

CRIMINAL CODE AMENDMENT (DOMESTIC VIOLENCE) BILL 2012

Second Reading

Resumed from 26 September.

DR A.D. BUTI (Armadale) [5.55 pm]: I rise to talk on the Criminal Code Amendment (Domestic Violence) Bill 2012. This bill was brought to the house by the Leader of the Opposition. It deals with the incredibly important issue of domestic violence, which is the only crime that has constantly increased in Western Australia.

Before I get to the specifics of the bill, I think some background information on domestic violence would be appropriate. I am sure that all members of the house will understand that domestic violence shatters homes and in many cases results in death, which is what this amendment to the Criminal Code deals with. Of course, domestic violence has many, many victims, not only the females who are generally the subject of the crime, because it is a gender-specific crime. Even though domestic violence victims can be male, generally they are female. The children who are exposed to domestic violence crimes have long-lasting effects that may develop into other dysfunctional activities when they become adults. The psychological and behavioural impacts of domestic violence are widespread and can lead to depression, low social competence, temperamental problems, low self-esteem, school difficulties and the increased likelihood of substance abuse.

The true extent of the problem of domestic and family violence in Western Australia is difficult to quantify, but we know that the reported incidence of domestic violence has increased in Western Australia. It is the only area of police reporting that has increased constantly in recent years. In a public forum in Kelmscott in May, the police commissioner confirmed that domestic violence is the only crime that has constantly increased in the past couple of years. It was revealed in the recent coronial inquest into the domestic violence murder of Andrea Pickett that domestic violence incidents have steadily increased over the last six years from approximately 22 000 in 2005 to 35 000 in 2010. I think we should all be alarmed by that. In 2009, the commonwealth government commissioned a study that found that domestic and family violence cost the nation \$13.6 billion each year. According to that study, if additional efforts are not made to address domestic and family violence, this figure will increase by \$2 billion in the next 10 years. Domestic and family violence is also the leading cause of homelessness among women and their children, and it is the single biggest health risk to women aged between 15 and 44 years in Australia. Although the extent of the problem of domestic violence in Western Australia is difficult to quantify, there is no doubt that the available statistics and anecdotal information shows that it is truly a major social, moral and political issue that we have to deal with. Even though the statistics are high, they are not a true reflection of the incidence of domestic violence. That is just an introduction.

The bill before the house is a very simple bill. One would hope that the government will support this bill. The government has been very strong on the so-called law and order agenda. It seeks to impose legislative responses to any perceived political problem that it may confront, as we experienced in last week's long debate over the poorly thought out and drafted out-of-control party legislation. If the government is true to its word on trying to fight crime in Western Australia, it will be fully supportive of the bill before the house. The bill seeks to increase the sentence imposed for deaths dealt with under section 281 of the Criminal Code. The underlying intention of the proposed amendments is a desire to ensure that the seriousness of domestic violence is reflected in the sentencing process.

Sitting suspended from 6.00 to 7.00 pm

Dr A.D. BUTI: I will continue from where I think I had stopped prior to the dinner suspension. As I stated, the underlying intention of the proposed amendment in this bill is the desire to ensure that the offence of causing a domestic violence death will attract a greater penalty than may be the case in other circumstances. This can be quite easily achieved by this bill, which seeks to impose a maximum penalty of 20 years' imprisonment for an offence that is committed in circumstances of aggravation. One advantage of the approach that we are following in this bill is that "circumstances of aggravation" is defined in section 221(1) of the Criminal Code as follows —

circumstances of aggravation means circumstances in which —

- (a) the offender is in a family and domestic relationship with the victim of the offence; or ...

The term "family and domestic relationship" is defined in section 4(1) of the Restraining Orders Act 1997 as follows —

family and domestic relationship means a relationship between 2 persons —

- (a) who are, or were, married to each other;
- (b) who are, or were, in a de facto relationship with each other;
- (c) who are, or were, related to each other;

- (d) one of whom is a child who —
 - (i) ordinarily resides, or resided, with the other person; or
 - (ii) regularly resides or stays, or resided or stayed, with the other person;
- (e) one of whom is, or was, a child of whom the other person is a guardian; or
- (f) who have, or had, an intimate personal relationship, or other personal relationship, with each other.

The definition of “family and domestic relationship” is quite wide. Therefore, the idea is that this bill will pick up the words “circumstances of aggravation” as defined in the Criminal Code, and also the words “domestic and family relationship” as defined in the Restraining Orders Act 1997.

