the deterrent effect and usefulness of this piece of legislation; it has been absolutely useless. As the police union pointed out, Premier Barnett's assertion that these offenders would go to jail, no ifs and no buts, is nothing more than an insult to every working police officer. Police officers were duped, just as the public was duped on the government's claim going into the election that its promises were fully costed and fully funded. That claim by the government was untruthful, and what the Premier has said about the effect of mandatory sentencing is also untruthful, as has been exposed by the police union of Western Australia.

Then Attorney General, Christian Porter, in his second reading speech to this same Assembly on 4 December 2008, said, "Simply put, if a police officer is assaulted and sustains bodily harm, the perpetrator of that offence will go to prison." We know that is not true. We know that over 50 per cent of the perpetrators avoided imprisonment. In a televised news report for the ABC, when asked whether any wound requiring medical treatment, be it a chipped tooth, a broken nose or a black eye, would be punishable with jail time, Mr Porter asserted —

> Yes, and what we as a Government have said is that prior to this legislation, … those assailants were being treated with a level of generosity which is not in line with community expectations.

That quote is taken from page 7 of the police union report.

Mr M.J. Cowper: I am a bit confused, member. Are you supporting this legislation or not?

Mr J.R. QUIGLEY: We are not opposing it. But it is useless. I am going through why the whole thing is useless. Opposing this legislation will not change the basic faults of the original legislation that was passed by the government in 2008.

The police union sets out in its report a number of case studies. In 2011, Constable May was attending a domestic violence incident, and the assailant slammed the front door on her fingers. She was unable initially to get her fingers out of the door. But when she did manage to get them out, they were badly lacerated. Her ring finger was partially severed at the tip, and when she arrived at the hospital, her finger had to be reattached with sutures. Surely this is the sort of injury that the Premier was talking about when he said that a person who injures a police officer will go to jail, no ifs and no buts. However, the charge was downgraded for the less serious charge of simple assault. This was because the offender had pleaded not guilty to the more serious charge, as he was concerned about doing time; and in the event that the magistrate did not convict the offender of the more serious charge, the police prosecutor would not have the option of then preferring the less serious charge. So the police prosecutor jumped in front of Constable May and dropped the charge down to simple assault. When the matter came before the court and the court heard the facts, it said, "Why was this person not charged with the offence of assault public officer, prescribed circumstances?"

In August 2012, Senior Constable Bentink was involved in an incident in Geraldton. Senior Constable Bentink and her partner tried to apprehend the person by placing handcuffs on him. Constable Bentink was severely assaulted. She lost count of the number of times she received punches to her head before she and her partner were able to deploy their Taser four times, all of which connected but none of which felled the offender. Back-up was called. She had to go to specialists for treatment. She was found to have a dislocated jaw and stretched ligaments to her jaw, whiplash, bruising to her spine, and a partially protruded disk. More than seven months after the assault, Senior Constable Bentink remains on a return-to-work program, under which she works four hours a day, five days a week. She sees a physiotherapist twice-weekly, and she is suffering the psychological effects of working intermittently.

Senior Constable Bentink was contacted just before the court case, to be advised that the prosecution had received a submission from defence counsel. That submission stated that Parliament did not intend the current charges to be used in a situation in which the accused was an involuntary patient who was suffering from significant mental health issues at the time of the assault. The prosecutor said that, in his view, there was merit in the submission, because the accused was suffering from mental health issues at the time, and the prosecution dropped the charge down again.

Therefore, the assertion by the Premier of Western Australia that a person who assaults and injures a police officer will go to jail, no ifs and no buts, has as much credibility as the Premier's assertion that the government's election promises were fully costed and fully funded. That is just a sick joke that is being played upon this Parliament.

What happened is that when we debated this legislation the last time around, the Labor Party opposition moved amendments to the proposed mandatory sentencing laws. Those amendments were five in number. Those amendments provided that the court may impose a sentence other than a mandatory term of imprisonment having regard to the circumstances of the offence—that is, the nature of the injury to the officer, whether the person will be a continuing risk to the public, and whether there are any exceptional circumstances. As the member for Murray–Wellington will remember, it was conjunctive. It was: if all those criteria are met, the court may

exercise a discretion and may—not will, but may—impose a sentence other than a mandatory term of imprisonment. The amendment, which was rejected by the government—it was embraced by the police union, by the way, when it came to see me—went on to say that the court will put its reasons in writing.

Mr M.J. Cowper: They never do.

Mr J.R. QUIGLEY: That amendment never got through. The member knows that. He voted it down. The amendment required the government to do so. If the five exceptions had been accepted by this chamber and those exceptions were carried into law, the defence counsel would have been required to establish to the court's satisfaction all five exceptions, that the circumstances overall were exceptional, that the injury was not bad, that the person was not a continuing danger to the public et al. If the court adopted a disposition other than mandatory imprisonment, it would give written reasons, and any police officer dissatisfied with those written reasons would then have course for redress by way of appeal. This is why this legislation will never have any effect on anyone and does not really concern us. I will come to that in the second half hour of my speech. First, I go to the prosecutorial guidelines—this is taken from page 9 of the police union's report—which stipulate at paragraph 31 —

> that it may not be in the public interest to proceed if certain factors render a prosecution inappropriate. Amongst others, they include: "the youth —

Here we are dealing with youthful people. The only people this will apply to is children because they are the only ones who will be detained by officers appointed under the Young Offenders Act 1994. Prosecution guideline 31 goes on to state —

> age, physical or mental health or special infirmity of the victim, alleged offender or a witness;" … and "whether the alleged offence is of minimal public concern".

This legislation has been brought on following the Banksia Hill Detention Centre riot where youths went off their top. Was this anything to do with the inadequacy of sentencing youthful offenders by the courts? Clearly not. We have the report of the Inspector of Custodial Services, which has already been the subject of debate in this chamber, led by my very wise colleague the member for Warnbro. He brought to the attention of this chamber the fact that the Inspector of Custodial Services had predicted that the riot would happen 12 months before the riot occurred because of overcrowding at Banksia Hill, because of insufficient programs at Banksia Hill and because of an insufficient staff ratio to prisoners contained at Banksia Hill, and it was a boiling pot. The Inspector of Custodial Services —

Mr M.J. Cowper: What else did he say?

Mr J.R. QUIGLEY: He did not cast a good light on the minister at the time. No wonder the member is sitting up there on the back bench. This matter did not reflect well on him, and it would be best to keep it quiet and push it under the carpet.

