

**MANDATORY TESTING (INFECTIOUS DISEASES) AMENDMENT
(COVID-19 RESPONSE) BILL 2020**

Introduction and First Reading

Bill introduced, on motion by **Mrs M.H. Roberts (Minister for Police)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MRS M.H. ROBERTS (Midland — Minister for Police) [3.40 pm]: I move —

That the bill be now read a second time.

The COVID-19 pandemic has presented us, as a community, with very challenging times. As we work to combat this pandemic, we still need to safeguard the health and safety of our community, especially those on the front line. As we all know, a state of emergency has been declared that enlivened a range of legislation to assist with the control and management of COVID-19. There are many people in our community who, in these current challenging times, step forward. Unfortunately, there are also those who do the wrong thing. Across the country, and in Western Australia, there have been reports of people claiming they have COVID-19 deliberately coughing and spitting on our police officers. WA Health advises that COVID-19 spreads between people usually when a person comes into contact with the respiratory secretions of an infected person through coughing or sneezing. This means that it is highly possible to catch COVID-19 if someone with the virus coughs or sneezes on a person. Our police officers are working tirelessly on the front line to protect our community and to help stop the spread of COVID-19. Unfortunately, this very important role puts our police officers at higher risk of being exposed to COVID-19. The reckless and disgusting behaviour exemplifies this serious risk to our police officers' health and safety, and is unacceptable.

The Criminal Code Amendment (COVID-19 Response) Act 2020 amends the Criminal Code to assist with combating this behaviour by introducing higher penalties for people who assault or threaten our frontline staff, including doctors, nurses and our police officers. The enforcement of this legislation lies with our police officers, who are looking after us by responding to our requests for support and protection. In addition to the trauma and suffering of a police officer who has been assaulted, we must not forget the enormous amount of distress and fear that our police officers and their loved ones experience when they worry about the possibility of contracting COVID-19, as they have no way of knowing with any degree of certainty whether the offender is infectious. It is also important to remember that these terrible assaults also impact on the wider community. The result is that the police officer who has been assaulted and potentially infected with COVID-19 has to self-isolate or quarantine. This in turn removes that police officer from our front line. Potential offenders are on notice. We support our police and anything that presents a risk to them is not acceptable.

The purpose of the bill is to provide our police officers and their families with the comfort that offenders who put them at risk of contracting COVID-19 will be required to submit to immediate testing. Requiring an offender to undergo a test for COVID-19 goes some way to reducing sooner rather than later the risk of stress to police officers and their families by providing them with knowledge of their offender's potential infection status and the associated risk of catching the virus.

The bill also protects the wider community by ensuring that the most effective and accurate method of testing is conducted. Testing an offender who is suspected to have transferred COVID-19 to our police officers is essential. If a police officer were to be tested for COVID-19 on the day of the suspected transfer, the test is highly likely to be negative, as the virus may not present instantly. The testing of the person who is suspected to have transferred COVID-19 to the police officer will provide a more accurate result. This will ensure that the affected police officer is not sent back to the front line with an inaccurate negative result of COVID-19. It will remove the unintentional exposure this would present to the wider community.

The Mandatory Testing (Infectious Diseases) Act 2014 currently ensures that a police officer or staff of the Western Australia Police Force who in the course of duty is exposed to the risk of transmission of certain infectious diseases by the transfer of bodily fluid receives appropriate medical, physical and psychological treatment. To do this, the act authorises the taking and analysis of a blood sample from a suspected transferor. The testing of a blood sample is currently the only authorised method for testing under the act. Currently, the act allows for blood samples to be taken to test for HIV, hepatitis B and hepatitis C, and authorises regulations to be made to prescribe additional infectious diseases. The government is taking that step to include COVID-19 in the regulations. But reforms to the act itself are also necessary to ensure that appropriate testing for COVID-19 can take place. COVID-19 is currently diagnosed by bodily samples such as saliva, mucus, respiratory secretions or other material contained in the nasal or throat cavity that can be taken by swabs from the back of the nose and throat, or fluid from the lungs. Blood tests can be used to detect antibodies that the body produces to fight the virus; however, these antibodies are present

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only in a person who has recovered from COVID-19. This means that there is currently no blood test that can diagnose whether a person is currently infected with COVID-19.

The bill amends the Mandatory Testing (Infectious Diseases) Act 2014 to allow for samples of blood, saliva, mucus, respiratory secretions or other material to be taken from a suspected transferor who has exposed a police officer or staff of the Western Australia Police Force to the risk of transmission of an infectious disease. This will allow for the most appropriate method of testing for an infectious disease and, most importantly, enable mandatory testing for COVID-19. The bill will also update the definition of a qualified person in the act to ensure that only appropriately trained people can take the required samples from a suspected transferor.

It is vital at this time to support our police officers who in the course of their duty are exposed to the risk of transmission of a potentially fatal infectious disease. The Mandatory Testing (Infectious Diseases) Amendment (COVID-19 Response) Bill 2020 is evidence of our commitment to supporting and protecting our police officers.

I commend the bill to the house.

MR P.A. KATSAMBANIS (Hillarys) [3.47 pm]: As the lead speaker for the Liberal Party, I indicate that we support the Mandatory Testing (Infectious Diseases) Amendment (COVID-19 Response) Bill 2020 and we support our police. We support our police officers who are doing extraordinary work in the most extraordinary of times. They are part of the front line along with our doctors, hospital staff and nurses. I acknowledge that it is International Nurses Day. It is a perfect opportunity for us to thank all those people who are doing the very heavy lifting needed to eradicate COVID-19 from our society. Amongst those people on the front line are our police officers. As the Minister for Police pointed out, and we have heard in the media, in the last few months the vast majority of people are doing the right thing. But there is a small minority of people in the community who never learn and who never have doing the right thing in the front of their mind; they are always trying something on. In this case, during a pandemic, a small minority of people want to subject our frontline workforce, including police officers, to the threat of infection with this most evil of diseases.

Last month, we went some way to dealing with these people when we introduced and passed the Criminal Code Amendment (COVID-19 Response) Bill 2020. The Criminal Code was amended to introduce high penalties for people who assault or threaten our frontline staff. We have seen police already use that legislation to protect themselves and other frontline officers, including doctors, nurses and hospital staff, from these nasty, evil people. This bill adds another layer of protection that police officers have requested, that the Western Australian Police Union very correctly advocated on behalf of its officers and that the Western Australia police service has supported—again, very correctly. The government was asked and has responded, and, as a responsible opposition, we have also responded by indicating we are very happy to treat this as one of the bills that are urgent under the temporary orders so that we can get it through this place and the other place as quickly as possible to provide an extra layer of support and protection for our police officers.