The concept of circumstances of aggravation has been applied to a number of specific offences in the Criminal Code. Some examples are section 297, “Grievous bodily harm”; section 301, “Wounding and similar acts”; section 313, “Common assaults”; section 317, “Assaults occasioning bodily harm”; section 317A, “Assaults with intent”; and section 338E, “Stalking”, or pursuing a person with intent to intimidate. All of those offences, if committed in circumstances of aggravation, will result in a maximum penalty that is greater than it would be if they were not committed in circumstances of aggravation. The Criminal Code also prescribes that “circumstance of aggravation” is a necessary element of certain offences. Some examples are section 324, “Aggravated indecent assault”; section 326, “Aggravated sexual penetration without consent”; and section 328, “Aggravated sexual coercion”.

In understanding the idea behind this bill, it is necessary to look also at section 281 of the Criminal Code, which deals with unlawful assault causing death. At the moment, the maximum penalty that can be imposed for that offence is 10 years’ imprisonment. The idea behind this bill is that if a death occurs in a domestic and family relationship, and in circumstances of aggravation as defined in the Criminal Code, the maximum penalty for that offence will be increased to 20 years’ imprisonment. I will tell members why we feel this is necessary. Section 281 of the Criminal Code was introduced in 2008 by Hon Jim McGinty, the former Attorney General in the previous Labor government, to ensure that a person who causes a death by assaulting another person is held accountable for their actions. Section 281 is often referred to as the one-punch provision. Members may remember that at that time, there had been a number of so-called one-punch deaths. An example is two people fighting outside a nightclub; one person punches the other and that person falls on the ground, hits their head and dies. The problem at the time was that it was very difficult for the law to deal with such an offence, because there was not an intention on the part of the person who had punched the other person that the person would die. Section 281 of the Criminal Code basically states that if a person unlawfully assaults another person, and that person dies as a direct or indirect result of the assault, the person is guilty of a crime and is liable to imprisonment for a term of 10 years. What is important is that the person is held criminally responsible even if the person did not intend to kill the other person, and even if the death was not reasonably foreseeable. So it is not unlike the offence of manslaughter, basically. The maximum penalty for manslaughter is 20 years’ imprisonment, not 10 years’ imprisonment. With this bill we are seeking to increase the maximum penalty for an offence that occurs in a domestic and family relationship, and in circumstances of aggravation, to 20 years’ imprisonment, because, in many respects this offence is similar to manslaughter. In introducing the unlawful assault causing death law in 2008, the then Attorney General, Jim McGinty, explained the bill in the second reading speech as follows —

This new offence is to address the so-called one-punch homicide cases. An example of these types of cases is when a person who is punched falls to the ground and suffers a blow to the head from hitting the ground and dies. Western Australia will be the first state in Australia to introduce legislation that creates an offence to deal specifically with this issue. As the law currently applies, offenders who are charged with manslaughter in such cases are often acquitted on the basis that the death was an accident. A death will be an accident when it was not reasonably foreseeable that death would result as a consequence of the punch.

It is very interesting that when Hon Jim McGinty introduced section 281, in response to the so-called one-punch homicides, he never, ever mentioned the issue of domestic violence homicides. But the point is that section 281 of the Criminal Code has been used mainly in domestic violence situations.

When there has been a charge and prosecution under section 281, the majority of cases have involved domestic or family violence. The Human Rights Law Centre has picked up on this in a briefing paper and said —

... the majority of convictions have been against men who have killed their partners or ex-partners.

Interestingly, in those cases there is generally a history of violence. In the one-punch scenario outside a nightclub, there is generally no history of violence between the two parties because on the spur of the moment

someone punches someone else who they might not have seen before—and they die. In the domestic violence scenario, there is generally a history of violence, and the perpetrator is then prosecuted under section 281, which imposes a maximum penalty of 10 years' imprisonment, while manslaughter imposes a penalty of 20 years.

I have some data from the Office of the Director of Public Prosecutions labelled “Unlawful Assault Occasioning Death”. Nearly every single prosecution in the last year or two—it might be a bit more—has been in domestic violence scenarios between either a husband and wife, between partners in a de facto relationship, or a family relationship of some kind involving a brother or an uncle or something like that. As the Human Rights Law Centre states, the majority of convictions under section 281 have been in respect of partners killing their partner or ex-partner. They have been charged with unlawful assault causing death even though there has been a history of violence and abuse between the victim and the perpetrator.