The Inspector of Custodial Services identified that the sentencing of young people did not precipitate the riot at Banksia Hill; it was to do with the conditions of the institution. The government came back and said it was going to crack down on these youths in custody and bring on mandatory sentencing. We know that over half of the people charged never face prison, and they are adults. They are not the youths; they are the adults. Why? Because of the prosecution's guidelines, which say that the prosecution will not proceed, having regard to the youth, age, physical or mental health or special infirmity of the victim or the offender. The police union report goes on to say —

> Under the section entitled 'Charge Negotiation', there is a paragraph pertaining to consultation.

That is, consultation with the officer who sustained the injury.

> "In considering whether to accept a plea —

That is, a plea to a lesser offence than the one that invokes the mandatory sentencing provisions —

> the investigator and victim should be consulted. Consultations with the investigator and victim must be recorded prior to any decision.
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> …
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> While the views of the victim and the investigator must be properly considered before a final decision, the overriding consideration is the public interest."

The police union, the arbiter of what is in the public interest, goes on to note that the decision on who to charge with the mandatory charge and who to prosecute on a mandatory charge rests solely with the Director of Public Prosecutions or the consultant that he has placed down at the Central Law Courts to sit with the police prosecutor, Mr Brent Meertens.

We went on to say that we have to have these amendments in the legislation and this exception to the legislation because if we do not put the exceptions in the legislation and the magistrate's hands are tied and he has to invoke mandatory sentencing to every person who is put up, injustices will occur. The then police minister and the Attorney General sought to assuage the concerns of this chamber in this regard by saying that there will be police guidelines as well as the prosecutor's guidelines, so these charges will only be used judicially. Those of us who paid attention will be able to recall the first person who was charged under the mandatory sentencing provisions. They were charged with assault occasioning bodily harm on a public officer. Who was it? Does anyone remember?

Mr M.J. Cowper: Up in Wyndham?

Mr J.R. QUIGLEY: No, the member is wrong; it was in the metropolitan area and it was a woman who was under mental health escort. She was having a psychotic episode and she struck out at the officers and injured them. They charged her with assault causing bodily harm on a public officer, which meant mandatory imprisonment. The commissioner, seeing that this would disgrace the whole code that this government had brought in, quickly moved to direct the prosecution to drop that charge and substitute it with a lesser charge. He did not let her off on the grounds of insanity but dropped the charge and substituted it with the lesser charge of assault simpliciter, because it would have been an insult to every fair Western Australian that a woman who was labouring under the effects of mental infirmity was to sustain a six-month mandatory term. It was ridiculous. The commissioner put in guidelines. The problem with these guidelines is that they are worked out in secret. Neither the public nor the police get to see them in advance. The police union's paper picked up on a comment made by the former Attorney General Mr McGinty, who was shadow Attorney General at the time, that the effect of the police guidelines is to ameliorate the harshness of the law and to stop prosecutions at the low end of the scale. That further reinforces the hollowness of what the Premier said—that anyone who assaults a police officer and causes bodily harm to a police officer will go to jail, no ifs and no buts. That is not happening, and the police union calls that an insult.

The police union went on to note with approval, in retrospect—not at the time that it campaigned on the steps of this Parliament—the comments made by the former Leader of the Opposition in this chamber. Page 13 of the police union paper quotes the former Leader of the Opposition, who said that through the introduction of the commissioner's guidelines —

> … the government has shifted the issue from mandatory versus non-mandatory to what are the exemptions and who makes the decisions about whether the exemptions should apply. If there are to be exceptions in what the government proposes, it is our view that in the final analysis it should be a judge who makes that decision.

It should not be a prosecuting authority and it certainly should not be someone who is at the Central Law Courts on a consultant basis. That view is now shared by the police union of Western Australia. The police union noted that these guidelines, which see over 50 per cent of the people charged with assaulting a police officer and causing bodily harm have their charges dropped or a plea bargain accepted, were forged in secrecy. The police union at page 14 of its report notes —

> On 3 December 2012, three representatives from WAPOL and the Office of the Director of Public Prosecutions … met with … representatives from the Union.

That was to discuss the union's concerns about the implementation of the prosecutorial guidelines and the police department's implementation of those guidelines. The police union notes that the guidelines were drafted by the police in conjunction with the Attorney General. At the forefront of the DPP's mind was the need to be careful when applying the legislation and not to abuse the legislation as it stood—that is, not to invoke mandatory sentencing against everybody who assaults a police officer and causes bodily harm, because the circumstances can be so wide and varied.

Mr Meertens is the DPP's consultant at the Central Law Courts. He put up his hand to take responsibility as the sole implementer of the guidelines and he assured the union that he was interpreting the guidelines to ensure cases were being filtered out. When referring to filtering, Mr Meertens meant he did not progress the cases in which the officer sustained minor injuries. I have gone through some of the cases to which this paper refers, which I will seek leave to lay on the table. In the photograph I am holding, members can see the size of the ugly bite mark on Sergeant Witten's forearm. This is the sort of injury for which the Premier of Western Australia told the police the perpetrators would go to jail, no ifs and no buts. It turns out the Premier misled the police and the police know it. That is why the union refers to the Premier's statement and asserts that what the Premier said was an insult to all police. This is Constable Foy's hand. She declined to wear a thumb splint as she was concerned about the impact it would have on her service delivery. She had already taken two weeks off work. This was the hand, in the cast, of the police officer who tried to gain entry to a house; she had the door slammed upon her with force and it was leant against, so she sustained severe lacerations when she sought to remove her

hand from the door. The court asked why this person was not charged with the prescribed circumstances. That is because the DPP was following the former Attorney General Mr Christian Porter's guidelines. The assertion by the Premier that everyone will go to jail, no ifs and no buts, has about as much grip as his assertion that all his election promises were fully costed and fully funded.

This photo that I am holding up shows a shiner to the right eye of Constable Gill five days after she was kicked in the face. We can see the size of the swelling and the bruising, but the DPP did not proceed with the charge. We were told by the Liberal government that this is the sort of injury for which an offender would receive a mandatory term of imprisonment. This is just nonsense, as the police union points out in its report. As I said, just to go back to those figures, over the three-year period in the whole of the state the number of incidents of assaults against public officers rose by 5.4 per cent and the number of offences rose by 8.6 per cent. It is useful to go back to what Hon Michael Mischin said in the other place. I say Hon Michael Mischin because he was not yet the Attorney General on that occasion. He said mandatory penalties are viewed as a tool to be used sparingly as they always carry with them risks and they lose public impact if they are overused. That is what is set out in this paper by the police union of Western Australia.