We are lucky that we already have the Mandatory Testing (Infectious Diseases) Act 2014 in operation. That act, introduced in 2014 by Hon Liza Harvey, the former Minister for Police and current Leader of the Opposition, allows for mandatory blood testing of suspects who have exposed police officers to certain bloodborne diseases. The bloodborne diseases listed in the legislation are HIV–AIDS, hepatitis B and hepatitis C. Interestingly and importantly, the drafters of that legislation provided for other diseases to be prescribed in regulations if the need arose to prescribe those other diseases into the act to futureproof it. As the minister indicated, she intends to add COVID-19 as the first new disease to be prescribed under that regulation-making power that was introduced in the legislation passed in this place in 2014.

That legislation was very important when it was introduced because, again, in times before the onset of COVID-19, those same or similar evil people were subjecting police to harm by claiming they had HIV, hepatitis B or hepatitis C. In other cases, a suspect may not have deliberately exposed a police officer to harm; however, in the course of doing their duty, a police officer may have been exposed to blood that could potentially infect them, and they just did not know whether a suspect had a disease or not. In the absence of a test to detect whether a suspect had a disease, police officers would have to wait for up to three to six months, because that is the incubation period for diseases such as HIV–AIDS, hepatitis B or hepatitis C. The introduction of the legislation in 2014 meant that suspects could be tested with appropriate safeguards and police officers could get peace of mind much, much quicker. It meant that police officers did not have to leave the frontline; it also meant that their long-suffering families had peace of mind that their loved ones had not been exposed to those diseases.

The legislation was based on the fact that a blood sample would be taken, because for the diseases that we were looking to deal with at the time—HIV–AIDS, hepatitis B and hepatitis C—the appropriate testing was by blood sample. We know that blood samples can be used to detect COVID-19, but I think the minister pointed out in the second reading speech—remember, I have had all of 10 seconds between the minister finishing the second reading speech and me getting up to speak on this—and I will reiterate, that blood testing for COVID-19 picks up antibodies

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after someone has been infected with and hopefully cured of the disease. COVID-19 is detected using samples of saliva, mucus, respiratory secretion or other material that is contained in either the nasal or the throat cavity. Some people react well to those tests; I know some people do not particularly like them. Thankfully, I have not had to be subjected to one.

Mr P. Papalia: I don't think anyone likes them!

Mr P.A. KATSAMBANIS: I think some dislike them a lot more than others, Minister for Tourism! Let us just say that they are intrusive—in many ways, probably more intrusive than a blood test—but that is the test we have. In order to protect our police officers, we need to give them the opportunity to access mandatory testing of anyone who has threatened to infect them with COVID-19.

The primary legislation has been amended by removing the need to take a blood sample and introducing in its place, wherever it is mentioned, that a sample is to be taken, and then a definition of sample is imported into the legislation that covers blood and other samples, including nasal swabs and the like, so that all types of sample are included. Of course, in the future, if a different, non-blood test is developed for HIV–AIDS, hepatitis B or hepatitis C, the legislation will cover those tests. Right now, this is an important practical protection for police officers and their families and the public of Western Australia. Right now, the last thing we need to do is to alarm police officers and their families and subject them to the threat that their loved ones have been exposed to this disease while trying to protect us. We also do not want to remove those officers from the front line when we need them most. That is what this new testing regime will do, in a simple manner. Because of the framework of the legislation that was brought in by the member for Scarborough back in 2014, we can do it simply and easily today. We do not oppose this part of the legislation in any way; we fully support and endorse it.

The bill also updates the definition of “qualified person”. The definition of “qualified person” in the current act seems to be a bit outdated and refers to some old commonwealth scheme. This bill updates the words and, again, futureproofs that definition, because the types of people who are authorised and qualified to take samples changes over time. That is an important change. I dare say, if this bill had not been introduced to protect our police officers because of COVID-19, someone looking at the act some time in the future might have changed it. It is important. I do not think it will make much difference in practical terms right now, but it is good to update the legislation whilst we are looking at it.

I note a couple of things. First of all, I note that the amendments are not restricted to the COVID-19 period. They will become a permanent change to WA legislation, as I have discussed. I think that is a good thing. In the six years since this legislation was introduced, no other disease has been prescribed by regulation, so we have not moved beyond HIV–AIDS, hepatitis B and hepatitis C. Obviously, we are now adding COVID-19 to that list. The legislation has not been used by governments of all persuasions to add lots and lots of other diseases.

It is also probably important to note, since we are discussing it, that the legislative scheme in the principal act provides significant protections and important layers of protection for the person who is to be tested. A police officer cannot simply ask someone to take a mandatory test; they need to get approval from a senior officer at the level of inspector or above. The legislation provides that rigour within the framework to ensure that these tests are not being conducted obtrusively or for no real reason. There needs to be a reason, and the police officer has to justify it to a senior officer—an inspector or above—who will tick it off.

In relation to “protected persons”, which is the term used in the principal act and means either children or people who have an incapacity or disability, there needs to be an application to the court. For children, there must be an application to the Children's Court and for adults who have an incapacity, there must be an application to the Magistrates Court. Again, there is rigour in that system. Of course, there are penalties, including a penalty of up to 12 months' imprisonment and a monetary penalty for people who fail to comply with a lawful order. That is important, because we need to introduce a mechanism to ensure that those people who are to be tested do not delay or fetter the process and do not continue with their bad ways and say, “No; you can say that you're testing me, but I don't want to get tested.”