The Human Rights Law Centre also states in its paper that —

Since the unlawful assault causing death offence was enacted, the majority of convictions have been against men who have killed their partners or ex-partners. In these cases offenders have been charged with unlawful assault causing death where there has been a history of violence and abuse between the victim and the perpetrator. The maximum penalty for unlawful assault causing death is 10 years. However, convictions to date in cases involving domestic violence have resulted in sentences of two to five years.

We argue that 10 years as a maximum penalty in a domestic violence homicide or death is insufficient, but the problem is that people are actually being convicted and sentenced to two to five years for killing their partners when there is a history of violence. It is absolutely absurd.

Of course, the case that brought this to prominence, which was mentioned by the Leader of the Opposition in the second reading speech, was the Saori Jones case.

[Member's time extended.]

Dr A.D. BUTI: I think most members would be aware of this case. If members read about it in the newspaper reports, they would have found it hard not to be moved and to feel that an incredible injustice has occurred. Saori Jones was 31 years of age and the mother of two children. She suffered a brutal death at the hands of her estranged husband. She had endured many, many years of violence in the marriage. They were then separated. Her two children were 10 months old and four or five years of age. The older child was visiting his father, and Saori Jones went to collect the child. An altercation took place in the kitchen and Bradley Jones—whose name I do not even want to mention but I will for the record—punched her. Saori collapsed, vomited on the floor and was unconscious. He then placed the 10-month old baby to the mother's breast to feed, he showered her, and then put her on the bed—she was still unconscious—and left her there. Saori died the next day. Even though calls were made by the refuge that she was staying at to the police, the police failed to take the appropriate steps to check for her at the house—I think they may have gone once but did not press the point.

Mr M.J. Cowper: That is correct.

Dr A.D. BUTI: Okay. Eleven days later they entered the premises and Saori Jones was lying on the bed and decomposing. It was an appalling scenario. The Director of Public Prosecutions originally charged Mr Jones with manslaughter, which was then reduced to an offence under section 281, for which he pleaded guilty. As the body had been decomposing for 11 days, there was a problem in determining the actual cause of death, even though he admitted punching her. Basically, there is no argument that he killed her, but because of the decomposition, he was charged under section 281. He received a five-year sentence with a parole period of three years. So Mr Jones could be released very soon actually—virtually three years from the time of —

Mr M.J. Cowper: I think it is 2016.

Dr A.D. BUTI: Okay. Therefore, it is three years from the time of murdering Saori Jones in awful circumstances. That was a catalyst for a movement to seek changes to domestic violence laws in Western Australia. On 16 May this year, petition number 161 was tabled in the Legislative Council requesting that the house urge the Attorney General to review the laws pertaining to domestic violence with the goal of ensuring that there was an appropriate legislative framework for dealing with cases involving a history of violence and abuse. The people responsible for that petition desire that section 281 not be used in the case of domestic violence deaths because it does not deal with the history of domestic violence, but, rather, the actual circumstance. On 30 September 2012, the Legislative Council Standing Committee on Environment and Public Affairs tabled its twenty-seventh report in response to the petition. It recommended that the state government —

... review the legislative framework for addressing family and domestic violence incidents to ensure that it appropriately acknowledges and reflects any history of violence and abuse associated with such incidents.

If we remove section 281 from being used in any domestic violence death scenarios, the problem is that in the Saori Jones incident, because of the body decomposing for 11 days, the husband may have to be charged with an even lesser offence because of the issue of causation and the actual cause of death. Although we do not advocate section 281 being used in domestic violence scenarios, the problem is that it will be used; it has been used. As I stated, the statistics from the Director of Public Prosecutions show that the majority of prosecutions under section 281 have been for domestic violence, so it will happen. This amendment seeks to bring some justice to the sentencing process to give a parallel sentence as we have with manslaughter. It is a very simple amendment that I think the government will support. The beauty of it is that we already have a definition of “circumstances of aggravation” in the Criminal Code, and it is just this simple amendment to section 281 to state that in a domestic violence scenario, the discretion still lies with the court, and the maximum penalty is increased to 20 years.