The police union says that it can identify the problem: the government has introduced this legislation that gives the court no room to move. If certain things are proven, the offender will go to jail and, as we said before, that is not justice. The former Attorney General of Western Australia knew that was not justice. He sat down and wrote these guidelines—which have a gate in them that we could drive a D9 bulldozer through!—so that in the back room we could ameliorate the harsh and unjust effects that the Premier of Western Australia wished to impose upon the courts and people appearing before the courts. The guidelines were not to get justice, but to deal with people in a way that the Premier thought would get the Liberal Party more votes. The police union asked —

> What does all of this say about the efficacy and implementation of the legislation?
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> …
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> When analysing the data obtained from the DPP, WAPOL and the Minister's Office, the number of imprisonments resulting from the Assault Public Officer (Prescribed Circumstances) charge has increased from the legislation's enactment. However, this increase in imprisonments … has moved in tandem with the increase in assaults on public officers in general …

Although more people have gone to jail, there have been a lot more offences. The police union puts lie to the government's assertion made in this chamber and in the media, and recently made in the media by the honourable Attorney General, that the effect of mandatory sentencing has been a drop in assault occasioning injury to police. The police union's own paper commissioned by it and prepared by academics shows the reverse to be true. I am looking forward to the consideration in detail stage because this bill was introduced into this Parliament not long after the acquittal of the persons charged with grievous bodily harm on Constable Matt Butcher and a call had been made for the people responsible to be imprisoned.

This paper on mandatory sentencing refers to the fact that this legislation was introduced fairly close to the conclusion of the trial of those people charged with assaulting Constable Matt Butcher. But both the government and this paper failed to at any time acknowledge that the legislation would never have applied to those persons because they were all acquitted. For that to happen, a person has to be, first of all, convicted of unlawful assault causing grievous bodily harm and they, of course, were not.

In 2009, during the second reading debate on this bill, I challenged the then Attorney General to name the cases in which he felt a person had inflicted serious injury upon a police officer and a term of imprisonment had not been imposed. There were two cases; one was of a female officer in Halls Creek. When confronting a disturbance she was king hit from behind with a roundhouse punch. The offender was standing behind her and in a very cowardly way swung a right hook, hitting her on the side of the face, fracturing both sides of her jaw. The magistrate at the time, Antoine Bloemen, noted the offender had never been to prison and had a reasonable record for an Indigenous person of his age and declined to imprison him. I would have taken issue with that decision, but I note that for some reason the Commissioner of Police did not appeal it. I do not think it is fair to argue that the courts are not imposing proper sentences if the injured parties or the police do not even bother to appeal decisions. For my money, that was a wrong decision; the offender should have gone to jail. At the end of the day, recourse was available that the police did not take.

The second case was in Carnarvon where a person had been injured and did not receive a very long sentence. I forget the name of the case but subsequent to the debate in this place in 2008, his sentence was increased on appeal. Two other cases received some publicity, one of which involved a sergeant in Armadale. His photo, on page 3 of *The Sunday Times*, showed his leg in a full cast holding onto his crutches, with the caption, "The person who did this didn't go to jail." It was released by now Sergeant Michael Dean, previously president of the WA Police Union of Workers. That backs up the Butcher case for the need for mandatory sentencing. As pointed out in that debate, and I reiterate today, the person who did not go to jail was being arrested in the hallway of his

own home at the time and the police sergeant said that when he took a grip on the offender, the sergeant fell over and the offender fell on top of him and broke his leg. With the sergeant's concurrence, the police withdrew the charge. No wonder the offender did not go to jail; he was never convicted of the offence. When we went through all these cases, the then Attorney General could cite only the offences in Halls Creek and Carnarvon. The Carnarvon case was appealed and a heavier sentence was imposed. The one in Halls Creek should have been appealed but was not. I very publicly challenged the police union to name other cases in which people should have been jailed for injuring a police officer but were not, and the police union did not come up with one other case. Nor did the then Attorney General, Hon Christian Porter, come up with one other case. When the police union came to see me at my electorate office and asked, "How can we fix this, John?" I said, "You have to remember what your mummy told you: be careful what you wish for; it might come true."

The government has passed legislation that strips from the court any capacity to deliver justice in any case and imposes a mandatory requirement to imprison. We now know from the police union report that the Attorney General sits down with the Director of Public Prosecutions and WA Police and works out a secret set of guidelines. They are kept from this chamber and from the public and they provide ample discretion for the DPP and the Commissioner of Police to drop as many charges as they want. As I said, page 20 of the police union's report indicates that 32 of those charges were downgraded. Thirty-three were proceeded with and 32 were downgraded. What does that say about the policy and what sort of commentary is it on the Premier's legislation when the Attorney General has to write exceptions to the Premier's legislation in a back room to avoid the injustice that the Premier was trying to visit on all the courts because the headline would be a vote winner? The Premier is not interested in sound public administration. We know that from the dreadful untruths that were propagated during the last election campaign. We now know it through this "Mandatory Sentencing Report" of the police union, which, to use the words that the Premier used, as indicated on page 53 —

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

When I say, "Be careful what you wish for because it might come true", during the 2009 debate the government could not cite any cases, apart from one in Halls Creek, when an injustice had occurred. Whatever we might think about Hon Christian Porter, he was across his case law and he went straight to the Carnarvon case, which, as I said, has been corrected on appeal. Since then, the police union has cited the more severe instances, including the circumstances of Constable May, Senior Constable Bentink, Senior Constable Jones and Constable Foy, all of whom I have referred to—I have shown a photo of Constable Foy's hand and of the injury she suffered—and Senior Constable James, to whom I did not refer. While delivering a restraining order, Senior Constable James was struck to the head and face. X-rays were ordered, he had 10 days off work, he could not sleep because of the pain to his face, and he suffered bruising and a bloodshot eye for more than two weeks. Senior Constable James described the aftermath —

> "Although this was an incident that happened within the workplace this had an impact on my personal life. My partner was extremely upset ... and this in turn frustrated me greatly.

He lists all his injuries, but then notes that the prosecution decided, under the wide guidelines promulgated by the former Attorney General—drawn to avoid the injustices the Premier wanted to place upon the courts of Western Australia—not to proceed with the charge of assault of public officer causing bodily harm.

