RESTRAINING ORDERS AMENDMENT BILL 2011

Second Reading

Resumed from 22 June.

DR A.D. BUTI (Armadale) [11.23 am]: I want to make it clear that I am not the lead speaker in this debate but I will speak now. The Restraining Orders Amendment Bill 2011 seeks to amend the Restraining Orders Act 1997. In the Attorney General's second reading speech to this amendment bill, he stated —

> We should be clear from the outset that domestic violence is a very serious issue, with ramifications that can affect the whole community.

There probably could not be truer words spoken in this Parliament. There is no doubt that domestic and family violence is a serious issue not only for the immediate victims, but also for the whole community. We are generally in favour of this amending bill but we have some comments and concerns. To put it into context and to clarify and also agree with what the Attorney General said about the effect on the community, I would go as far as to say that domestic and family violence is the most serious form of violence in our community. It shatters homes and the lives of victims and it carries with it damaging economic and community consequences, including homelessness and illness. Further, children who are exposed to domestic and family violence learn abuse from a young age and this often can continue in other patterns of violence.

The cost of domestic and family violence extends beyond the individual victims to the greater community. A KPMG report in 2009 commissioned by the commonwealth government found that domestic and family violence cost the nation $13.6 billion each year. According to the study, if additional efforts are not taken to address domestic and family violence, this figure will increase by $2 billion in the next 10 years. Therefore, there is a pressing need to respond to domestic and family violence in our community. That response should not only focus on justice for victims, but also provide effective prevention strategies. A coordinated response is needed that will strengthen the community's perceptions and awareness of domestic and family violence to change the underlying culture that supports such violence.

We should be clear that domestic violence is a gender crime. There is no doubt that some men are victims of domestic violence, but they are a very small portion. Overwhelmingly, the victims of domestic violence are women. According to the Australian Bureau of Statistics, one in three Australian women have experienced physical violence since the age of 15 years and almost one in five have experienced sexual violence. Historically and contemporarily, domestic and family violence is a gender crime that impacts on females. It is a manifestation of traditional male authority. There has always been a problem in this area because it is often considered to be a private matter. As a result, sometimes policymakers and also the police have not become involved because it seemed to be a private matter in which the law and the state should not intervene. Hopefully, we have overcome that hurdle, but I still believe that the historical perception of the private nature of domestic violence still dominates in some parts of our community, and that affects the protection and prevention measures in relation to domestic violence in our society.

I want to give a statistical overview because it is important and supports the case for why this amendment bill has been brought to this house. In 2005, over 350 000 Australian women experienced physical violence and over 125 000 women experienced sexual violence. Between 2008 and 2009, Western Australia Police attended 30 933 incidents of domestic and family violence in Western Australia. Over 12 000 of these incidents resulted in the police laying a criminal charge. Estimates indicate that Western Australian Indigenous women and girls are 45 times more likely to be the victims of family violence than other Australian women and girls. Indigenous women are further prevented from using what counselling and medical services are available because of kinship, relationships and complexities. In 2006–07, 53 per cent of female homicides in Australia were the result of an intimate relationship between the victim and the offender. In contrast, only 10 per cent of male victims had an intimate relationship with their offender. Domestic violence is the leading cause of homelessness among women and their children in Australia. Domestic violence is the single biggest health risk to Australian women aged 15 to 44 years. Children witnessing ongoing domestic and family violence often enter patterns of delinquency and use violence in their personal relationships. Other psychological and behavioural impacts on children include depression, lower social competence, temper problems, low self-esteem, school difficulties and increased likelihood of substance abuse. Those figures and statistics are reflected on an international scale.

What have society and policymakers done about domestic violence? One of the things they have implemented is violence restraining orders, which is what the Restraining Orders Amendment Bill 2011 seeks to look at in more detail. The Restraining Orders Act 1997, which this bill seeks to amend, empowers the courts to grant violence restraining orders in certain cases of domestic violence. When considering an application for a violence restraining order, a court has to take into account three matters of primary importance: the protection of the

applicant from abuse; the prevention of behaviour that could reasonably be expected to cause fear and abuse; and the wellbeing of children.

On 22 June the Attorney General introduced the Restraining Orders Amendment Bill 2011 into this house. The bill seeks to make three important changes that will toughen the current protection order regime. Firstly, the police will be empowered to issue a police order for up to 72 hours without the consent of the applicant; secondly, when the respondent is convicted of a third breach of a restraining order, the courts will impose a term of imprisonment, with exceptions made only in extraordinary circumstances, based on legislation in New South Wales, Queensland, the Northern Territory and Tasmania; and, thirdly, the definition of "serious offence" under the Criminal Investigation Act 2006 will be expanded to include a breach of a restraining order. Therefore, when a charge for a breach of a restraining order is laid, the police can proceed by arrest rather than by summons. The Attorney General's "three strikes then jail" proposal will imprison offenders who repeatedly breach restraining orders. Although that is commendable, the problem is that we have to wait for three breaches before imprisonment. I will be interested to find out from the Attorney General why it is three breaches. Is there any statistical reason for imprisonment occurring after three breaches? An argument can be made, Attorney General, that if a person is willing to breach the restraining order after one breach, they are likely to breach it a second time, by which time the victim may have been subjected to significant mental and physical abuse and injury. I will be interested to know why imprisonment will be delayed until three strikes, as such. I do not want to be overly bullish on this, because, from the way the bill reads, children in a domestic relationship could also be subject to this amendment and they could also be imprisoned. We always have to be careful in that regard.