It might be tempting to view this amendment and this bill as simply engaging in a law and order auction. That is not the case. This is not an action to say “we are tougher than you”. This bill is a very measured response to what I think we would all agree is an injustice. It would be very hard to find any member of this house who would agree that Bradley Jones should have received a penalty of five years and possibly been released in three years. Who is to say that if we impose a 20-year penalty, the sentence that the judge imposed would have been greater? It probably would have been. If the maximum penalty is 10 years now and he received five years, in all likelihood if the maximum were 20 years, he would have received a higher sentence. In any case, it would be interesting if anyone can provide a justification to say that a domestic violence death should not have the same maximum penalty as manslaughter. We are not talking about murder as such. If it is a domestic violence murder, it would be covered under the normal murder provisions of the Criminal Code, and possibly the manslaughter provisions of the Criminal Code. We are talking about those cases that will be prosecuted under section 281, for whatever reason. It seems that the Director of Public Prosecutions has been prosecuting more and more domestic violence deaths under section 281. We are not arguing that this amendment solves all the problems of domestic violence. Of course, it does not. When we announced that we were going to seek an amendment to section 281, we also announced a number of other legislative provisions. Other educational provisions and preventive measures need to be addressed, but at least this sends a signal to the public that we are not simply engaging in a law and order auction. That would be wrong because this is not a response to mass hysteria or media focus. Yes, there was some media attention after the Saori Jones incident. Yes, a petition has been presented to the Legislative Council, but it is not a matter that elections will be decided on. We are not seeking this amendment because we think it will be a vote winner; it is just the right thing to do.

The *Four Corners* documentary aired only a few days after the Minister for Corrective Services became minister, or very shortly afterwards, which put him in a difficult situation. Both he and the Minister for Police stated that dealing with domestic violence is a high priority. They can show their bona fides in that respect by agreeing to this amendment. This amendment is a response to the inadequate recognition of the relevance of section 281 domestic violence scenarios. The beauty of it is that it is a simple amendment that uses an existing concept of aggravated circumstances that is in the Criminal Code. It tries to bring a parallel situation, a just situation, in which a domestic violence death that is prosecuted under section 281—it would be better if it was not prosecuted under section 281—has the same maximum penalty that a manslaughter provision does. It will also serve as an educational tool in trying to provide legislative recognition of the heinous crime of domestic violence. Domestic violence is a heinous crime. When people die of domestic violence, it is even more compelling that we do something to bring about justice.

In memory of Saori Jones and the other women who have died and whose deaths have been prosecuted under section 281, we need to do something as a Parliament. I strongly hope that the government will take this amendment on board because all we are seeking to do is increase the maximum penalty that a person is liable for if they are prosecuted under section 281. I should add that after the Saori Jones conviction, the Director of Public Prosecutions, Joe McGrath, advocated that the penalty under section 281 should be doubled. He said that it should be increased to 20 years. We prefer that very few domestic violence deaths are prosecuted under section 281 but in some cases they will be due to evidentiary issues. If they are prosecuted under section 281, the force of the law needs to be thrown at these despicable men who commit these murders. I call them murders but they are not necessarily labelled as murders under section 281. We need to stand up for victims such as Saori Jones and try to do whatever we can to prevent another Saori Jones incident happening in Western Australia. I plead with the government to support this amendment, which is very sensible and a measured response to a problem in the criminal justice system, as the Saori Jones case quite clearly demonstrates.

MS J.M. FREEMAN (Nollamara) [7.26 pm]: I, too, rise to speak on the Criminal Code Amendment (Domestic Violence) Bill 2012 because it relates to an important issue that we need to address. We all know the case of Saori Jones, but she is not the only person to whom this law applies. Media reports show that one-punch laws have been used in 12 cases of domestic violence. The Director of Public Prosecutions is using the one-punch

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laws. There is an argument in some commentary that this is because the DPP is not putting in the time and effort to explore the cases and explore witness evidence to pursue the more serious charge of manslaughter. Using the one-punch laws results in lesser sentences for some of the worst crimes that are perpetrated against women, predominantly, by their partners, their loved ones, their husbands.

The Saori Jones case is a particularly distressing case. Whilst Bradley Jones may have admitted to punching Saori and putting her in that room, he may not have intended to kill her with that punch, but by not calling an ambulance and not seeking treatment for her, he surely did kill Saori Jones. It is somewhat distressing for all the people who were involved in her case that she was not given the justice of a case to establish that it was manslaughter at the hands of her partner, who did such a hideous thing with her children in her presence. Her children will live their lives knowing that their mother lay dying in a room near them. He gave those children that legacy. Hopefully they will grow into lovely young people who can have some resolution around that. Some resolution can come from us looking at the laws that are before us and saying that that injustice should never occur again.