Constable Saunders was at the training establishment at Joondalup when she heard a noise outside. When she went out to try to arrest the person lurking outside, she suffered a broken tooth, a swollen mouth that bled profusely on the night of the incident, and she had intense pain. Do not forget what the then Attorney General, Christian Porter, said in the televised ABC news report I referred to earlier in my speech. When asked if any wound requiring medical treatment, being a chipped tooth, a broken nose or a black eye would be punishable with jail time, he asserted —

> Yes, and what we as a government have said is that prior to this legislation, those were being—those assailants were being treated with a level of generosity which is not in line with community expectations.

This all turned out to be eyewash! Because not only was the Attorney General, Christian Porter, unable to cite any cases of inadequate sentencing, but also when we get to Constable Saunders, who suffered a broken tooth, lacerated mouth and severe pain, under the prosecution's government guidelines, the charge was not proceeded with.

Sergeant Godwin was punched and knocked unconscious, fell to the ground without being able to brace his fall, was hospitalised, had headaches for months, had pain in his neck and right arm and had traumatic stress and feelings of anxiety, and the offender was initially imprisoned for 12 months and then had it reduced on appeal to nine months. So, the court imposed a term of imprisonment in excess of the mandatory term. Whereas the

government was pointing the finger at the courts saying, "We're having to do this because you're being weak", that was not the case.

There are further accounts in here, including those of Sergeant Winton, Constable Legge and Constable Gill. There are about six times as many accounts of injustices—what the WA Police Union regards as inadequate sentencing—since the implementation of the mandatory sentencing laws. As I have stated, in more than half of the cases of the offender being charged with assault occasioning bodily harm on a public officer, the charge has not been proceeded with, has been withdrawn or a lesser charge has been substituted.

I turn to the Criminal Code Amendment Bill (No. 2) 2013 we are dealing with today, which was introduced into the other place by the Attorney General, who said mandatory penalties are viewed as a tool to be used sparingly, as they always carry with them certain risks and lose any public impact if overused. Do not tell me mandatory sentencing laws have not lost public impact in Western Australia; of course they have. Everyone knows that fewer than half the people charged with them will go to prison, and everyone knows that the prosecution is loath to use them and will look for, as the police union identified, some fairly lightweight excuses for withdrawing the charge.

We cannot wait to hear from the parliamentary secretary this evening when we get to consideration in detail. I put her on notice now, so that she can find out the answers and not be caught flat-footed during consideration in detail, that I would like to know, over the past three years, how many juveniles have been charged with assault of a custodial officer appointed under the Young Offenders Act 1994. How many have been charged with assault occasioning bodily harm or grievous bodily harm over the three years of this police union study? And, of those youths charged—if any—with assaulting a custodial officer appointed under the Young Offenders Act 1994, how many have received less than a three-month term of imprisonment? Because that is what will happen under this legislation for assault occasioning bodily harm or grievous bodily harm. How many of those received an inadequate term of imprisonment? We want to find out this evening the rationale for this legislation. We say the only rationale is to offer the union and its officers appointed under the Young Offenders Act something from this Parliament following the Banksia Hill Detention Centre riot. That is all.

Mr M.J. Cowper: That's not true.

Mr J.R. QUIGLEY: That is all.

Mr M.J. Cowper: That's not true.

Mr J.R. QUIGLEY: Well, the member for Murray–Wellington can make his speech in a moment.

Mr M.J. Cowper: I will.

Mr J.R. QUIGLEY: He will have his speech in a moment and he can tell us. He was the minister; he can tell us, up until the time he finished up as minister, how many young offenders—do not squib it—were charged with assaulting an officer appointed under the Young Offenders Act 1994? How many were charged?

The final question I will have during consideration in detail is: Is it not true that those people who will be charged under this are people who are in custody? And, although the legislation states that the sentence cannot be suspended, is it not true that there is nothing to stop a court making the sentence concurrent with any sentence currently being served? They are the matters I want to find out from the parliamentary secretary during consideration in detail. We know it is true, because we know that the former Attorney General's guidelines, forged with the prosecution authority, take into account the youthfulness of the offender and any mental impairment that he or she may be under. We know from the Inspector of Custodial Services that more than 50 per cent of our prison population suffers some sort of mental infirmity, and as far as Banksia Hill goes, 40 per cent of them are Indigenous people, and a large proportion of those are suffering from mental infirmity. Heavens to Betsy, more than half of them are born with foetal alcohol syndrome. No wonder Hon Christian Porter had to write the guidelines so wide as to let justice in when the Premier wanted to crush the courts and not allow the courts to deliver justice. No wonder the Attorney General had to go behind the Premier's back and write such wide guidelines. Half the charges brought are downgraded because the prosecution and the police do not want mandatory sentencing. That is why—because the prosecution and the police do not want mandatory sentencing. That is why the police union has set out the tables on page 20 of its report. I will ask for leave, before I sit down, to lay the police report on the table of the house for the rest of the day's sitting so that members can read what the police union had to say about it all.

The opposition's position on this is: so what? We are not opposing this legislation. The government claims a mandate for it; we know that it claims a mandate for everything. The public and the media ought not be under any illusion that this means, as the Premier said in respect of police, that anyone who assaults a custodial officer appointed under the Young Offenders Act 1994 will go to jail, no ifs and buts—that is not the case, as identified by the Western Australian Police Union of Workers. That is not the way this legislation works because this

legislation has to be read with the Director of Public Prosecutions' guidelines and the Commissioner of Police's guidelines. When all three are put together, it is miles away from what the Premier said it would ever be. I ask all members to take the opportunity to read what the police union had to say about the Liberal government's legislation. I look forward very much to hearing from the parliamentary secretary this evening about how many people have been charged.

[The paper was tabled for the information of members.]

MS M.M. QUIRK (Girrawheen) [5.11 pm]: I want to make a few quick remarks on the Criminal Code Amendment Bill (No. 2) 2013. I make the general observation that when there is an area of public administration that the government is under some pressure on, its immediate reaction is to enact tougher laws, although they might only have a tenuous connection with the public policy issue that needs resolving. That is the instance in this case.

