## CRIMINAL LAW AMENDMENT (HOME BURGLARY AND OTHER OFFENCES) BILL 2014

*Second Reading*

Resumed from 26 February.

**MR P. PAPALIA (Warnbro)** [4.06 pm]: I am pleased to rise to address the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. I have referred to this bill on a number of occasions in other speeches and in general debate and taken the opportunity to focus on this subject, so the minister is aware that I hold a number of concerns about this bill. Despite that, I advise the Minister for Police that no matter how many times she stamps her feet, purses her lips and gets upset, the opposition will not necessarily do what she wants it to do politically. Our objective in this debate is to keep the commitment that we made prior to the 2013 state election. During the election campaign, we were called upon, with no notice, to commit to this legislation, which we did. That was a commitment that the Labor Party made. Unlike the government, when we make a commitment before an election, we intend to keep the commitment post the election. That is why the opposition's response is the way it is, and I am sorry to say that we will not do what the minister wants us to do.

Nevertheless, this debate provides the opportunity to explore in great detail the minister's justification for the legislation, her intent and arguments for the legislation, and the criticism that she has laid at the feet of the judiciary, which deserves to be explored in great depth. The lead speaker from our side, the member for Butler, has already focused on that subject. I share his concern about the court cases that the minister has cited to justify the legislation. I do not believe the minister has told the entire truth; she has not been up-front with the people of Western Australia. That is in keeping with some of the observations and arguments made by the government with regard to public transport, so it should not be that surprising. However, it is disturbing when the subject of the minister's criticism is the judiciary. It is concerning when someone who is not only a member of Parliament, but also a minister of the Crown publicly undermines the authority of the courts, and when that is done with a false premise, it is really wrong. It is a fundamental affront to the Westminster system and to Western Australian society that the minister should do that. It is wrong. The minister should not come into this place or go into the public domain and make claims that are false regarding the behaviour of the judiciary. The rule of law should be respected. The minister has even done that in the second reading speech for this bill, and that is wrong. The minister stated in the second reading speech —

> However, it is arguable that the punishments imposed by the courts for home burglaries, and for offences committed in the course of home burglaries, are limited by longstanding court-established sentencing tariffs and precedents, and Court of Appeal judgments, and are out of step with community expectations.

The minister is wrong to have said that. I do not think the minister is telling the whole truth. The minister is taking advantage of talkback radio audiences and the normal responses of people who are aggrieved through having been victims of crime to give a distorted and inaccurate view of the behaviour of the judiciary in Western Australia. The minister should be ashamed of that. I look forward to the consideration in detail debate in which a number of people on this side of the house who are far more learned in the law than I am will take the opportunity to pose questions to the minister and further explore her arguments.

I will focus a little on the costs associated with this legislation. I am talking here about the fiscal cost as opposed to the cost of the impact on society in Western Australia. I will talk about that too, but primarily I will be focusing on the financial cost. The government has destroyed the state books of Western Australia. It inherited the best state books in the history of Western Australia and, in a short period of six years, has turned them into the worst state books. Net state debt has grown from $3.6 billion to $30 billion, as it will be in two years' time. That is a disgrace. Part of the cause of that is the way the government goes about creating legislation in the field of crime and punishment without any consideration of whether the legislation is likely to work, without any consideration of the actual cost of the law that is being imposed and without determining whether the government can pay for it. There is no consideration of whether the law that is being imposed has a net benefit to society as opposed to a net cost. I am talking here in purely dollar terms, but there is also the impact on society.

I feel obliged to read into *Hansard* a letter that was sent to every member of this Parliament by Amnesty International. Amnesty has a slightly different focus from mine. I agree with much of what it says, but its focus in recent times has been very much on the appalling overrepresentation of Aboriginal juveniles in our detention system. I have met with representatives of Amnesty, and they feel aggrieved that the government has not given them the opportunity to deliver what I think will be a landmark study that is to be presented in June this year. The government has delayed the introduction of this legislation for two years after promising at the time of the election that it was the most important thing it could possibly do. Now, just before having the

opportunity to analyse the study that Amnesty has done, the government intends to introduce this legislation without any opportunity for Amnesty to talk to the government about it. On behalf of Amnesty, I will read the letter that every member of this place received from the national director. It is dated 24 February 2015, and it reads —

> **Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014**
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> On behalf of Amnesty International Australia's 485,000 supporters, I write to raise serious concerns about the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 (WA) which I understand will be debated in Parliament today.
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> Amnesty International has been conducting extensive research on the youth justice system in Western Australia over the past 2 years which will be published in June 2015. The report will offer practical recommendations to the WA Government about ways to reduce the overrepresentation of Indigenous young people in detention, whilst making communities safer. In the course of this research we have identified that mandatory sentencing disproportionately and negatively impacts Aboriginal young people, is a costly and an ineffective way to prevent crime and is inconsistent with international law.
>
> We have a number of serious concerns about the *Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 (WA)*, which will expand the mandatory sentencing regime and significantly worsen the situation for Aboriginal young people in Western Australia. Already in Western Australia 78 per cent of young people in detention are Indigenous, despite Aboriginal young people making up just 6 percent of the population.