Such injustice has occurred in other incidences, such as in the case involving Steven Zyrucha, who was given three and a half years in December 2009 for unlawful assault resulting in the death of his partner, Angela Taylor. Again, the Director of Public Prosecutions chose to use the one-punch laws because Angela had respiratory issues as well as substance abuse issues. The DPP chose to take the quicker legislative route in that prosecution. The family of Angela Taylor was very distressed by this. The DPP did not pursue the manslaughter charge. The family was not able to provide evidence to establish the facts.

It is really important that we look at this piece of legislation and for it to pass through the house tonight. It is important for the workers. We often stand here and talk about the difficulties involved in front-line policing or in being a prison officer. Imagine being a refuge worker. Refuge workers are predominantly women. They work in our refuges to assist and provide care. They try to heal the pain of being in a domestic violence relationship. That has relationship impacts. It is so important for us, therefore, to respect those workers. In the case of Saori Jones, those workers knew that something had happened to her. They called police. When the police went around, they accepted the excuse given by Bradley Jones that Saori Jones had run off with the best man from the wedding and that he was looking after the children. The workers were in complete disbelief about that. The refuge workers went back to police and said, "That is just not the case. This young woman has been with us. We know that she would never leave her baby." She was still breastfeeding her baby. The police chose to accept the position given by Bradley Jones. We need to stand here and say that that law should never ever be used again in that situation. Someone who has done something which led to the death of this woman and impacted on her children should not have received a reduced sentence just because the DPP chose to use a law it felt it had to in order to pursue a conviction.

We have to remember that since this one-punch law was introduced, it has been used on 12 occasions in which domestic violence has led to someone's death. This law has been used against 12 people—12 men—because of the argument that the cause of death is difficult to ascertain. Domestic violence has a huge impact. The total cost of violence against women and children in 2011–12 is estimated to reach \$15.6 billion nationally. In WA, nearly a tenth of women aged over 18 years were victims of either physical or threatened violence. For all interpersonal violence-related hospitalisations in Western Australia from July 2002 to 2003, 48 per cent were intimate partner violence. Women are three times more likely to suffer violence in their own homes than in the community. Although there are people concerned about assaults against women when they are rightly enjoying a night out and feel that they should have the capacity to walk home safely, the greatest risk for us to come to harm is in our homes.

As legislators, we need to ensure that people who perpetrate such crimes know these sorts of crimes can lead to very serious and harsh penalties. People should not think that domestic violence is acceptable and commonplace. People should not think that domestic violence is part of the day-to-day machinations of a relationship. Domestic violence against women is an absolutely abhorrent crime. The full force of the law should be used against perpetrators when that crime leads to the death of someone who is deeply cared for by many people in our community, particularly the victims' children. I think those are important things to put before the community here today.

In Western Australia, it is estimated that Aboriginal women are 45 times more likely to be the victims of family violence than non-Aboriginal women. Aboriginal women account for almost 50 per cent of all victims. We very much need to focus on ensuring there are proper penalties, as we would for any other crime. We need to focus on the workers who work with victims of domestic violence and give them the regard and respect to know that when such crimes happen, the perpetrators receive proper penalties. We also know that we need to work harder to ensure people know that crime and violence against women is unacceptable. I was privileged this year, on International Women's Day, to listen to a young woman who educates New South Wales rugby teams about violence against women. It involved the whole aspect of changing cultures and how we have to change some of

the machismo around things that are said and that seem to be okay in our community. Men who tend to be silent are given the power to speak up and say, “That’s not okay. That’s not appropriate. That’s not behaviour that we will allow you to use against women.” As legislators, we say it is not okay and it is not acceptable behaviour against women. These men shall not have reduced sentences or be able to sneak away with lesser sentences than those given for manslaughter. If we did not say that, we would be as culpable as those people who perpetuate the view in the community that violence is part of the rough and tumble of life. It cannot be, it should not be, and we need to do something by passing this law.