I would like to read a letter from the acting chief executive officer of the Aboriginal Legal Service of Western Australia, John Bedford, concerning this bill. It reads, in part —

> I refer to the Bill currently before the Legislative Assembly, which provides for a mandatory term of imprisonment for assaults on Youth Custodial Officers.
>
> As you would be aware, Western Australia's Aboriginal juvenile detention rate is horrifying. An Aboriginal child in Western Australia is 40 times more likely to be in custody than a non-Aboriginal child—the highest rate in the nation. This statistic is a national and international disgrace, and should be sufficient to have inspired a radical policy response from the State Government. Instead, the State Government has decided to extend mandatory sentencing for young people by introducing amendments that will, in effect, apply exclusively to juvenile detainees.
>
> Mandatory sentencing laws disproportionately impact Aboriginal persons, making them discriminatory in their application. With 75 per cent of Western Australia's juvenile detention population being Aboriginal, the proposed amendments will almost certainly see a further increase in the rate and duration of the detention of Aboriginal children. As a result, this amendment will compound the unsustainable pressure in Western Australia's juvenile detention facilities. The additional criminogenic effect on juvenile detainees will also be profound.
>
> The proposed amendments are unnecessary. Current laws are more than adequate to deal with any assaults against Youth Custodial Officers. Further, in the experience of the Aboriginal Legal Service of Western Australia … as the legal representative of a significant proportion of Aboriginal juvenile detainees—such assaults are very uncommon. We also note that during the riot at Banksia Hill Detention Centre in January, there were no assaults against Youth Custodial Officers; in fact there was no personal violence or injury at all.

That certainly explains some of the reservations about the efficacy of the bill that the shadow Attorney General very comprehensively and effectively outlined to this chamber.

I want to mention the unintended consequence of this legislation. As the Aboriginal Legal Service pointed out, the law in its implementation will disproportionately impact upon Aboriginal youth. That effectively means that this Parliament will pass laws that will have a racial impact and are discriminatory.

A number of jurisdictions in the United States of America have passed what they call racial impact laws. It does not mean that the laws cannot be passed, but at the time of passing the legislation it is acknowledged that they will disproportionately impact on one racial group or another. The proponents of the legislation need to explain how they will ensure that that inequality—through public policy mechanisms or administration, or the provision of resources for other remedial programs—will even out that disproportionate impact on one particular group. I make this point here: there is no provision to review this legislation. I would have thought, given the potential for this inequality to occur, that this would be a very good argument for why there should be a review provision in the legislation.

There has been some suggestion of a nexus between the Banksia Hill riots and this legislation. It has been implied that these laws have been introduced in response to what happened. I have a document that was tabled by the Minister for Corrective Services last Thursday from the Inspector of Custodial Services entitled "Directed Review into an Incident at Banksia Hill Detention Centre on January 2013". It includes the government response to the findings of the Inspector of Custodial Services. I will read out a couple of sections that were highlighted by the inspector. Recommendation 19 states —

> There should be an independent review of FTE staffing levels in Youth Custodial Services, taking into account comparative data about the numbers and deployment of staffing in other Australian juvenile detention facilities and prevailing standards. This needs to be undertaken as a matter of urgency.

The government's response to that is —

> A Business Case was previously completed detailing the preferred staffing ratio numbers required to manage young people in detention. This will be revisited to include a jurisdictional analysis prior to being submitted to Government for consideration.

In other words, although the Inspector of Custodial Services has said this is urgent, clearly nothing will be done in the near future. The next recommendation I refer to is recommendation 21, which states —

> The above review should investigate the present arrangements for and use of personal leave and the causes for and impact of workers' compensation claims in the Youth Custodial area.

There is a long reply from the government to the effect that —

> The Department has undertaken a considerable amount of work around the use of personal leave, absenteeism and workers' compensation within the Youth Custodial area … The focus on workers' compensation remains rigorous. The Department has also exercised its right to medically board Youth Custodial staff who have been deemed by an independent panel of medical practitioners to be 'medically unfit' to perform pre-injury duties.

That is the government's response. I will come back to that shortly. The last recommendation that I want to refer to is recommendation 27, which states —

> The Department must improve the scope, detail, accuracy and availability of records across all aspects of Youth Custodial Services.

That last one is germane to the issue before the house: if a person is to be prosecuted for a criminal offence for which a mandatory sentence applies, it is essential that the evidence is robust and has been properly collected, and that record keeping and all details of the incident are properly collected. It is clear from the findings of the Inspector of Custodial Services that quite often incidents are not accurately recorded—for example, the use of what he calls regression, whereby behavioural control is not adequately recorded. I would say that there needs to be some manifestation of a more comprehensive capacity to gather that evidence for prosecutions.

Going back to resources, places such as Banksia Hill Detention Centre become a tinderbox partly because staff are under stress because they are under-resourced. That was very much the finding of the inspector. It is not helped by what the Minister for Corrective Services said only less than a month ago. This was reported in a number of media outlets, but I am quoting from ABC news, which states —

> **Youth custodial officers have accused the Corrective Services Minister of deliberately portraying them as lazy thugs.**
>
> In the past week Joe Francis has publicly criticised guards from the Banksia Hill detention centre claiming half of them had called in sick at the weekend and not turned up to work.
>
> Toni Walkington from the Community and Public Sector Union —

Which covers youth custodial workers —

> says …
>
> "Our members are very disappointed that Mr Francis continues to make false accusations about their dedication to the role and we have written to the Premier stating that we want an apology and for Corrective Services to be removed from Mr Francis's portfolio," …

The report went on to state that about 60 officers attended a stop-work meeting.

Again, the issue of ensuring the safety of custodial officers in juvenile detention centres is tied up with the provision of resources and how many officers are on shift at any one time. Their capacity to deal with volatile situations, I believe, is very limited if they are under some level of strain, working long hours, working overtime and doing the jobs, frankly, of two or three people. I think that the government needs to be mindful of that and not just point the finger at the detainees per se. Yes, these kids are very problematic and have been convicted of offences, but the problem is much more complex than we believed.

Finally, I want to talk about the issue of deterrence. I think that the member for Butler talked about this very well. Laws purport to deter individuals from breaking the law with sentences sufficiently severe that people will be deterred from committing an offence. However, in this case we are dealing with individuals who, by and large, do not have good impulse control; that is why they are in juvenile detention in the first place. It is said that young people, until their brain matures, generally do not have well-developed impulse control, and we are

dealing with a cohort of young people who are proven to have less capacity to control their actions than young people generally. Therefore, there will always be a tinder point at which there is some volatility between officers and individual detainees. I can say with some level of confidence that those juvenile detainees will not be thinking in those situations, "Oh, I'd better just cool it and walk away because otherwise I'll get a longer sentence." These are young people who have severe impulse control problems, whether it is by virtue of their age, some form of social disadvantage or, in many cases, foetal alcohol syndrome, which is an enormous issue with Aboriginal kids, as we know. The chances that those sufferers can exercise any impulse control at all is highly problematic.

As the shadow Attorney General said, Labor is not opposing the Criminal Code Amendment Bill (No. 2) 2013. However, first, we have reservations about its efficacy; second, it will apply disproportionately to Aboriginal offenders, which I think is wrong in principle; and, third, it is trying to deter people in a situation in which deterrence is of little utility.