I turn to clause 15, which seeks to insert proposed section 61A into the original act. As I said, the proposal is that after three strikes one can be imprisoned. In other words, if someone breaches a restraining order three times, when they go to court there will be a presumption that imprisonment will occur, but there will be a discretion not to imprison. I commend the Attorney General for including that discretion, because, as a lawyer, I believe that the court should always have discretion as to whether it will imprison someone. I would be interested in the Attorney General's response about why we have a discretion in this bill—which I support—but we do not have a discretion when it come to mandatory imprisonment for striking a police officer. I would argue that a victim of domestic violence is in a much more vulnerable position than a police officer and other prescribed officers who come under the mandatory imprisonment legislation. So although I do applaud that provision in this bill—I would never, never champion the mandatory sentencing of anyone without the court having a discretion to not impose imprisonment—I wonder what message we are sending to the community by saying that if people assault a police officer and other prescribed classes of officials, they will go to prison, but if they engage in domestic violence and breach a restraining order three times, which is a major crime, there is a discretion. As I have stated—I will repeat it to make my views clear to this house—I agree that there should always be a discretion, but why is there a discretion in this bill but no discretion when it comes to police officers and others? Is that because of the political pressure that was around at the time that that legislation was introduced? Of course, unfortunately, as I have stated previously, in some sections of the community, domestic violence remains a private matter. I hope that this government, along with the opposition, can take measures to educate the community that domestic violence is unacceptable and should be regarded as one of the most serious crimes that our community has to deal with.

I have a couple of other clauses that I would like the Attorney General to comment on at some stage. Clause 6 of the bill states —

> Any other interim order, or a final order, lapses if it is not served on the respondent within 2 years, or any shorter period specified in the order, of the order being made.

Of course, although that makes sense at one level—if the order is not served within two years, it may lapse—what if the offender has deliberately avoided the serving of the order? What if they have committed an offence and then leave the country for two years or more, and then they come back? It would be my argument for such cases that the order should remain on foot. If all reasonable efforts have been made to serve the order on the respondent, but the respondent has it within their powers to avoid the serving of the order, I am not sure whether we should be allowing them the grace or privilege of not having the order still operating against them.

Another issue is resources or budgetary considerations. As the Attorney General is also the Treasurer, I am sure he is always very mindful of budgetary considerations. I wonder what budgetary impact the proposed legislation will have on the police, the courts, and the prison system. One would think that we would have an increase in prison numbers if we are going to introduce this legislation. One would hope that we will not have an increase in prison numbers, but I suspect that we probably will. There will also be resource implications for the court system, because proposed section 53G(2) states —

> If a court makes a restraining order of the kind referred to in subsection (1), the court may require the parties to the proceedings to appear before the court on a regular basis during the period that the order is in force in order to report on those arrangements.

I think that is an incredibly sensible clause, Attorney General, but, of course, there will be some resource implications for the court. In introducing this legislation, it is the government's responsibility to tell this house the resource implications for the police, courts and prisons.

In conclusion, I reiterate that we should applaud anything that can be done to reduce the horrendous crime of domestic and family violence, but we must ensure that whatever we do will reduce the incidence of domestic violence. I think this amending bill sends a signal to the community that this government and this house are serious about the horrendous crime of domestic violence but, as I stated, I wonder why there is necessarily the need to wait for three strikes. I think the onus is on the government to inform this house about the budgetary considerations. I should add that this bill on its own will not solve the problem of domestic violence. Unfortunately, we will never be able to eradicate domestic violence, but we should try to minimise it. It is a horrendous crime that has an enduring impact on the victims, the children involved, the families and the community from not only a psychological perspective, but also an economic point of view. We must understand that this is only one measure. There are many, many other measures that this government and this house must attend to in order to reduce the incidence of domestic and family violence. I support any measure that will seek to reduce domestic violence and send an appropriate signal to the community that it is a serious offence.

MR J.R. QUIGLEY (Mindarie) [11.40 am]: I apologise that I was not here at the first call. The opposition will not oppose this Restraining Orders Amendment Bill 2011 introduced by the government. Of course, the opposition, when in government in 2004, made a number of significant changes, followed by the required statutory review, which was tabled, I believe, in May 2008, from which these amendments are largely drawn.