One other issue that has come to light since this legislation was mooted was raised by the Western Australian Police Union of Workers and that is concern that some doctors may not necessarily be overly happy about performing the tests required under the principal act, whether it be for hepatitis B or C, HIV–AIDS or COVID-19. That issue has been raised with me and, I assume, with the minister and I think it was included in a public statement by the union earlier today. It is an issue that is worth investigating to look at ways whereby an individual doctor may not necessarily be mandated. Last year, legislation was passed in this place that imposed onerous duties on doctors in relation to end-of-life choices whereby if they did not want to be involved in the regime, they were compelled to refer the person to somebody else. This issue was brought up with me for the first time only in the past 48 hours. Perhaps we could look at a similar response to ensure that, although we have all the protective mechanisms in place for police officers to request the test and a carrot-and-stick approach to the suspects to ensure that they submit to the test, there is not a failing because a doctor simply says that they do not want to perform the test or that they

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cannot perform the test, which could also be an issue. A doctor could say that they cannot perform the test because they either do not have permission to do it or, in some rare circumstances, do not want to subject themselves to it. There needs to be some sort of mechanism whereby we can guarantee our police officers that once a sample is ordered, it will be taken and tested. Without that, I think there may be a bit of a gap. If it is a real issue, and it must be a real issue because it has been highlighted by the police union, let us fix it when we get the opportunity to fix it. Again, as with the bill that was introduced last month to amend the Criminal Code and today's bill to amend the Mandatory Testing (Infectious Diseases) Act, the minister will find the opposition very supportive of amending the legislation to provide that protection.

In closing, I note that earlier today the minister gave a brief ministerial statement expressing her condolences to the broader police family and to the families of the four victims of that horrific motor vehicle collision on Eastern Freeway in Melbourne. They are outside our jurisdiction, but they are still part of the police family and are the people who protect us as Australians. To see and hear about something like that makes your hair stand on end. I, too, want to place on the record on behalf of the Liberal Party my sincere condolences to the families of Leading Senior Constable Lynette Taylor, Constable Glen Humphris, Senior Constable Kevin King and Constable Josh Prestney, to Victoria Police and to police families all over Australia. I note also that Josh Prestney and I shared a love of the Collingwood Football Club, so he was an extra special person! I know that none of these people will be forgotten. Eastern Freeway also brings mixed memories for me. Many people know that, as a university student, I was involved in the tow truck driving industry in that area. Obviously, motor vehicle accidents and the consequences of motor vehicle collisions on Eastern Freeway in that area bring back some horrific personal memories for me. Any time we lose a person, it is horrific. When we lose those people out there protecting our community, and when we find out why they were standing on the side of the road that night and the individual they were dealing with, it brings home just how dangerous policing can be and just how willingly police officers put themselves in danger on a daily and hourly basis to protect the rest of us. We continue to thank them for what they do.

I will not delay the passage of this legislation any further. Suffice to say, like with most things we do in this place, and we do not get enough credit for it, this bill has bipartisan support. This is not something that is brought on by one government or another; it is something that government does. When we find out that our police officers or any of our first responders need protection, we come into this place and, in a bipartisan manner, provide that protection for them. I hope that this extra layer of protection for police officers will give some peace of mind to those officers, their families and the rest of the Western Australian community that the actions of a few bad eggs—a few bad people—will not unnecessarily burden our police officers and their families and will not get them off the front line at a time when we need them there doing what they do to protect us. Thank you for your service.

MR K.M. O'DONNELL (Kalgoorlie) [4.07 pm]: Greetings, Mr Acting Speaker!

The ACTING SPEAKER: Greetings!

Mr K.M. O'DONNELL: How good is it to be back! I watch everybody here.

Mr P.A. Katsambanis: Some of us never left.

Mr K.M. O'DONNELL: I know and I feel guilty, but I was working in Kalgoorlie. It does not feel right. I have only one person to talk to and it is the Minister for Small Business. While no-one is here and no-one is listening, I will thank the Minister for Transport for building that double carriageway into Kalgoorlie–Boulder. I did say when I first came to this place that I would thank the minister. She is doing exactly what I would want to do.

The member for Hillarys brought up the four police officers in Victoria. That was tragic. I was just reflecting. I did exactly what they did, and so do thousands of other police officers around the world. They do exactly that—they stop people, they talk to people in vehicles on the side of the road and they direct traffic. Gee, we just do not realise how lucky we are. I made it through 34 years without being hit by a car. I nearly got hit once, but I will save that story until the debate on the Premier's Statement to tell members about.

I rise to speak on the Mandatory Testing (Infectious Diseases) Amendment (COVID-19 Response) Bill 2020. Like the member for Hillarys, I fully support the bill. I like it when bills that I like are brought forward.

Mrs M.H. Roberts interjected.

Mr K.M. O'DONNELL: When I first came to this place, I saw some people dig in their heels and talk and talk and talk: "We're going to keep this minister up for ages." But I tend to think, "Gee, can't we just do it the right way?" This is an example of a bill for which we need to get up to talk and get the job done. I like that style. During the COVID-19 crisis it has been said that there have been multiple instances of suspects claiming to have COVID-19, therefore threatening frontline police officers with exposure to the virus. This was very true in the Perth lock-up. An offender claimed that he had the COVID-19 virus in the early part of this pandemic. Straightaway, that whole shift was shut down. At the time, I thought, "Gee, if offenders start doing this left, right and centre, we're not going

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to have a police force left. We're not going to have ambulance drivers. We're not going to have prison officers. It's just going to be a free for all."

I like that the authorised types of samples that can be taken have been broadened. Previously, it was by blood. If someone bit or spat on an officer and they thought they had HIV or some disease, they would have to get a blood test. As I have stated before, as has the member for Hillarys and the minister, it is horrific for families. There is nothing worse for them than to say to their partner that they might have a disease and they have to wait three months to six months to be advised of the result, with no touching, no kissing—no nothing! It can be horrendous.

The bill will broaden the authorised types of samples that can be taken, which is fantastic. In this instance, it can be saliva, mucus, respiratory secretions or other material, rather than just sticking to blood. Times change. I remember that before we had breath testing, people would blow into a bag. For a sobriety test, people had to hold their head up, touch their nose and walk along a straight line. Good luck with that, even if you are sober, at certain ages! Many people said that they had not had a drink, but they struggled badly with that. They also had to hold one leg up, and they did not do well. We changed. We had breath machines and now we can take blood, so we have adapted.

I refer to identification. When I first started, if we wanted to identify anybody, we fingerprinted them or took their photograph. Nowadays, DNA can help identify them, which is fantastic. That is another example of changing with the times. It gives the police department—not a weapon, but another part of their arsenal to make sure that they are safe out on the front line, as best as possible.

The bill also updates the definition of a qualified person to ensure that only appropriately trained persons can take the required samples from a suspected transferor. I thoroughly agree with that. We do not want to the work experience kid to be doing it. The amendments are not restricted to only the COVID-19 period. They are permanent changes, which is very good. Let us keep this going.