MR M.J. COWPER (Murray–Wellington) [5.24 pm]: Today we are debating the Criminal Code Amendment Bill (No. 2) 2013, which amends the Criminal Code to include youth custodial officers as public officers for the purposes of protection against serious assaults in our detention centres.

There are 199 youth custodial officers in Western Australia that I am aware of. When I was appointed to the position of Minister for Corrective Services, I visited Banksia Hill Detention Centre and was able to speak directly with a number of custodial officers. I also presided over a school with an intake and then the graduation of an eclectic group of very experienced people who came from different walks of life to take on the very challenging position of youth custodial officer. In my short time as minister, having spoken to the people in the industry and the unions for prison officers and youth custodial officers, I noted that arguably dealing with young people up to the age of 18 is potentially as dangerous, if not more dangerous, than having to deal with adults. Not long after taking up the position, I was visited by Toni Walkington, the secretary of the Community and Public Sector Union. One of the issues raised with me at that time was why youth custodial officers were not afforded the same protection in the Criminal Code as police officers and other public officers. I gave an undertaking that I would take it up with the Attorney General and with the party. I gave that undertaking because I could not, at that point in time, see that there was any real issue, notwithstanding the fact that I was party to the debate in this place when the legislation was first introduced in 2008. Although the record shows that not a lot of youth custodial officers have been seriously injured, I know there were at least two assaults on youth custodial officers in the last two years that were of concern. They could easily have been of a more serious nature than they were, I am very fortunate to say.

Three criteria determine whether someone can be deemed a public officer. First, that they be in uniform. In this case, youth custodial officers wear a uniform. Second, if the officer faces violence as an everyday intrinsic part of their public duties—yes, there is a tick for that one. As I said, we saw some very challenging times for youth custodial officers during the Banksia Hill Detention Centre disturbance—the riot, whatever we want to call it. We had a situation in which they were challenged and they met the challenge. I am very pleased to say, having read the report of the Inspector of Custodial Services, that the response that night was done professionally. I again say to the police officers and other prison officers who assisted that night that they did a fantastic job. There was no battle, if you like, when they went into Banksia Hill on the night the conflict occurred. It was instigated by three people and perpetuated, and unfortunately required outside assistance. At no time did anyone escape from that facility. In this case, when the police entered the premises with the dogs, those who had got out of their prison cells went to a basketball court. For those people who have not been to Banksia Hill, it is probably best described as a campus as opposed to a cellblock in a contemporary prison sense. It is more of a campus setting and it is more accommodating; it was designed in that fashion to place young people in an environment that was perhaps less harsh, which is probably the best way to describe it.

So, when the police entered on the night, the young people knew the game was up. They went to the basketball court area, which is not much different in size from this chamber, and they sat down calmly. They were spoken to, and it was explained to them what was going to occur, and they went without any conflict or physical clash. But they probably realised that they were also somewhat heavily outnumbered at that stage.

A few days later, I visited Banksia Hill, along with District Court Judge Reynolds, and we had a chance to speak to some of the personnel on the ground. I acutely remember some of the things they said to me. They said that they were enormously disappointed, for a range of reasons that I will not go into in this place. They were enormously disappointed with the department; they were disappointed with their colleagues; and they were disappointed with the young people themselves. A lot of these very professional youth custodial officers invest a lot of their personal time in trying to act as mentors for these young people and give them a sense of family or ownership. Those members who have been to Banksia Hill Detention Centre will have seen the very nice cells—all paid for by the taxpayers—with a common area that has a dining room and a television, and sometimes even a

barbeque and pool table. These youth custodial officers invest heavily not only as part of their job, but also personally in trying to make a difference in the lives of these disadvantaged young people.

An interesting comment was made to me by one of these youth custodial officers. He said that prior to the maintenance and cleaning of this particular unit, one of the boys with whom he thought he had established a rapport said to him, "What do you think of your beautiful kitchen and dining room now?" This boy virtually threw it back in his face. That really impacted upon that youth custodial officer and caused him some concern, and he probably had to go back to the drawing board, because he thought he had been getting through to some of these troubled young people, only to have that thrown back in his face.

However, having seen what occurred that night, I am very confident that, notwithstanding some of the scars that have occurred, our youth custodial officers are very professional people. They want to make a difference in the very difficult job they are doing on behalf of the people of Western Australia. Given the very trying circumstances in which they operate, it is appropriate that they be included in the protections that are afforded under this legislation. That is notwithstanding the fact, as I have said, that I am aware of only two youth custodial officers who have been injured in recent times, albeit not seriously, but that may well not be the case in the future. We need to send a message to, firstly, youth custodial officers that, yes, we appreciate and recognise the very difficult work that they do; and, secondly, to the perpetrators and potential perpetrators, who because of the loophole that currently exists in the legislation may try to take on one of these youth custodial officers. It comes down to a mindset of how it is approached.

This bill has only five clauses. The clause that will give effect to this amendment is clause 4, which seeks to insert a new paragraph (iiia) after section 297(8)(a)(ii) of the Criminal Code to provide that an act of grievous bodily harm inflicted upon a person appointed under the Young Offenders Act will fall within the definition of a prescribed circumstance for the purpose of the application of mandatory sentencing.

I also want to touch briefly on the reason that we have mandatory sentencing. When Christian Porter, the then Attorney General and member for Bateman, brought this bill to the house, it was debated long and hard. We have mandatory sentencing because the community has an expectation that justice will be done. At that time, there was a strong sense that the community was not satisfied with the outcomes being applied to certain events occurring in our community, and members of Parliament were approached and canvassed as to whether they were prepared to make these amendments. That is why this legislation eventuated. Mandatory sentencing first came into this place in 2004 in the form of amendments to the Road Traffic Act. Members on the other side of the chamber were in government at that time, and they brought the first mandatory sentencing legislation into this place. There had been an epidemic of stolen cars, and that is why the act was amended to provide for mandatory sentencing. It is interesting that with the change of government, members opposite have now become philosophically opposed to any form of mandatory sentencing.

Mrs M.H. Roberts: That is not true. You know that we voted for it.

Mr M.J. COWPER: The member is right. We have a mandate.

Mrs M.H. Roberts: You are misleading the house.

Mr M.J. COWPER: We are listening to the people in our community. We are listening to the youth custodial officers and to the Community and Public Sector Union. We see value in incorporating youth custodial officers into this legislation.