MR M.J. COWPER (Murray–Wellington — Minister for Training and Workforce Development) [7.37 pm]: I rise not as a minister but as a member representing my electorate, as members of this chamber do. I agree with some comments made by other members about the Criminal Code Amendment (Domestic Violence) Bill 2012. No-one in this house would argue that domestic violence is not an abhorrent crime. Everything that can be done about domestic violence needs to be done and should be done. I commend the Leader of the Opposition for bringing this private member’s bill to this place. I am also a bit curious about one of the considerations he engaged in. I do not wish to nitpick, but I was here in 2008 when the section on one-punch attacks that the member for Armadale referred to was brought to this place by Hon Jim McGinty. I am curious about how that has now somehow evolved into the only avenue for —

Dr A.D. Buti: It is not the only avenue. Can I just interject, please?

Mr M.J. COWPER: I know where the member is going; I will correct that. It has been used on a number of occasions for domestic violence, which is probably not its intended purpose. I understand that the Attorney General is currently investigating the potential to bring in a bill to amend that act so it would more appropriately fit domestic violence issues. I would like to reflect on the —

Dr A.D. Buti: Is he going to print it before the house rises?

Mr M.J. COWPER: That is something I am not privy to, member.

Dr A.D. Buti: Your police minister brings in things within 24 hours; surely this is an important matter that should be brought to Parliament.

Mr M.J. COWPER: I listened with great interest to the member’s very good contribution, and I thought it would be appropriate that I rise and speak on this issue, given that I have some knowledge of this area. I go back to my days in the Kimberley and I do not care to remember all the cases of domestic violence that I attended—ones that include the deaths of women. I refer to Flora Mandajarra—I never forget the names, members—who received two knife wounds through the shoulder blades, one piercing her heart. She was murdered by her partner from Yuendumu. We found her by accident; we were searching for her partner in relation to what we knew was a domestic violence incident, but at that stage we were not aware it was a murder case. Two rather large carving knives were embedded in this woman. It is something that I will not forget because I nearly tripped over; in fact, the police aide I had with me, Shane Bates, nearly tripped over this lady in the dark on the back veranda. Another one I attended was Roy Olive. She was in Halls Creek and had been having a party in the backyard of her home. For whatever reason, she went back into the kitchen to fetch something. Her de facto partner came into the kitchen and an argument ensued in which he hit her once so hard that she cartwheeled backwards over a breakfast counter and landed inside the actual kitchen area. She was cowering in the corner, he came around and gave her a kick, abused her again and then left. Unfortunately, she died of an aneurysm as a result of the stress. The point that the member made is that the charges that are laid in certain cases do not always seem to fit the crime. Again, there are many cases that I can state in which what I believe to be the case and what I can prove are not necessarily the same thing. I have no doubt that the actions of this so-called loved one, in striking this woman with such force, led to her death. Unfortunately, we charged him initially with assault. The result of the post-mortem showed that she had an aneurysm brought on by severe stress and therefore the charges that members hope would have applied did not apply. I acknowledge the fact that members opposite raised this issue in relation to Saori Jones.

Domestic violence is a scourge of our society in not only Western Australia and across the country, but also the west and perhaps right across the world. It is somewhat difficult, but consider that when a police officer attends domestic violence cases that they are not always the same and are not always tempered by the same circumstance. It is somewhat difficult at times to deal with that. In Western Australia, 40 000 domestic violence cases on an annual basis are reported to police. Of that 40 000, police deal with something like 13 000 matters by way of an interim order. I am very pleased that this government has built on interim orders from the previous government, so that instead of 24 hours it has been pushed out to a 72-hour period in which there is to be no contact between the two parties. Of the 40 000-odd domestic violence cases that police attend, something like 9 000 orders are issued from the courts. Domestic violence orders are issued from courts. Of the 22 000-odd domestic violence orders that are issued on an annual basis, about 18 per cent are breached. Therefore, there are

about 4 000 breaches of violence restraining orders in Western Australia. Some of those breaches could be regarded, if you like, as being minor—breaches by way of simple things such as a text message, some drive-by situation or something that perhaps in the scheme of things is not terribly offensive in relation to that concept—but the fact remains that a breach is a breach.