I have a question. I have not seen the rest of the paperwork, but the member for Hillarys mentioned that approval has to be by an inspector or above.

Mrs M.H. Roberts: That's in the existing bill.

Mr K.M. O'DONNELL: Right. It does not matter where an officer is in the state; they normally have access. In remote parts of the state, when police officers are in the middle of nowhere, if they do not have communications, they would not be able to get a sample anyway. They would have to come back to their point of origin or the nearest place.

It is good that there was consultation with the Western Australia Police Force and the WA Police Union. I have seen the odd bill come through and when the government is asked whether it had consultation, it says, "No, not with that group." It has not been just this government. I have heard that under previous governments there was no consultation. But this bill has had consultation.

I do not wish to speak any more, Mr Acting Speaker. Thank you very much for letting me get back to work.

MR P.J. RUNDLE (Roe) [4.14 pm]: I rise to speak on the Mandatory Testing (Infectious Diseases) Amendment (COVID-19 Response) Bill 2020. Firstly, the Nationals WA will support this bill, as we have generally done in support of the government during this time of crisis. I note that this morning there was quite a lot of TV and radio coverage of this bill. Those TV stations and the like probably picked it up because of a sense that it is important to all Western Australians. This bill picks up some things that people are not impressed with at all about some of the behaviours that go on during a crisis like this. I believe that 99 per cent of the population have been fantastic, but we always have the odd person who lets us down. That is my first point.

I would like to point out the disappointment of our party room. The government previously agreed that the likes of these COVID-19 bills would get the agreement of the three party leaders about the urgency of the bill. That was the agreement prior to any of the COVID-19 bills coming forth. On this occasion, that did not happen. I would like to point that out. The other thing that I want to point out, as I have done with a couple of the Attorney General's bills and the commerce bills, is that it is very difficult dealing with bills at such short notice. We understand that the government is in the same boat and we are all working under trying circumstances.

I would like to acknowledge the work of our frontline police officers and thank them for the great job they are doing. I, for one, have experienced their courtesy and helpfulness at the regional borders. When we have come back up for parliamentary business, they have always been really polite and done their job well. The Armadale or Williams police stop-offs are the ones that I am generally stopped at. I have been quite impressed by the way that they have dealt with people in general. I would certainly like to pass that on. The police have handled themselves well on occasions when they have been called in to handle disputes in supermarkets and the like. I think the public in general are really happy with the way the police have handled themselves over the last couple of months.

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As the member for Hillarys pointed out, the bill deals with a broadening of the types of samples that can be taken from a suspected transferor. Currently, only blood samples that are specified for hepatitis B, hepatitis C and HIV can be taken. The regulations are being drafted to include infectious diseases. Later this week, the Legislative Council will deal with the Prisons Amendment Bill 2020, which is along similar lines to this. As the minister mentioned in her second reading speech, we recently passed the Criminal Code Amendment (COVID-19 Response) Bill 2020 back in March, which increased the penalties for those who spit on or threaten to expose frontline health and other workers, including doctors, nurses and any other potential frontline workers, such as general practitioners and allied health, St John Ambulance and Royal Flying Doctor Service workers. I would like to take this opportunity to pass on my thanks to those many frontline health workers who have done such a great job during this COVID-19 crisis.

This bill will allow for the taking of samples of saliva, mucus, respiratory secretions or other material, in addition to blood, and will enable testing for COVID-19 with the approval of a senior police officer. Along with all members, I am sure, I have been appalled at some of the circumstances that we have seen on the news—not most nights, but certainly on some nights—such as the vision of people in supermarkets spitting on others when they have a dispute over some goods that they might not be able to get. The other day I saw one of someone wiping their nose or mouth on the shoulder of a supermarket worker. As far as I am concerned, it is just not good enough. I think every single person watching that would be appalled. Obviously, this legislation deals with police and their staff and, equally, that sort of behaviour cannot be tolerated. In 2020 to date, we have had 51 occasions of people either spitting on or biting a police officer or their staff. That is incredibly disappointing. A medical officer or practitioner will be able to request a police officer to assist with taking a sample. Hopefully, that will not be needed, but this bill will make allowances for that. Of course, we have the offence provisions for failing to comply, with either the potential \$12 000 fine or two-month prison sentence. This legislation also improves the definition of a qualified person and clarifies that, so that they can be regarded as an appropriately trained person. As we know, juveniles or incapable persons are able to be tested and that will be continued through this legislation.

I note that the WA Police Union is supportive of this bill and that is important; it is representing its members. Obviously, we have not had time to consult with it, but we understand from its media release this morning that it is very supportive. The other element, as the minister mentioned, is families of the police. This is not just about protecting frontline police, it is about protecting their families who, until the sample comes back, would be worried about whether their loved one might be affected. That is even more important.

In conclusion, one question I have for the minister is: why is there no sunset clause in this bill to futureproof it from unintended consequences? Over the last three or four bills we have considered, there has been a sunset clause in most of them to allow us to have another look at the legislation down the track, because, especially with some of the others such as the guardianship bill that we had the other week, there is potential for unintended consequences. It is important that we think about a sunset clause for any COVID-19 bills that come through, to give some thought to that. I would like the minister's response on that. The Nationals WA supports this bill. We very much support our police officers and their families, and we thank our police force for the fantastic work that they are doing during this time.

MRS L.M. HARVEY (Scarborough — Leader of the Opposition) [4.23 pm]: I rise to make some short remarks before Parliament in support of the Mandatory Testing (Infectious Diseases) Amendment (COVID-19 Response) Bill 2020, around mandatory testing for the protection of our police officers in WA. I note, with a wry smile, how things can change very quickly. I remember, when I occupied a seat on the other side of the chamber in 2014, introducing this mandatory testing legislation. It was a 2013 election commitment. It seemed, at that time, and during the course of our government, that as soon as the word “mandatory” was introduced into any part of legislation, the then opposition, who are now government members, almost lost their minds.

Mrs M.H. Roberts interjected.

Mrs L.M. HARVEY: Acting Speaker, your protection!

Mrs M.H. Roberts interjected.

The ACTING SPEAKER: Minister!

Mrs L.M. HARVEY: Thank you.

At the back of the chamber are advisers to the minister and the government who will well recall the extremely long late-night sittings when we laboured clause by clause during consideration in detail on any of the mandatory testing or sentencing legislation.

Mrs M.H. Roberts interjected.