It ought to be noted that the bill before the chamber and the Restraining Orders Act cover not only domestic violence situations, but also violence and misbehaviour generally in the community. It is important to pause and note this. I note also the member for Armadale's speech and the passion and concern he has about those incidents of domestic violence. I have had experience in my electoral office of headmasters who have threatened, and on at least one occasion have been required, to take out a restraining order against a parent. The child was not residing with the parent but the parent sometimes picked up the child and was very disruptive on the school grounds. There are myriad instances of both misbehaviour and threatened violence within the community outside the domestic setting. However, one need only visit the Joondalup restraining orders court, particularly on a Monday morning, to see the overwhelming prevalence of applications sought because of domestic situations. As has been referred to and reported in literature, one of the biggest predictors of whether a young person will practice domestic violence as an adult is whether he or she has been exposed to it as a child. It is therefore very important to stem the flow or break the cycle so that the unfortunate behaviour is not passed down through generations. This is the same, of course, with child sexual abuse whereby we hear in many pleas of mitigation and in sentencing remarks that, decades earlier, the perpetrator had been the victim, and so the cycle continues.

I listened closely to the Attorney General's second reading speech and to the member for Armadale's contribution. Within society and within probably both parties there are a range of views about how hard to tighten the tap or turn up the gas at this point. I think the government has got it right on this occasion; the presumption for imprisonment will come into play on the third occurrence. It must be remembered that on the first occurrence, the order itself is made. On the second occurrence, for a breach, there is a substantial penalty of $6 000 or two years' imprisonment at the discretion of the sentencer, bearing in mind the provisions of the Sentencing Act, which require the sentencer to strike a custodial sentence as a sentence of last resort. It would be a very, very serious breach that would require a sentencer—a judge or magistrate—to impose an immediate custodial term on the first breach, or that there be a presumption that custody will be imposed on the first breach.

Many of these circumstances in the domestic setting are clothed in tragic emotional circumstances. Not all the breaches, but some of the breaches, can be of a less serious nature and would require the person to be pulled up sharply, but not necessarily incarcerated at that point. For example, many of the breaches involve piercing the circle, or the diameter, of exclusion when the order is that the restrained person cannot approach the protected person within 500 metres. Sometimes, especially in the family breakdown setting, these orders can be breached at a drop-off or pick-up point when the person subject to a restraining order either has not taken the care to find or could not find a third party to drop off a child and he drops off the child in the driveway, thereby breaching the order by being within 500 metres of the house. Would that, on the first occasion, require a presumption of imprisonment? It might not even require imprisonment on the second occasion if the circumstances come within the definition prescribed by the government in this bill; that is, that the circumstances are extraordinary and that the restrained person would not present a danger to the community. On balance, therefore, I think it is right.

In a non-domestic setting such as a club, a hotel, the street or a workplace, there might be some pushing and shoving between two people and one person seeks a protection order, and that protection order is breached by a punch that results in actual bodily harm such as a broken jaw. The person might plead not guilty to the assault occasioning bodily harm; nonetheless, that person can be breached on the order. It might be on that first occasion, given the seriousness of the matter, that the sentencer might say, "This is not dropping off a child at a driveway; you've entered a licensed club again and once again struck the barman. You've threatened him before and now you've broken his jaw. You're in for six months."

There is a whole range of circumstances that these restraining orders and misconduct behaviour orders can seek to repress. One single legislative response such as this will be insufficient. This bill is a step in the right direction, but, without other measures, it will remain insufficient. I am sure that, first and foremost, the opposition and the community are waiting for the foreshadowed amendments to the Sentencing Act, whereby, as the bookies are tipping, a sentence will be able to include partially suspended sentences and/or weekend detention. That would give the sentencer a greater range of options in these circumstances. We must not lose sight of the fact that when the restrained person is the principal breadwinner of the family and pays maintenance, his immediate incarceration can have further ongoing detrimental consequences for the single mum, who not only has been the victim of harassment, intimidation or violence, but also can suddenly find herself no longer in receipt of child support and having to go through the agencies. This in itself can be a deterrent to a woman who feels that she would like a restraining order, but, if it is mandatory imprisonment on the first occasion, she will hold off because of the further consequences she might suffer. If there were, as we are all hoping, the ability to partially serve and partially suspend a sentence, and that these circumstances will be covered and will not be excluded, a person might be imprisoned for a month and serve his annual leave inside and have the balance of it suspended so that he suffers punishment but the single mum does not suffer undue financial hardship. It would be similar with the prospect of weekend detention.

From my experience as a practitioner, there is no doubt that, at least in the domestic situation, and I think also in the wider community, there are clusters of these incidents around weekends. Unfortunately, a lot of it involves alcohol. Dad finishes work on Friday arvo and has a few, or he is at home on a Saturday barbecuing and drinking extensively, and then the behaviour occurs that would require him—or her; I should not be sexist—to be restrained. From my experience as a practitioner, and having seen the lists at Joondalup in reasonably recent times, there are certainly clusters of these heavily around the weekend. It might be appropriate in some circumstances that a person be imprisoned for weekend detention for a considerable period and lose his liberty on weekends when the abhorrent behaviour was principally occurring but still be able to function as an employee and breadwinner for the family. As I say, it is not one legislative response that will achieve all this.