I will now sit down and enable someone else to speak, and I look forward to the consideration in detail that will follow this debate.

MR V.A. CATANIA (North West Central) [5.37 pm]: I also want to contribute to the debate on the Criminal Code Amendment Bill (No. 2) 2013. I was sitting on the other side of this house when we debated the original mandatory sentencing legislation. That legislation covers police officers, ambulance officers, transit guards, court security officers and prison officers. Youth custodial officers were not part of the original changes to the Criminal Code to provide for mandatory sentencing in the case of the prescribed people whom I have just mentioned. The purpose of mandatory sentencing is to protect public officers who face regular threats as part of their daily role. I firmly believe that youth custodial officers fall into that category. This Liberal–National government Criminal Code amendment bill will extend mandatory sentencing to youth custodial officers. These laws will mean that offenders who assault and cause bodily harm to youth custodial officers will receive a mandatory term of jail or detention.

In the other place the Attorney General said that the laws prescribe mandatory sentencing of three months for 16 to 18-year olds; and, for adults these sentences range from six to 12 months, depending on the severity of the attacks. The Attorney General said also that the introduction of mandatory sentencing for assaults against police and other public officers sends a message to the community that violent attacks against those performing high-

risk public duties will not be tolerated. Prescribing minimum terms of imprisonment and detention for bodily harm done to police and other public officers has reduced the risk of assaults to those officers. The Minister for Corrective Services also has said that although recorded assaults to youth custodial officers were relatively low, they deserved equal protection from the law, which I agree with. These men and women have every right —

Mr J.R. Quigley interjected.

Mr V.A. CATANIA: The member has had his turn; he should let others have theirs. I will get back to what the Labor Party stands for.

These men and women have every right to be protected.

Mr J.R. Quigley interjected.

Mr V.A. CATANIA: The member should come and say that outside the house.

The DEPUTY SPEAKER: Member for Butler! Member for Armadale!

Mr V.A. CATANIA: These laws protect these people performing their duties of guarding young criminals. We believe that this legislation is a deterrent. We need to make sure that there is a deterrent. Members opposite have been having that debate and saying that they do not believe this legislation will be a deterrent. They believe that it puts those youth who are in jail at risk —

Mr J.R. Quigley interjected.

The DEPUTY SPEAKER: Order, member! The member is not taking your interjection. Will you please allow him to speak.

Mr V.A. CATANIA: Hearing the comments that members opposite have been making as to whether this legislation will have an effect, my opinion is that it will. We create these laws to deter people from harming others. Members opposite say that they support this change, but deep down they do not really support any form of mandatory sentencing. Unfortunately, when I was part of the other side, their actions suggested that they did not support mandatory sentencing but they were going to cower out of supporting this bill by walking out of the chamber.

Dr A.D. Buti interjected.

The DEPUTY SPEAKER: Member for Armadale, I will just advise you that you are on three calls already, so please refrain from interjecting. I now give the call back to the member for North West Central.

Mr V.A. CATANIA: As I said, when we were having the first mandatory sentencing debate, the great strategy of the former Leader of the Opposition Hon Eric Ripper was to not turn up to the chamber and vote.

Mr J.R. Quigley: Rubbish. He was here and voting.

Mr V.A. CATANIA: The member would remember that, though perhaps he does not. Perhaps he was not there. The debate was about whether the Labor Party would support the legislation or walk out of this chamber. This shows us the true support for something that provides that protection —

Mr J.R. Quigley interjected.

The DEPUTY SPEAKER: Member for Butler, I call you for the first time.

Mr V.A. CATANIA: — to those public officers that I mentioned, including youth custodial officers. It is important to cover everyone who works in what can sometimes be very dangerous places. That is why we sentence our criminals to do time. A lot of them have a lot of social issues and, as members have rightly pointed out, foetal alcohol syndrome. Unfortunately, a lot of kids who are incarcerated come from an Aboriginal background. In saying that, a percentage of kids do not know what they are doing. I believe that a lot do know when they do wrong. That is why it is important to have these deterrents to ensure that our public officers are protected. I believe that these kids want to get out of jail. Some learn by their mistakes and some do not. By having a deterrent, I believe they ensure —

Mr J.R. Quigley: We'll find out soon how many actually carried out these assaults. I reckon none.

Mr V.A. CATANIA: The member knows that it is important to have laws that deter people from committing crimes, and this is what this legislation is about. Given the member's past employment, he should know better than anyone else in this house that laws are in place to prevent people from endangering other people. It is disappointing that the member's view has changed. Perhaps it has something to do with sitting on that side of the house.

Mr J.R. Quigley interjected.

The DEPUTY SPEAKER: Order! Allow to the member to speak, as you were allowed to.

Mr V.A. CATANIA: All that members opposite can do, particularly the member interjecting—I cannot remember where he is the member for—is insult individuals rather than dealing with facts and rather than dealing with what they believe in. They speak against this bill but they say they support it. They were the words of the member for Girrawheen and the member for Butler.

Mr F.A. Alban: They're hedging their bets.

Mr V.A. CATANIA: That is right; they are always hedging their bets. I say from this side of the political fence that it is not about hedging bets; it is about doing the right thing by the community and by youth custodial officers to ensure that they are protected in every way possible. I think mandatory sentencing is a deterrent. It will hopefully deter people from taking actions they should not, given they are in an environment in which there is a high probability of sometimes being caught up in unfortunate circumstances.

I support the Attorney General's bill. I support the comments made by the Minister for Corrective Services. This government is about doing things; it is about making sure that we can make this state a safer place in which to live and work, and I believe this bill does that. I hope members opposite keep their word and support this bill.

MR P. ABETZ (Southern River) [5.46 pm]: The Criminal Code Amendment Bill (No. 2) 2013 deals with the issue of mandatory sentencing in cases of assaults against youth custodial officers. I want to contribute to this debate because I have a keen interest in young people and also the Banksia Hill Detention Centre is located in my electorate. I have had the opportunity to visit that facility on numerous occasions. As the member for Murray–Wellington indicated, it is very different from a normal prison. It is more like a campus or a camp site, except it has a very high fence around the outside. When we are in there, we could think we are in any school campus or in a country youth camp setting. I commend the youth custodial officers for the work they do, particularly the teachers who teach the young people in that particular setting. Youth custodial officers are responsible for the supervision of young people aged between 10 to 18 years during their period of detention. It is important that these officers have the ability to carry out their duties knowing that serious assaults against their person will carry serious consequences for the perpetrator.