The ACTING SPEAKER: Minister for Police!

Mrs L.M. HARVEY: I would like to have the opportunity to potentially complete an entire sentence.

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The ACTING SPEAKER: Please, carry on.

Mrs L.M. HARVEY: I am drawing the house's attention to the fact that there were many late-night sittings and lots of referrals to committee, and a lot of that was over the mandatory testing or sentencing legislation that the former Liberal–National government brought to this place.

Times have changed significantly. We, as an opposition, fully support this legislation. Indeed, it was a very quick decision of our party room because, as the member for Hillarys put on the record, we support anything that supports our police officers. I remember talking to police officers at that time of making that commitment of mandatory testing of people who might have bloodborne diseases and who threaten police officers with potential transmission of those bloodborne diseases. I spoke and listened to many officers who talked about how torturous it was for them to wait for months on end to be cleared of having contracted one of these diseases. We had a very simple solution, which the then government brought in with this legislation in 2014, to test the offender—the perpetrator—who had potentially transmitted a disease to a police officer by way of a bite, spit or whatever it might be. This extension ensures that there is support for police officers by enabling offenders who claim to be COVID-19-positive and might spit at a police officer or bite them or whatever it might be to be tested. This will allow police officers to have peace of mind that they are not transmitting COVID-19 to their family when they go home or to other vulnerable people with whom they may come into contact. This is a very good thing and we are very supportive of it.

This will be a very invasive test. I hope that I am never put in a position in which I need to be tested to see whether I am COVID-19 positive, because I do not think I would cope terribly well with that nasal swab. I do not think I would cope very well with some of those tests. I am not saying, in any way, shape or form, that testing for COVID-19 should not occur in these circumstances; I am all for it. Police officers should be treated respectfully in the workplace.

I would like to put on the record the way in which police officers have treated the Western Australian community during these emergency lockdowns. This is part of the reason I wanted to stand up and speak today—to show and express my support for the way our officers have handled themselves. They have handled themselves in an absolutely exemplary fashion, compared with the way that police officers in some other states have treated their citizens. I am really pleased with the training and skills of our police officers and the culture of our police service in Western Australia. They treat the community respectfully; they use the best and biggest muscle in their body, being the brain contained in their skulls; and they communicate with people effectively so that they do not need to go into a conflict scenario. I hope that Assistant Commissioner Gary Budge, who is sitting in the Speaker's gallery, will relay back to the WA police service and the police executive the opposition's sincere appreciation of the way police have handled themselves during this emergency crisis and lockdown, and also our understanding of the extreme pressure they are under with the increase in family and domestic violence as a result of the isolation restrictions in place for many of our households.

I understand the impact that that has on resources. I understand the difficulty that a family violence situation presents to police officers and the additional time it takes; indeed, they are often some of the most dangerous situations that police officers can walk into because of the heightened emotion that comes with those particular scenarios. As part of my support for the legislation, I wanted to put on the record my appreciation for the work that Western Australian police are doing. I know the Western Australian Police Union supports the bill—it contacted the Liberal Party to say that it supports it. Supporting this legislation is a no-brainer for the Liberal opposition in any case.

Before I sit down, I will take these last few minutes to place on the record my sincere condolences to the police family around Australia for the terrible loss of life in Victoria on Wednesday, 22 April. Leading Senior Constable Lynette Taylor, Constable Josh Prestney, Constable Glen Humphris and Senior Constable Kevin King all left for work that morning and thought, with confidence, that they would return to their families at the end of their shift. Sadly, a terrible, terrible tragedy ensued that resulted in significant loss of life. When that happens and when our police officers fall in this way, it is felt by the police family around the nation. For any family member of a police officer who has lost their life in the line of duty, it brings back trauma, loss and grief. It creates a ripple effect not only through the police community, but also for all members of the community who hold in their hearts a special place for police officers, who work so hard to keep us safe. National Police Remembrance Day on 29 September will be a very, very sad occasion this year for the police family around Australia, particularly in Victoria, obviously. On behalf of the state Parliamentary Liberal Party, I sincerely express our condolences to those officers, their families and everybody in the Western Australian, Victorian and Australian police community who have been impacted by that incredibly tragic loss of life and by the dreadful behaviour of people around that particular tragedy.

With those comments, I once again put on the record my emphatic support for this legislation. Indeed, I am very pleased that under the COVID-19 temporary orders, this legislation will pass expeditiously through this place and through the other place. Hopefully, any regulations will be drafted in an equally quick fashion so that we can get this into operation as quickly as possible.

Mrs Michelle Roberts; Mr Peter Katsambanis; Mr Kyran O'Donnell; Mr Peter Rundle; Mrs Liza Harvey; Mrs Alyssa Hayden

MRS M.H. ROBERTS (Midland — Minister for Police) [4.33 pm] — in reply: I would like to thank the members for Hillarys, Kalgoorlie and Roe for their excellent contributions on the Mandatory Testing (Infectious Diseases) Amendment (COVID-19 Response) Bill 2020. I am not going to thank the Leader of the Opposition because her comments were incredibly misleading. She always attempts to be political on this matter. When a member does not do their homework and is not armed with the facts, they should not even bother making a last-minute contribution, like she did. She was unprepared and attempted to rewrite history, or, alternatively, she deliberately misled the house or does not know what she did during the time she was minister.

I will start with that. Today, the member for Scarborough attempted to rewrite the history of the mandatory testing infectious diseases legislation. The Western Australian Police Union started asking for mandatory testing for police officers in this state back in 2008. By 2009, the Western Australian Labor Party had indicated its commitment to supporting the mandatory testing of offenders who may have infected a police officer. That was not something that we quibbled about: mandatory testing was appropriate. I stood up in this place time and again and explained why it was appropriate. I raised it with the former Liberal Minister for Police prior to the member for Scarborough becoming minister. There was no action in those first four years of the Barnett government.

In mid-2012, the member for Scarborough became the police minister. On 17 October 2012, I asked her this question —

- (1) Has the minister had any discussions with stakeholders about mandatory blood tests for offenders who assault police or other emergency workers?
- (2) If so, which stakeholders has the minister discussed the issue with?
- (3) In particular, has the minister discussed this issue with the Minister for Health?
- (4) Does the minister understand the importance of this issue?