Of course, another problem has been identified. Indeed, it was the very basis of the previous federal government's intervention, and I disagreed with the way it was implemented. However, the rationale behind the intervention was the endemic domestic violence and worse in some remote Indigenous communities. There was a spate—I think they are all over now; it ended about 18 months ago—of trials in sessions of the Supreme Court in Derby. There were a lot of sexual abuse cases from remote areas. In those cases, the abuse of alcohol was accompanied by domestic violence. Indeed, some of the strongest advocates against that violence and the excessive consumption of alcohol were the mothers and grandmothers in those communities who were the subject of it and who saw their children witness it and, therefore, be inducted into the cycle. That goes to the whole issue of alcohol in our community and takeaway alcohol in parts of our community. We have heard the public debate about towns in which the purchase of takeaway full-strength alcohol is not permitted, but others complain that fly in, fly out workers and tourists are adversely affected. These are always weighting and balancing considerations. But when we talk about what the member for Armadale talked about—that is, some of the most tragic and serious impacts of crime in our community, including the repetition of domestic violence—although it might not be a gunshot wound or a stabbing, it is the continual belting over an extended period that is so damaging to both the victim and the witnesses, who so often are the children.

This issue of alcohol consumption is one of the factors in domestic violence. Of course, as the Premier said on Tuesday this week, a lot of the violence on the weekend is precipitated by alcohol and, perhaps, in a lot of cases, co-imbibing that with illicit drugs. However, having been a practitioner I am aware that there is a practical problem with restraining orders. The Attorney General alluded to this in his second reading speech when he said that the law —

> … needs to balance the rights to due process afforded to both the applicant and the respondent with the need, in many cases, to provide immediate protection to the applicant.

That matter was addressed in the 2004 amendments when the police were given the power to issue an on-the-spot restraint for 24 hours, or longer—by 48 hours—with the consent of the applicant. The government has now taken away the need for that consent, and sensibly so, because if the police intervened on a Saturday and issued a

24-hour order, there was no restraint by Sunday night. A person could come home tanked from a drinking session when there was no restraint in place and mum would have to go to a shelter or the bush until she could attend court to seek interim relief. We agree with that power.

The Attorney General is also in receipt of a memorandum from Hon Peter Dowding, SC, who is the leading family law practitioner in Western Australia. I would not have thought that the Attorney General would be surprised to learn that Hon Peter Dowding, SC, sent a copy of the same memo to me. He raises another concern, which does not seek to either undermine or attack the restraining orders in any way; it seeks to highlight a practical problem that exists in the real world when we talk about due process. Having practised in court, I know that the level of evidence required to get an interim restraining order is not very high. I think the Attorney General would agree with that. The memorandum of Hon Peter Dowding, SC, goes to the time taken between the granting of the restraining order and the confirmation hearing, which can be many months. I have seen circumstances—Hon Peter Dowding, SC, refers to this in his memorandum—when, during litigation, restraining orders have been used as a tactical weapon by some practitioners. Because the threshold is not very high, there is no cross-examination, and once it is obtained, it is in place for many months before it is actually confirmed. When property is in dispute, a restraining order can be a very quick and effective way of securing exclusive possession of the matrimonial home for several months while the Family Court proceedings are underway, which require affidavits, hearings and cross-examinations. Hon Peter Dowding, SC, proposes to fix this by requiring restraining orders to be brought back before the court for confirmation in a very short time—a matter of two or three days. However, once an interim order is granted, the problem will be pushing aside everything else from the busy magistrates' lists to hold a contested confirmation hearing. As the Attorney General knows, Magistrates Courts are very busy dispensing justice; they are very busy places of business. To ensure that everyone who had an interim order granted on Monday at the Joondalup Magistrates Court will have a confirmation hearing later that week or the week after is, to a degree, almost impossible to achieve in the practical sense, as far as I can see. However, I would like to think that the process could be expedited, especially when no physical injury is involved and there is no cogent evidence before the court that will test the status quo. Sometimes I have caught my breath and thought, "That whistled through very quickly, untested and unscrutinised." The courts must be careful that practitioners and litigants are not using these orders as a tactical weapon in litigation; otherwise, the orders themselves will fall into disrepute and be disregarded, thereby losing their potency within the community. I do not know whether my few words in this chamber this afternoon will do anything in that regard. However, should the judges or magistrates read them, I hope that when there is no evidence of someone having received a black eye, or any other cogent evidence before the court, but that just a tale is being told, the tale will be tested for not only the purpose of testing the ex parte respondent, but also protecting the efficacy of the orders themselves.