What we have now is an undertaking under which various departments work very closely together—which is something that I am very passionate about, as are the Minister for Police, and Hon Robyn McSweeney and the Department for Child Protection—on dealing with how we go about identifying domestic violence cases at a lower level before they perpetuate, if you like, into a more serious situation. For that to occur, we put in place a number of things. We are trying to get intervention at an earlier juncture before these matters become serious and result in the types of domestic violence cases that, unfortunately, I have seen far too many of. With that comes the need for an outreach program. We have developed the domestic violence units that go out to assist women who have been subject to domestic violence. The groups assist these women with things such as applications in cases that come before the Magistrates Court. I am very pleased to say that something like 40-odd per cent of all cases that come before the courts are now assisted by these groups that go out and, if you like, wrap around them. In each of the major districts in the Perth metropolitan area and in the regions in Western Australia, a domestic violence officer on a daily basis coordinates and collects information on all the various domestic violence incidents that have occurred in the previous 24 hours. They then process that information and in conjunction with officers from the department of community protection go out to see what can be done to deal with these terrible situations. Of course, not all domestic violence matters are reported to police, so there is distortion in the number of domestic violence cases, which perhaps is still unknown. Although not so much in recent times, in the old days, domestic violence was one of those issues that was never spoken about; it was swept under the carpet.

The police from time to time come into criticism for perhaps not acting in a manner that was appropriate in all the circumstances. Members have to take into consideration that given police attend 40 000-odd of these cases on an annual basis, in the vast majority of the cases they do get it right, but on occasions they do not. That is where the difficulty lies and that is where we need to put further support around this situation and give them that capacity. It cannot just be a single government department response; there has to be a multi-government department response in how we deal with this. Also, it has to be in the educational arena as well, because the issue of domestic violence is a matter for not only government departments but also society. This is a matter for discussion at all levels of society because it affects all facets of society. The sad fact remains that on average in this state, every three weeks one person dies as a result of domestic violence. That is an absolute disgrace and something that we should all be ashamed of.

I do not intend to go on for much longer, members, but I commend the member for bringing the Criminal Code Amendment (Domestic Violence) Bill to the house inasmuch as it shows the care that this place gives to domestic violence issues. I understand that the government will not be voting with the opposition on this matter; however, I commend members opposite for it. I have every intention to ensure that appropriate legislation is brought before this place in a timely manner.

MR M. MCGOWAN (Rockingham — Leader of the Opposition) [7.48 pm] — in reply: I intend to close this debate and the reason I —

Point of Order

Mr J.H.D. DAY: Mr Acting Speaker —

Mr M. MCGOWAN: Mr Acting Speaker, I have been given the call. Does the minister have a point of order?

Mr J.H.D. DAY: I was momentarily distracted and —

Mr M.P. Whitely: You snooze, you lose!

Mr J.H.D. DAY: Okay. It is my desire to be able to respond as the minister representing the minister in the Legislative Council, so I seek the call.

Mr M. MCGOWAN: Further to that point of order, I have been given the call and commenced my address. Therefore, I would think that under standing orders I have the right to conclude my remarks, having been given the call in relation to this matter. My understanding is that once a member is given the call, they are given the call.

The ACTING SPEAKER (Mr A.P. O’Gorman): That is correct; once you are given the call, you have been given the call. You were the first person on your feet. Unfortunately, minister, I gave the call to the Leader of the Opposition before you sought the call.

Debate Resumed

Mr M. McGOWAN: It is unusual for me to do this; I would not ordinarily do it and I do appreciate that the minister would like to make his remarks, but I will just explain to him in the short time I have left why I have done this. Ordinarily I would give the minister time to make his comments. I have done this because this is the last private members' business for this term of government—there will not be another one—so if the minister speaks on this issue he will take up the time remaining, and we will not get to a vote on this important piece of legislation. The minister might say that that is fair enough because the legislation will not be dealt with during this term of government anyway, but today the Minister for Police demanded opposition support for a piece of legislation that the government wants to pass through Parliament with a minimum of attention or scrutiny. This legislation has been before the house for the requisite period of time, we have not yet had an opportunity to properly consider it, and this would be an opportunity for both sides to express their views through the democratic process of exercising a vote on the legislation.

Mr J.H.D. Day: Will you take an interjection?

Mr M. McGOWAN: Yes.

Mr J.H.D. Day: If you are happy to accept this by way of interjection, I will just explain. We are sympathetic to the sentiments of the bill and the overall purpose; we are not able to support the bill at present because we consider that it would be premature. The Attorney General, in particular, is getting advice in response to the committee report from the upper house and we are, as I said, open to considering the issue, but it would be premature to support it at present.