What I had heard was that the former police minister, the former member for Hillarys, Hon Rob Johnson, had been keen to support the mandatory testing of offenders and had tried to get support for it from the then Premier and others in his party. His proposal was met with rejection from within his own party, and particularly from the then Minister for Health. That is why my question pointed at whether the member for Scarborough had had any discussions with the Minister for Health. It is very clear from the answer she gave on 17 October 2012 that she really had no idea what was being proposed. In fact, the start of her answer was —

- (1)–(4) I thank the member for this question. I have discussed the issue of mandatory blood testing for police officers where the potential —

I then, of course, interjected, because this was never about mandatory testing of police officers; it was about mandatory testing of offenders. She made it quite clear that she did not have a clue about what she was being asked. Then she went on to say —

We are in the very early stages of discussions. I am yet to have further discussions with the Minister for Health on this issue, but I would like to put on the record that I think it is a very good idea. There is not enough time in this session of Parliament to deal with it or introduce legislation, but at this stage my discussions with the police executive and the Western Australian Police Union have been very positive.

Very positive! At that point, the police union had been asking for it for four years. She continued —

I am certainly interested in progressing that.

We made it an election commitment. Ultimately, the Liberal Party joined in and also made it an election commitment. The then minister was on the record as saying that the government would make it a priority after the election. The year 2013 came and went, and it received no priority whatsoever. The member suggested that the Labor Party opposes anything mandatory, or that anything to do with the Labor Party and the word “mandatory” was somehow related to a discussion of that bill—it clearly was not. This is something that the police union proposed. We committed to it very early on. The Barnett government would not progress it, and it was only when we committed to it at the 2013 election that it decided to jump on board.

Other comments the member for Scarborough made suggested that the Labor Party likes to stay in the Parliament all night to protract debates, and that this takes forever. The only person who was not here for the debate on the Mandatory Testing (Infectious Diseases) Bill was the member for Scarborough. She was not here that night.

Several members interjected.

Mrs M.H. ROBERTS: I am outlining the facts here.

Mrs A.K. Hayden interjected.

Mrs M.H. ROBERTS: The then member for Scarborough was.

Several members interjected.

The ACTING SPEAKER: Members!

Mrs M.H. ROBERTS: The fact of the matter is that she got up and suggested that the Labor Party drags this kind of bills out till all hours of the night and that that was our record in opposition. That is not true. We did not debate it at night; we debated it in the afternoon and it was debated very quickly.

Mrs A.K. Hayden interjected.

The ACTING SPEAKER: Member for Darling Range!

Mrs M.H. ROBERTS: Every opposition member should be embarrassed because their leader has come into this place and made totally and completely unfounded allegations.

The ACTING SPEAKER: Minister, if we could get back to the bill, please, that would be appreciated.

Mrs M.H. ROBERTS: I am responding to matters raised in the second reading debate by the member for Scarborough, as I am entitled to do. The member made a point about Labor dragging out anything that involves something mandatory to all hours of the night. Because the member was not here at the time, she may not recall that the Mandatory Testing (Infectious Diseases) Bill 2014 came on for debate at 12.42 pm on 18 September 2014. At the time, I spoke for eight minutes. We then broke for members' statements. The bill came on again after question time at 2.44 pm. Between 2.44 pm and 3.28 pm, two members of the opposition spoke in full support of the bill; the member for Rockingham and I fully supported the bill. In my contribution, I said to the then acting Minister for Police, the member for Kalamunda, Hon John Day, that if he could answer a couple of questions during his second reading response, because we were keen to progress this bill as quickly as possible, we would not need to go into the consideration in detail stage.

Let us deal with the facts here. In an effort to progress the bill very quickly, because we had committed to it and argued for it for years, the only speakers at this time from the Labor opposition were the member for Rockingham and me. We spoke for less than an hour on the bill—a total of some 52 minutes. The acting minister, Hon John Day, responded in less than 10 minutes. We spent about an hour putting that bill through the Legislative Assembly. I will not have the member for Scarborough say, "How times have changed. This is the kind of thing the Labor Party used to oppose when it was in opposition." The Labor Party, and I in particular, were committed to supporting our police officers. We called for this bill for years. I questioned the government time and again. I said, "Bring it on!" The member for Rockingham said, "Bring it on! We want to support it; we want to put it through the house and we want to put it through quickly." To suggest that in any way we delayed it, protracted it or kept people in Parliament for all hours of the night is just incorrect and wrong. I will not put up with someone coming into this house, not telling the truth and suggesting that when we were in opposition, we were in any way opposed to things that would protect our police officers. We were strong and constant in our support and I will not have the member for Scarborough come in here and mislead people on that.

Until the member for Scarborough spoke, we were having a really good and supportive debate. Matters like this involving police officers have generally been supported by both sides of the house. I commend the member for Hillarys for his strong support. I commend National Party members and the member for Roe for their commitment. I commend the member for Kalgoorlie for his support and his very sensible comment that he was not going to speak for long. He wanted to put on the record his support for this bill and said that we should all move quickly forward on it. I thought that was where we were going. At the last minute, the member for Scarborough made some political point about how time is changing, how she had been some hero for bringing in this bill and that all the Labor Party did was to oppose anything that had the word "mandatory" in it. The facts do not back up what she said. Every last member of the Liberal Party should be embarrassed about the member for Scarborough. They should be embarrassed to have her as their leader because, time and again, she does not do the research. How long would it have taken her to have gone onto POWAnet and look up the debate on this bill? If she had done that, she would not have made the ignorant or fallacious comments that she made. Why get up and criticise the Labor Party when we were having a very positive debate for the benefit of police officers of this state and we were getting on and doing something really good? Her comments were somewhere between an attempt to grandstand and an attempt to score some really cheap political point, but in doing so she did not do her homework or have her facts right, yet again. She was lazy as a minister and she is even lazier as an opposition leader.

I will deal with the comments and questions asked by those members who actually did their homework and research and made a positive contribution to this debate. The member for Hillarys raised the question flagged by the Western Australian Police Union of Workers about doctors refusing to take samples. The Western Australian Police Union has raised that issue with me. The member may not be aware that that will be examined as part of a forthcoming statutory review of this bill. This also alludes to the question raised by the member for Roe about a sunset clause or a need to review the legislation. A statutory review will occur over the next 12 months and,

as part of that review, a number of improvements can be made to the legislation and we can revisit any matters at that time.