Another important amendment that my learned friend, the member for Armadale, has already addressed is the amendment that prescribes the breaches as serious crimes. Another aspect that led to the impotency of restraining orders was that when a complaint of a breach was submitted, the matter would be duly processed behind the counter by way of summons. When no obvious action was taken either at home or on the streets, the person who sought the order on this particular occasion lost faith and believed that he or she was still exposed, and the law appeared to be a bit impotent. I am looking to the Whip to call the next speaker to the chamber. I do not want to labour the matter for the sake of taking up time, because we are not opposing the legislation. We are looking to implement other sentencing options, perhaps sooner rather than later, so that the courts can imprison these clusters of offenders for the weekend. We would like the courts to impose sentences that jerk the offender's neck but leave the balance of the sentence suspended so that a person involved in a domestic dispute would get a lick of prison for a month during his annual leave and have the balance of his sentence suspended. I believe that would have a sobering impact on the rash behaviour of a person who is not otherwise a criminal offender. I hope that the Attorney General will soon foreshadow some other sentencing options that will complement the provisions contained in this bill.

MR D.A. TEMPLEMAN (Mandurah) [12.09 pm]: I would also like to make a contribution to the Restraining Orders Amendment Bill 2011. I have noted what was said by the Attorney General in his second reading speech and by the two previous speakers for the opposition, which included, of course, the shadow Attorney General, the member for Mindarie. The Attorney General outlined in his second reading speech some of the progress or additional efforts that have been made by the government to address the ongoing issue of domestic violence, which is, as we all know, an abhorrent stain on our community. Domestic violence has an impact on not only the victims of the violence, but also the children and loved ones of victims.

I was Minister for Community Development from 2006 to 2007. It was Labor in government that introduced significant reforms in the approach to domestic violence, including by the police service. I give particular credit to one former Minister for Community Development, Hon Sheila McHale, who, as minister, championed

significant reforms on domestic violence, particularly during the term of the Gallop government. When I replaced Hon Sheila McHale as minister, the non-government sector and the Department of Community Development, as it was then called, were implementing a number of the reforms she had introduced. Greater emphasis was placed on the importance of the police service responding immediately to domestic violence. I am not saying that the police service had not been doing that up to that time, but there was certainly a focus on the importance of responding to occurrences of domestic violence, not only for the safety of the victims of domestic violence, but also because of the impact domestic violence has on families, and particularly children. I acknowledge the comments of the member for Armadale. There is a raft of research across not only Australia but also the world about the genuine impact that domestic violence has on the children who witness it. After the introduction of new legislation and changes to legislation in the early 2000s, a number of programs emerged that focused particularly on supporting children. In the Peel region, there is still, unfortunately, a steady flow of domestic violence–related traffic into our courts in Mandurah. It is abhorrent that it is continuous. Unfortunately, statistics show that the prevalence of domestic violence continues to increase. It is a sad indictment of the community that domestic violence continues to have such a terrible, terrible impact on women in particular, and on families and children.

The shadow Attorney General highlighted some issues of concern to the opposition but also clearly indicated that we will support the legislation. I will be interested to listen to some of the issues that the shadow Attorney General, the member for Armadale and others may raise in greater detail during the consideration in detail stage. It is my view that, at the end of the day, we should aim for our system of responding to domestic violence to lead the world. I hope that this bill seeks to make our system much more workable and more effective. If we can achieve that, we should all be proud. If we come out of this process with a better system of dealing with what is a great stain on our community—with a system that is more responsive and more effective—then that will be very, very good for our community.

I want to pay tribute to the people who annually sign up to be ambassadors in the White Ribbon campaign. I know that a number of members of this Parliament, in particular male members, are White Ribbon ambassadors and speak out about and support the campaign against domestic violence in our community. What we need to do—I have seen this happen in my region—is to make sure that more and more men from all walks of life and ethnic diversity join that campaign. It should not happen just on one day or during one week of the year; it should be an ongoing campaign in which men, in particular, stand up for their communities, their families, their children and their partners by saying that domestic violence is unacceptable and that it is not the way to deal with relationship problems or conflict. The more people and community leaders who stand up against such abhorrent behaviour, the better. I will listen with interest to the Attorney General's response to the second reading debate and, of course, to the debate during the consideration in detail stage.

I will conclude by congratulating members of my community, whether they be workers at the Pat Thomas Memorial Community House women's refuge in Mandurah, support workers who support victims of domestic violence in my community, support workers who work with and assist children who have witnessed domestic violence in my community, or the police men and women who work closely, many of them in domestic violence units, with victims and support agencies. I salute them for the work they do. It is important work. It is relentless work, but it so critical if we are to genuinely change what happens in our community and eradicate domestic violence in the future.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [12.18 pm]: Thank you, Mr Deputy Speaker, for the opportunity to speak on the Restraining Orders Amendment Bill 2011. As the shadow Attorney General indicated, the bill will certainly not be opposed by this side of the house. I note from the Attorney General's second reading speech that this bill is in part a result of the statutory review that was tabled in Parliament in 2008. This is an important part of the incremental steps that we take to make sure that these sorts of laws remain effective.