I believe that young people today are more vulnerable than they used to be in decades past because they are exposed to a culture that increasingly normalises violence. It is portrayed in the media, on television and in cinemas. Many actively play very violent games. With alcohol and illicit drugs becoming increasingly accessible to young people, peer pressure now carries consequences that are far more devastating than those experienced in the younger years of, dare I say, most members in this place. Violence is on the increase in our society. Violence is almost seen as normal by many people. Violence amongst young people is often used as a way to solve their differences rather than talking things through.

I support this bill insofar as the judicial arm of government has often imposed sentences that do not reflect the view of the community at large on the severity of the crime. Although it is fair to say that the number of assaults against youth custodial officers is relatively small, I certainly share the view of the member for North West Central that that the law has to have a preventive measure for people. If people know the consequences, that certainly makes a difference.

Mr J.R. Quigley: Could I ask a question?

Mr P. ABETZ: Yes.

Mr J.R. Quigley: Do you think that section 190 of the Criminal Code outlawing premises for the use of prostitution deters one person or one brothel?

Mr P. ABETZ: Absolutely. When we look anywhere in the country where prostitution has been legalised, the size of the industry has rapidly increased because the deterrent of knowing they are doing something illegal is gone. Police in Victoria admit that since the sex industry was legalised, it has increased by 20 to 30 times. I have just been to Germany and talked to the police there. They admit that since it was legalised, it rapidly increased. When we legalise something, it changes very rapidly.

Mr J.R. Quigley: The problem with all these deterrents is that you have to prosecute someone to deter others.

Mr P. ABETZ: Not necessarily, no. That is another issue. Perhaps we could talk about prostitution another day. I believe it is important that we carefully consider what measures we use to reduce the number of new young violent criminals. Most governments in our nation to date have implemented strategies to reduce the recidivism rate of offenders, both juvenile and adult, but comparatively little has been done to prevent young people from heading towards conflict with the law. That point was already made by the Australian Institute of Criminology in 1998 when it published an article explaining that the reason for this state of affairs is that crime control strategies

aimed at reducing the frequency of offending amongst the existing population of offenders produce relatively quick results, but strategies aimed at reducing the supply of offenders take much longer to bear fruit. The article states —

> … they should be regarded as a vital component in any overall crime prevention strategy. The reason for this is that small changes in the supply of motivated offenders have the potential to produce large crime-reduction dividends.

The reason is quite simple. Every criminal behaviour has the potential to become a lifelong lifestyle; hence the importance of early intervention. In 2010, the World Health Organization published a report on the prevention of violence among young people and commented that programs that target children early in life are cost-effective as they improve school performance, reduce substance misuse and crime and improve outcomes for employment and health. Any review of the literature reveals that prevention efforts need to be focused on multiple areas and address multiple risk factors simultaneously and match the strategy to the target audience. Violence is perpetrated by not only those facing difficult economic circumstances—it is often argued that people in difficult economic circumstances are the ones who are more prone to commit crimes—but also young people from relatively affluent homes. I put to this house that poverty is not the cause of crime, but crime is often the cause of poverty. Poor parental supervision, inconsistent parent discipline and weak parent–child relationships have been cited as triggers for juvenile and adult crime. Some studies have revealed that of all the causes of juvenile participation in crime, neglect has the greatest causal influence. For instance, a report from a UK independent think tank, the Centre for Social Justice, comments that punitive measures to kerb youth crime have failed as —

> … the government's action thus far have not measured up to its admission of the centrality of the family.

My research indicates that the issue of fatherlessness in particular has been shown to have significant adverse impact. One of our own Australian researchers, Bill Muehlenberg, commented in a recent article on some of the international data gathered in this regard, and he referred to studies in the United Kingdom that have shown —

> Children from broken homes are nine times more likely to commit crimes than those from stable families.

He also said that in Western Australia —

> … family breakdown in the form of divorce and separation is the main cause of the crime wave.

Another leading academic in the field is the Western Australian of the Year for 2013 Professor Bruce Robinson. He is the founder of the Fathering Project, which is a research project based at the University of Western Australia involved in researching problems and solutions associated with the lack of positive fathering. The research has shown that fathers are strong potential influences. Fathers often struggle to know how to be good dads. Being a good father makes a big difference. A good relationship with one's child is the best insurance against peer pressure. Children need time with fathers and father figures. There is a best practice for fathering; it is not all guesswork. Members in this place might be interested to know that the Fathering Project is conducting a pilot study to determine whether an association exists between the absence of an appropriate father or father figure during childhood and later illicit drug use. Although more research is required, the findings of its preliminary study certainly support the theory that fathers and father figures are an important influence on whether a person uses drugs. When I ran a drug rehabilitation support group in Willetton for a number of years in the late 1990s into the early 2000s, one of the things that struck me was that of all the young people who came through that group, only one came from an intact family. That particular young lady made a very speedy recovery.

I urge members in this place to think about and to ponder all this, and to consider how we as a house can take measures that would allow us to make a difference in reducing or preventing the perpetration of violence and crime among young people in Western Australia. Some jurisdictions have done some good work in this area. Again, the report of the World Health Organization to which I referred previously mentioned that the adoption of a comprehensive approach through interventions on parenting, teaching life skills, addressing the issue of access to alcohol and weapons, preventing bullying and so on can have a huge impact.

I have a few more minutes before we take a break, so I will wrap up. One of the things I want to briefly comment on is that I also received the letter from the Aboriginal Legal Service to which the member for Maylands referred. The author claimed that this legislation is discriminatory because 75 per cent of young people in detention are Aboriginal and, therefore, this legislation would predominantly affect Aboriginal kids. The claim that it is discriminatory is a total nonsense. Discrimination is if we discriminate on the basis of race. This bill makes no distinction between Aboriginal or non-Aboriginal and migrant or non-migrant. There is no discrimination whatsoever. If someone commits the crime of attacking a youth custodial officer, the

consequences are exactly the same no matter what their racial background or religious belief or whatever. The claim that the bill is discriminatory is a total nonsense. I certainly believe that that view should be totally rejected because it does not make any sense at all.

I believe that greater emphasis needs to be placed on how we can help young people to have their lives in order so that they do the right thing and do not end up in juvenile detention centres. That is where I believe the primary focus ought to be. Hon Nick Goiran in the upper house recently spoke about the need for a minister for men's interests to help focus on the importance of fathers and the role that men play in bringing up the next generation. He suggested that such a ministry could coordinate government action in that direction.

Debate adjourned, pursuant to standing orders.

[Continued on page 4600.]

Sitting suspended from 6.00 to 7.00 pm