However, it is unlikely that this amendment to the bill would be changed in that review. The original bill allowed for blood testing as a method of testing for an infectious disease. At the time, the infectious diseases that we principally wanted to deal with and for which a blood test was most appropriate were hepatitis B, hepatitis C and HIV–AIDS. For some other infectious diseases, as we have now found out with COVID-19, a saliva or mucous test is more appropriate. I think it was the member for Hillarys who thought that the COVID-19 test was potentially more invasive than a blood test. Personally, I think there is the potential for a mucous swab to be less invasive than a blood test. Although I am not in any way a medical expert on these matters, I understand that in terms of testing school students, they have been able to come up with a less invasive way —

Mr P.A. Katsambanis: In the last few years I have become an expert in blood tests. I have had more than I wish upon anybody.

Mrs M.H. ROBERTS: Yes. I am just saying that other people, myself included, would probably find a blood test to be more invasive than having a mucous or a swab test. Some people are really queasy about having their blood taken and would much rather have a mucous or swab test. I had thought that a mucous test was probably less invasive. Some people might have a contrary view, but maybe they are about the same.

I do not think a lot hinges on whether we allow for a mucous or a blood test for an infectious disease in this bill. I do not think that it is anything that we would want to take out of the bill in the future. I am pretty sure that the member for Hillarys effectively concurred with that view in his contribution to the second reading debate. In any event, these matters can be considered in the upcoming statutory review. If we have both options available, the medical professional can determine which test is most appropriate in the given circumstances.

The member for Kalgoorlie raised a question about how approvals are managed in the principal legislation. He commented that an inspector needed to sign off on the taking of one of these tests. I can provide the member for Kalgoorlie with further information. Those approvals are usually managed through an inspector based at the state operations command. That person can be remote from the actual location and those approvals can be done by, for example, telephone, fax, email or radio communication. That may assist people at a remote location; they can ring through to state operations command where an inspector who can handle those inquiries is always on duty.

The members for Hillarys and Kalgoorlie commented on the safeguards that are already in the legislation to protect people who are having blood, mucus or other substances taken. I point out that as a further safeguard the senior officer must not be someone who has been involved in the investigation of any suspected offence relating to the disease test approval. It has to be an unrelated person, not an inspector who has been involved in the incident that has given rise to the need for the test.

This is really important legislation. Our aim is to better protect our police officers. It is to give our police officers peace of mind if they potentially have to have a test, because it may be negative in the first instance and therefore not give them any peace of mind longer term and they may then have to have another test a week or a fortnight later, and during that time they cannot have contact with their family and friends or go back to work. It is really important for the peace of mind of police officers and their families.

Most of us find it repugnant and disgusting that someone would spit at a police officer. Unfortunately, people do some pretty heinous things. The member for Kalgoorlie would no doubt be aware of that. I looked back through my contribution to the second reading debate on the original bill, and noted one instance that I detailed in which someone in a prison cell opened a wound and let blood flow into a small paper cup. When the police officer entered the cell, or came into contact with the prisoner, they threw that cup of blood on the police officer. That is one of a number of instances that I detailed in this house in the time leading up to the passage of the original bill. Whether it is COVID-19, hepatitis or another communicable disease, police officers need to have that peace of mind, because, unfortunately, for whatever reason, people do those repugnant things. No doubt, some of those people have significant mental health issues, but that does not excuse that behaviour in any way and, certainly, in the case of COVID-19, that does not mean our police officers should have to live in fear for weeks. Of course, with respect to HIV or hepatitis, as I understand it, the incubation period is even longer and leaves police worrying for an even longer period of time.

I will also clarify the sunset clause for the member for Roe. As I highlighted in my second reading speech, it is not intended that the words “COVID-19” will be in this bill. The original bill for the principal act lists three diseases— that is, hepatitis B, hepatitis C and HIV–AIDS. I note that I highlighted that during debate on that bill. I asked Hon John Day a question about that in his second reading reply speech to get a quick answer rather than going into committee. I refer to my contribution to debate on the bill in *Hansard* of 18 September 2014 —

... in clause 4. It states —

infectious disease means any of the following —

- (a) Human Immunodeficiency Virus (HIV) infection;
- (b) Hepatitis B;
- (c) Hepatitis C;
- (d) any other prescribed disease capable of being transmitted by the transfer of bodily fluid;

The purpose of the act is for “certain infectious diseases” and then there is a definition of “infectious disease”. Paragraph (d) appears to be a bit of a catch-all—“any other prescribed disease”. I assume that other diseases can be prescribed in regulations and that the minister of the day can prescribe additional diseases if they become an issue. I do not know how long ago we heard of HIV. In the future there may well be some other disease or something that has been omitted here —

Mr J.H.D. Day: It was about 1981 or 1982, from my recollection.

Mrs M.H. ROBERTS: I hope there are no new diseases. It is important that there be a simpler way, perhaps by way of regulation, of including another disease if it is deemed appropriate rather than going through the process of amending the legislation.

That is where our intent started. It started because we wanted to add COVID-19 to those regulations so we could add to rather than amend the legislation. Our first thought was that we would just add COVID-19 to the regulations. We then realised that the blood test was not appropriate for COVID-19; hence, we have come to the chamber with a relatively simple amendment to the legislation to allow for a different method of testing from a blood test. Certainly, I have made it clear that I brought forward this bill because I intend to add COVID-19 to the regulations. If at some point in the future COVID-19 no longer needs to be listed because it is not an issue in the community, it can be simply deleted from the regulations. Hepatitis B and C, and HIV–AIDS remain in the substantial legislation but there certainly was some foresight to allow another disease to be added in the regulations. The only thing lacking is the method by which one might test for other diseases, and this bill rectifies that in the legislation. That is why I gave the member for Roe the answer that we have not put in a sunset clause because we think this is a sensible amendment to the principal act. It is my view that on one level this will help to futureproof the legislation for further diseases. If there is another infectious disease like COVID-19 in the future, it can be added to the regulations, and because of this amendment to the act, it will be tested for either with a blood test or with a sample of mucus or similar fluid.

I thank members for their support. Clearly, there was universal support in our caucus this morning. In an effort to get this legislation in place and operative for police officers at the earliest opportunity, government members have forgone their opportunity to speak. A few members would have liked to have made a small contribution, but they are very proud to be part of a government that has taken the initiative quickly on issues like this in the state of Western Australia. I might just add that I am very proud of our government, particularly our leader and the Minister for Health for the way in which they have handled the COVID-19 epidemic and protected our community, and for their very strong support for the quick introduction of legislative measures to better protect our community.