There are two aspects to domestic violence. The first is how we as a society put laws in place to make sure that we continue, where we can, to stop domestic violence and impede those who wish to perpetuate it in our community. The second aspect is how these laws can anticipate violent situations and make sure that these instruments are used to prevent violence and misconduct as best they can. From that perspective, these are very important laws. As the Attorney General observed in his second reading speech, they are laws that provide a careful balance between the rights of a person wishing to take out a violence restraining order and the rights of the person against whom the order is to apply. Another aspect of the work of government to help communities manage the impact of domestic violence is to make sure that we provide the necessary services and resources. We need to put in place laws and the capacity to regulate people's misconduct in the community, but we also need to put in place the services and resources that allow us to address the impact of domestic violence.

As I said, violence and misconduct restraining orders require a careful balance between the person seeking the restraining order and the person against whom the order is taken out. It is important that we put in place the changes suggested, whereby we have an escalation of the penalties that are applied in the event of a breach of a violence restraining order. Members will be able to reflect, as I have, on their experience of constituents or other members of the community coming to them to describe their frustration at having taken out a violence restraining order in the belief that they would be thus protected by that order, only to find that the order has been breached not only once or twice, but possibly on several occasions. The vulnerability that comes with that does two things: it continues to undermine the person's sense of security, and it also undermines people's faith in the laws which we pass and through which we would like to extend protection to these people. The changes that will be put in place are well intended and I hope they will be effective.

I want to now reflect upon a particular complaint that came to me. This was an incident involving the son and daughter of a very elderly parent who was in hospital with an advanced form of dementia; they found that their mother had become the target of, shall we say, the affections of a much younger man, who wanted to take over power of attorney and her legal and financial affairs, in what they thought was a particularly unseemly and disingenuous relationship. They described the frustrations they had in taking out a restraining order against this person in the first instance, and the lengths they had to go to in the second instance to keep that restraining order in place and make the hospital recognise its effects. I heard only one side of the story, and I can understand that one must always be mindful of what might be some very genuine intentions on the part of this person to befriend the woman; but one must also be mindful of the concerns and anxieties of the son and daughter, who wanted to protect her interests. I think it will be commendable if this legislation continues to strike that balance.

I am particularly sickened, as I think we all are, by domestic violence. Domestic violence impacts upon not only the immediate victim, but also those living in the vicinity of the incidents. I understand that one in five children has witnessed domestic violence, and one in three knows someone who has been affected by domestic violence. Although it is important for us to have legislation in place to continue to drive down the incidence of domestic violence in our communities by providing law enforcement agencies with more tools and courts with more effective penalties, it is also important that we as a society continue to provide resources to empower those who seek to remedy and assist those affected by domestic violence.

It is my understanding that domestic violence costs Australia an estimated $13.6 billion each year in enforcement, support and the social consequences of this most ugly form of human behaviour. Many children grow up in an environment in which domestic violence is seen as a normal part of life, so while domestic violence is a form of physical abuse, exposure to domestic violence is also a form of abuse. It is also a big indicator of whether people will turn out to be perpetrators or victims of domestic violence later in life. It is incredibly important that we have things in place to support these people to the necessary extent.

Through the work I do in my community, it strikes me that violence is becoming an increasing part of our community as drugs and alcohol become an increasingly large element of people's lives. Although I do not know what the empirical evidence is, I am sure there is anecdotal evidence to suggest that incidents of violence in the home and other areas where perhaps we did not previously believe that violence was an increasing component are becoming more frequent in parts of our community.

While the Attorney General has undertaken this important legislation so that we can continue to provide the courts and law enforcement agencies with the tools they need to drive down the incidences of domestic violence, it is disappointing that that has not in turn been matched by extra resources for the agencies that are dealing with the impacts of domestic violence. No new refuge beds have been funded in Western Australia since the Barnett government came to office. That is of particular concern. A lot of people in my community tell me they are frustrated with the ineffectiveness of violence restraining orders. A lot of people come to my office saying that they are worried about the availability of refuges for men and women seeking some form of shelter from the perpetrators of domestic violence. Although it is good that the government has introduced this legislation, it is regrettable that it is not matched on the other side of the ledger with the resources to ensure that we continue to provide support for people who are victims of domestic violence and also support for the perpetrators of domestic violence to give them the capacity and the life skills they need to break the cycle.

I will talk briefly about the Global Good Foundation, which is headed by a good friend of mine, Ms Tanya Dupagne, who is a very active young member of the Kwinana community. The Global Good Foundation is a not-for-profit organisation that is setting up education centres for people suffering from the impacts of domestic violence. They are education centres, not crisis centres, to provide victims of domestic violence with some of the skills that they need to break the cycle, to ensure that they can see beyond their immediate circumstances and can go through life with the sort of life coaching and life skills they need to lead long, fruitful and rewarding lives. It is through that education process and that empowerment that we expose domestic violence for what it is. One of

the most important things that we can do is continue to talk about this subject. People do not need to hide; they should not think that it is an issue of shame and that they should not talk about it. In fact, it is the very opposite; we should talk about it and ensure that we expose domestic violence as the evil that it is and that we continue to support the victims of domestic violence.