Mr M. McGOWAN: The minister can say that, but the truth of the matter is that the government is not supporting it because it is Labor legislation. That is the truth of the matter. We brought in legislation to deal with the very significant issue of domestic violence, of which there have been a number of demonstrated cases in which women have been subjected to domestic violence resulting in their deaths, and in which very minimal punishments have been handed down on the persons responsible for those women's deaths. In light of the fact that the Saori Jones case came to our attention some considerable time ago—perhaps even years ago—it was time to act, and Labor brought in legislation to do so. The only reason the government is not supporting the legislation is that it is Labor legislation and the government does not want to give us credit. That is the reason.

Mr J.H.D. Day: That is not the case.

Mr M. McGOWAN: It is well-drafted legislation, and the minister who responded as the government's principal speaker in this debate could not indicate a single thing wrong with it; and, what is more, he congratulated us for it. The government could have examined this legislation; it had all the time in the world to look at it, and it did not do so. That indicates two things: laziness, and determination to ensure that Labor does not get credit for a good piece of legislation. I contrast that with the legislation that the Minister for Police announced today in relation to high-speed chases and about which she could not answer the most basic questions when interviewed on television; yet the government is now demanding that Labor support that legislation, have it declared an urgent bill, and deal with it without further ado. We have given the government months to consider this legislation, and it has known about the Saori Jones case for years without having done anything about it. Now is the time for the government to put its money where its mouth is in respect of whether or not it supports tougher penalties for people who commit acts of domestic violence resulting in death.

If the government votes against this legislation, we will know it does not support a tougher approach to cases of domestic violence in which women are killed by their spouses or people in a family relationship. This is a matter for the government to choose; if the government votes against this legislation and then goes to the next election saying that the Liberals are tougher on crime than Labor, we will have the evidence right here: the government voted down a piece of legislation that would have ensured that women are treated well and that people who commit acts of extreme violence resulting in death do not receive minimal punishments. This is the government's chance; if it votes against this legislation, then every time next year in the lead-up to 9 March that the Premier says the Liberals are tougher on crime, I will say two words to him: Saori Jones. That was the Premier's opportunity to support a tougher penalty arrangement for people who commit these crimes. We have brought this legislation to the Parliament in a very considered way; the member for Armadale, in particular, is largely responsible for it. Not only has he worked on this bill, he has done an enormous amount of work in the area of domestic and family violence. We have produced policy statements, direction statements and now legislation to deal with a real issue. It is now the government's choice as to whether or not it believes in taking a firmer approach on this issue.

Question put and a division taken with the following result —

Extract from Hansard

[ASSEMBLY — Wednesday, 24 October 2012]

p7596b-7604a

Dr Tony Buti; Ms Janine Freeman; Mr Murray Cowper; Mr Mark McGowan

Ayes (18)

Dr A.D. Buti
Ms A.S. Carles
Ms J.M. Freeman
Mr W.J. Johnston
Mr J.C. Kobelke

Mr F.M. Logan
Mrs C.A. Martin
Mr M. McGowan
Mr M.P. Murray
Mr A.P. O’Gorman

Mr P. Papalia
Ms M.M. Quirk
Mr C.J. Tallentire
Mr P.C. Tinley
Mr A.J. Waddell

Mr P.B. Watson
Mr M.P. Whitely
Mr D.A. Templeman (*Teller*)

Noes (22)

Mr F.A. Alban
Mr C.J. Barnett
Mr J.J.M. Bowler
Mr I.M. Britza
Mr T.R. Buswell
Mr G.M. Castrilli

Mr M.J. Cowper
Mr J.H.D. Day
Mr J.M. Francis
Mr B.J. Grylls
Dr K.D. Hames
Mr A.P. Jacob

Dr G.G. Jacobs
Mr W.R. Marmion
Mr P.T. Miles
Ms A.R. Mitchell
Dr M.D. Nahan
Mr C.C. Porter

Mr D.T. Redman
Mr M.W. Sutherland
Mr T.K. Waldron
Mr A.J. Simpson (*Teller*)

Pairs

Mr J.N. Hyde
Ms R. Saffioti
Mr T.G. Stephens
Mr R.H. Cook
Mr J.R. Quigley
Ms L.L. Baker
Mr E.S. Ripper

Mr R.F. Johnson
Mr P. Abetz
Mrs L.M. Harvey
Dr J.M. Woollard
Mr V.A. Catania
Mr J.E. McGrath
Mr I.C. Blayney

Question thus negatived.

Bill defeated.

The SPEAKER: Members, if you do have business in this place I welcome you to stay here; but if you have other things you wish to discuss, might I suggest you take those discussions outside.