Of course, I add my strong thanks and commendation to key people in a range of government agencies, particularly the Department of Health. Dr Russell-Weisz and Dr Andy Robertson have been tireless and sensational in their approach. As a member of the State Disaster Council, I have seen their commitment, dedication and ability on show every day of the week. I also add my thanks to all the other key people—none more key, of course, than our Commissioner of Police in his role as State Emergency Coordinator. He has worked incredible hours, every day of the week, doing a sensational job. He has been ably supported by his command team, particularly the two deputy commissioners and the assistant commissioners who have shown real leadership for the community of Western Australia. They have worked together across agencies. I might just add, on a lighter note, that the Commissioner of Police has learnt more about a whole range of industries, including a whole lot of occupations and businesses and the services they provide to the community, than he ever thought he would, and he joked with me earlier in the week that he thought he might write a book about his experience after this. If he is writing a book, no doubt, Dr Andy Robertson and Dr Russell-Weisz might, too. We all hope to learn from this. I think this is good legislation. I thank the opposition for its support and I commend the bill to the house.

Question put and passed.

Bill read a second time.

Third Reading

MRS M.H. ROBERTS (Midland — Minister for Police) [5.01 pm]: I move —

That the bill be now read a third time.

MRS L.M. HARVEY (Scarborough — Leader of the Opposition) [5.01 pm]: I take this opportunity to defend the accusation that I misled the chamber when I made my comments during my contribution to the second reading debate earlier. I would like to put on the record that when I became Minister for Police on 29 July 2012, it is true to say that this legislation for mandatory testing of people who assault police officers by potentially exposing them to disease had not been advanced. As Minister for Police, I took on the responsibility to acquaint myself with the issues around testing for disease and to do the relevant consultation of the various interested groups that were circling around it, such as the Western Australian AIDS Council; the Australian Medical Association; the Australian Nursing and Midwifery Federation; police officers; obviously, the Western Australian Police Union; and others who had different concerns with legislation such as this, the messages that it may send to the community and the safety or otherwise of people in our community who are living with HIV. We know that there were no transmissions of HIV to police officers. However, at that time, the threat of transmission meant that police officers would need to effectively self-quarantine for six months while they were waiting to get the results of a test to see if they had contracted the disease.

I brought that legislation into this chamber after several years of consultation; that is often what it takes. I gave notice of the motion on 14 May 2014 and read the bill a second time on 15 May 2014. The Minister for Police is correct that I did not get to take the bill through the further stages because, as members would be aware, I suffered a bereavement towards the end of 2014 that necessitated a leave of absence from this chamber. Notwithstanding my absolute commitment to the legislation, I did not want to hold it over so that I could be the person to take the bill through its final stages. The acting minister in my stead, Hon John Day, brought that legislation through its final two stages in this chamber. I just wanted to clarify the record. In no way had I any intention to, and nor did I, mislead this house. I had a very strong commitment to this legislation. I brought it through to the second reading debate. Unfortunately, because of my family circumstances at that time and the loss and bereavement that I was suffering, I could not take it through the final stages. I am glad it is now law and I am glad that this amendment is being made to protect our police officers, but I will not stand in this chamber and be accused of misleading the Parliament.

MRS M.H. ROBERTS (Midland — Minister for Police) [5.04 pm]: Of course, the fact remains that there was a commitment made prior to the 2013 election that this legislation would be brought forward. We waited for the whole of 2013 for the member for Scarborough to bring the legislation forward, despite the fact that it had been talked about since 2008 when the Western Australian Police Union started calling for it. The member for Scarborough had the whole of 2013 to take some action. She was asked repeated questions by the opposition. She eventually introduced it before Parliament in May, and then the Liberal Party failed to bring it on for debate. We asked again and again when the former government would bring it back on for debate. The member was here for many, many months during that time, and despite it laying on the notice paper, it was not brought on for debate. It was ultimately brought on for debate by Hon John Day, and I have no doubt that when this legislation was eventually introduced, the member for Scarborough supported it, but the former government dragged its heels on it. I do not blame the member for Scarborough for that; as I understand it, the former leader, Hon Colin Barnett, and the deputy, Hon Kim Hames, were dragging their heels. I heard time and again from Hon Kim Hames that a number of people from the health sector did not want the mandatory testing bill. The Labor Party supported this legislation all along. There were some concerns in the health sector and we pushed hard, as did the police union, to try to get over those concerns. People were told ahead of the March 2013 election that if the Liberal Party was elected, this legislation would be a priority. Normally, people understand that if something is a key priority, it will be introduced very quickly.

Point of Order

Mrs A.K. HAYDEN: This is a third reading. The minister's response is very repetitive. I ask that she be brought to order.

The ACTING SPEAKER (Ms L. Mettam): Member for Darling Range, I think that the minister is making concluding remarks.

Debate Resumed

Mrs M.H. ROBERTS: I am making some concluding remarks, and I am not canvassing anything that has not been canvassed as part of the third reading debate, or the second reading debate, for that matter. I acknowledge the member for Scarborough's bereavement; I understand that. But she cannot come in here and make accusations that the Labor Party delayed things, or the Labor Party did not support it, or the Labor Party wants to debate anything that has the word "mandatory" in it to all hours of the night, because the fact remains that the Labor Party—in fact, the whole Legislative Assembly—supported the original bill in this house, and we dealt with it in under an hour.

Mrs Michelle Roberts; Mr Peter Katsambanis; Mr Kyran O'Donnell; Mr Peter Rundle; Mrs Liza Harvey; Mrs Alyssa Hayden

There was no delay. I do not like to see that history rewritten. It is just a complete nonsense to try to perpetrate these cheap politics that the Labor Party is opposed to anything that has the word “mandatory” in it. I was a bit frustrated about this, because year in, year out, well before the member for Scarborough was the Minister for Police, the member for Rockingham and I sat there and asked where the legislation was. We started asking why the Liberal Party was not supporting it, then we asked where it was, and then we asked why it was not being brought on for debate. That was a frustrating time for us. The member for Scarborough coming in here and suggesting that we had somehow been the problem is far-fetched and very misleading in my view.

I conclude by thanking all members of this house for their support of this amendment. It is a sensible and good amendment and one that will stand our police force in our community in good stead.

Question put and passed.

Bill read a third time and transmitted to the Council.