I take this opportunity to advertise a fundraising drive by the Global Good Foundation that involves members of the Western Australian community throwing themselves out of an aeroplane at 8 000 feet. I am one of the people who will do that. I believe that if I raise more than the target amount of money, I am allowed to choose higher altitudes, such as 14 000 feet and so forth—which I will resist.

An opposition member interjected.

Mr R.H. COOK: At this stage, I thank my colleagues on this side of the chamber who have made useful suggestions about the optional use of parachutes for the charity drive.

Mr R.F. Johnson: They're your factional friends!

Mr R.H. COOK: I wish they were my friends! Therefore, on a lighter note, to anyone who wishes to support the Global Good Foundation's fundraising efforts to create education centres throughout Australia to assist people who are the victims of domestic violence, all donations will be gratefully received.

I conclude by commending the government for these changes to the Restraining Orders Act 1997. They are sensible changes and I note that some of them have already been undertaken in other states. I think in particular the escalation for breaches of restraining orders is an important part of the process, as I said, to not only increase the effectiveness of these laws, but also improve people's confidence that these laws will protect them from the people whom they seek protection from. As the member for Mindarie said, we will not oppose the Restraining Orders Amendment Bill 2011. My final plea to the government is that although this legislation addresses the incidence of issues such as domestic violence and that is very important, it is also important that the government increases the amount of resources available to the agencies that wish to provide refuge, education and support for the people in our community who are caught in the vicious cycle of domestic violence.

MS M.M. QUIRK (Girrawheen) [12.34 pm]: I will be very brief because my learned colleagues who preceded me have given very thoughtful and considered contributions to this debate on the Restraining Orders Amendment Bill 2011.

I support the sentiments that the member for Kwinana expressed about a recurring theme in this place; that is, legislation is brought in without the resources necessarily being in place to support or complement that legislation or make it effective. I too share some concerns about the impact this legislation will have on the capacity of police to enforce this new regime. Therefore, in the course of the reply to the second reading debate, I will be very pleased to have some indication from the Attorney General about what calculations have been made for additional resources that the police may need to ensure that this new legislative regime is properly enforced and whether any assessment has been made of the extent to which any additional workload might be generated.

I too am concerned that in the course of this government's term no additional beds have been provided in refuges for women or children. I think that is particularly unfortunate and I know that there is a huge need in the northern suburbs for it. One of the areas that I am particularly concerned with and have been unsuccessful in lobbying successive governments for is more facilities for men. I visited the Communicare Breathing Space in the southern suburbs, which is exceptional. Men who are the perpetrators of domestic violence are placed there, I think, under court order. They stay there for several months and undergo a program and are gradually reintegrated into contact with their family. It is a fantastic program. There is no such facility in the northern suburbs and it is desperately needed.

Another point I will briefly comment on is that there is some anecdotal evidence about changing demographics in the community that create added domestic violence pressures. I have been told that the movement of many workers to fly in, fly out arrangements has generated additional familial strains that in some cases have resulted in domestic violence. A certain amount of hidden domestic violence has been generated by families being separated for periods and back together for other periods, roles changing, expectations changing, single partners being put under additional pressure by having to do things within the household without assistance and so on. All these things mean that we need greater resources at a community level and a greater capacity to stop domestic violence escalating. Although this legislation effectively ensures that when a pattern of domestic violence happens successively, stronger and more timely action can be taken, which is something that we welcome, we think that nipping domestic violence in the bud is important and therefore we need access to community services at the grassroots level. I am certainly not sure that that is there. I welcome any suggestions from the Attorney

General or the government generally about how we can meet the unmet demands to assist the perpetrators of domestic violence who desperately want to stop that pattern of behaviour before they reach the stage at which they come into contact with the justice system. I think that area is very underdone. We need a whole-of-government approach on how we re-educate the people who are perpetrators of domestic violence to ensure that the prospect of those luckily isolated but very tragic cases in which deaths occur are also eliminated.

MR B.S. WYATT (Victoria Park) [12.40 pm]: I too rise to make a short contribution to the Restraining Orders Amendment Bill 2011. I acknowledge the comments already made by a number of my colleagues on the opposition benches. I want to start with the same comment as that made by the member for Mandurah. Many members of Parliament are White Ribbon ambassadors. Part of the role of a White Ribbon ambassador is to make people more aware of the prevalence of domestic violence and that domestic violence is not something that must be kept within the confines of a domestic relationship. For a long time domestic violence was an area of criminality that was not debated or discussed in the open until relatively recently. The statistics outlined by the Attorney General when he introduced the bill and made his second reading speech show that since the introduction of violence restraining orders in Australia in 1988, the number of applications has grown from 8 000 a year to over 13 000.

Mr C.C. Porter: That's 800, member.

Mr B.S. WYATT: To further highlight the point, the number of applications has grown from 800 to over 13 000. Since 2005, when police orders were introduced, the number of 24-hour orders issued by the police increased from under 300 to nearly 9 000.

One of the first things of some prominence that I raised in the Parliament as a new member was the fact that in 2006 a number of medical clinics south of the river had signs up incredibly stating that victims of domestic violence would not be seen. When I went to two premises to view those signs, the argument was made by the then president of the Australian Medical Association (WA) that it was appropriate for medical clinics to display those signs and rather than see victims of domestic violence, refer them to the emergency section of hospitals or to the police station. Anybody who has done any reading or who has any knowledge of domestic violence knows that victims of domestic violence are unlikely to disclose details to people that they do not know, for example, their general practitioner. Thankfully as a result of that, back in 2006, the public response to those clinics was quite strong, as we would appreciate, and the two clinics that I visited promptly took those signs down. I have not heard whether they have changed their practices. However, it goes to show that as recently as 2006, when medical clinics felt they could get away with having those signs up in their clinics, as a society we still have a way to go in acknowledging domestic violence and how we go about combating it. This bill certainly deals with the criminal end after domestic violence has occurred, and hopefully it will help prevent further domestic violence.

As the member for Armadale has already pointed out, I note that this bill is a rather more sophisticated amendment by the Attorney General than mandatory sentencing. I acknowledge that these amendments give a discretion to the court because situations involving domestic violence are notoriously complicated. I acknowledge that this is a rather more sophisticated way for the court to attempt to deal with individual circumstances of domestic violence. When the Attorney General read the bill in, he highlighted the fact that the most substantial change recommended by the statutory review that was tabled in Parliament in 2008 was for a police order to operate for up to 72 hours without the consent of the applicant. The Attorney General noted in his speech that this would benefit many of our Indigenous communities in which a lot of domestic violence is alcohol fuelled. I am not sure whether the shadow Attorney General intends to go into consideration in detail. Perhaps the Attorney General can highlight to the Parliament the level of consultation that he has had with organisations such as the Aboriginal Legal Service and organisations that deal with Aboriginal people in these situations on a daily basis, not only the accused, but also the victims of domestic violence. I am simply curious to know what that advice was. This morning I had coffee with a former employee of the ALS who noted the member for Armadale on the TV speaking on this bill, and he was not aware of it. As I said, he was a former employee of the ALS. I am curious to hear what feedback the Attorney General had from the ALS and any other organisation he has had consultation with, particularly with respect to the impact on Aboriginal communities.

The Attorney General also noted that clause 15 of the bill introduces the concept of penalty escalation, which I think is supported by most members of this place. This already takes place in New South Wales, Queensland and the Northern Territory, I think. The member for Girrawheen has already raised this point. What impact did the introduction of this concept in those jurisdictions have on resources? What impact did it have on the demand for policing, implementation and review, and the downstream impacts such as women's refuges? The member for Girrawheen highlighted Communicare Breathing Space, which I think is in the electorate of the member for Kwinana. I have visited Breathing Space, and the Nardine Wimmin's Refuge in my electorate is always at

capacity. More beds are always required for people, mainly women, fleeing domestic violence. Whilst it is always good to have more resources, it requires the involvement of not just the Attorney General but a broader suite of ministers and executive government perhaps having the commitment to back up this bill with broader resources. The Attorney General noted twice in his second reading speech that it is often said that a restraining order is only as good as the system that backs it up.

The DEPUTY SPEAKER: I—sorry.

Mr B.S. WYATT: The Deputy Speaker is getting ahead of himself. This is only one part of the system to deal with domestic violence. I think the Deputy Speaker is speaking in his sleep. I would like to hear from the Attorney General about the broader suite of measures that he and his government will be bringing to Parliament to correct the entire system that attempts to enforce what the Restraining Orders Amendment Bill 2011 seeks to do. I will not keep the Deputy Speaker any longer.

MS J.M. FREEMAN (Nollamara) [12.49 pm]: I too want to briefly rise. Although I am not sure I can quite limit my remarks to two minutes, I will give it a go. In rising to speak to the Restraining Orders Amendment Bill 2011, I would also like to acknowledge the good work that the City of Stirling refuge does for women fleeing domestic violence. I will be interested to find out how the Attorney General envisages how this legislation will interplay with keeping women in their home, which is the new process being developed through some of the funding under the national plan to reduce violence against women and children, ensuring that women are not placed in situations in which they have to flee their homes and leave their community of support but are able to stay in their homes.

One of the difficulties of this legislation is that the new provisions will be invoked only after the third restraining order breach. My colleague the member for Armadale has outlined the problems of restraining orders.

Debate interrupted, pursuant to standing orders.

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