I actually think that figure for the ratio of Aboriginal people to the general population might be an overestimate. The letter continues —

> The President of the Children's Court has said the proposed changes:
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> > '[W]ill likely result in an increase in the number of Aboriginal young people from country WA being sentenced to lengthy terms of detention ... if the Court is obliged to impose a term of detention or imprisonment of at least a year, it will have little or no scope to properly reflect the level of seriousness of the particular offence in the sentencing option and the length of the term imposed.'
>
> Political debate about the Bill before Parliament has not adequately reflected or acknowledged its applicability to young people, for whom detention must be a last resort. This is despite the Government confirming in Senate Estimates —

This is a slight error on the part of the author of the letter, who thought the information came from Senate estimates. It is actually from the Legislative Assembly estimates of last year. The letter continues —

> that the Bill will mean an additional 60 places will be required at Banksia Hill detention centre within 4 years. Worryingly, the President of the Children's Court has stated publicly that he was told an extra 130 beds may be needed within 2 years if this law is passed.
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> Amnesty International believes that the Bill must be comprehensively debated and that the government needs to provide far more information about the costs and likely social impacts of the Bill on young people before it goes to vote. The Government has acknowledged that the Bill will cost $93 million that has not been budgeted for, and the social and opportunity costs of many more young people finding themselves in detention are likely to be much higher.
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> In addition to these broad issues, Amnesty International has a number of specific concerns relating to the Bill as it stands:
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> 1. The requirement that juvenile offences for which a conviction was not recorded must be counted as a strike is likely to be counterproductive in terms of rehabilitation of young offenders. Proposed clause 401A(2) appears to count circumstances where a young person has admitted guilt and participated in a restorative justice program as a strike, which is contrary to international legal principles for juveniles.
> 2. Changes to the counting rules for what amounts to a strike for a young person have not adequately explained and justified.
> 3. The review provided for in the bill (proposed section 740A) is after 5 years of operation. We recommend the Bill be amended so that a review occurs after 1 year and 3 years and is made publicly available.

4. The case for the proposed mandated minimum sentences of 3 years in Division 2 has not been sufficiently made by the Government given violent offences committed in the course of an aggravated home burglary already carry heavy penalties.

5. The Government has not sufficiently explained the implications of proposed section 294 paragraph 3, which applies 3 year minimum penalties to young people for varying levels of offences, including acts intended to prevent arrest, cause grievous bodily harm and for the more serious offences highlighted.

In light of these unresolved issues I urge you not to pass the Bill in this current form.

Please do not hesitate to contact me for further information regarding our concerns with this Bill.

Yours sincerely,

Claire Mallinson
National Director

I am happy to have read that letter into the record on behalf of Amnesty International, and I intend to pursue its concerns during consideration in detail. It did not get the opportunity to make its case to the minister or the government. Amnesty wrote to every member of Parliament, so it will be interesting to see whether any members of the government's backbench have the courage to pursue their concerns on behalf of Amnesty International, and those members of Amnesty International who reside in their electorates.

I think Amnesty makes some valid points, particularly in light of the commitments made by the Premier as recently as last year about tackling the over-representation of Aboriginal people in the Western Australian prison system. He said, as though it was a shock to him that there were so many Aboriginal people in prison under the Barnett government, that he would do something about it. He said, "Watch this space; watch what I do and judge me." He is about to put another 60 juveniles into the prison system—130, if we believe the president of the Children's Court—in two years, 78 per cent of whom are Aboriginal. With juveniles, as the minister knows, one of the circumstances of aggravation is simply being in company. They are likely to be in company, so they will be in aggravated circumstances, and they will very rapidly find themselves in the prison system, regardless of whether they have engaged in any rehabilitation programs or any form of restorative justice. Regardless of that, they will find themselves falling foul of the mandatory sentencing component of this legislation. I would like to know what the view of the Minister for Police is of the Premier's own promise. What is the impact of this legislation on the Premier's commitment? This is the Premier's very first act, after making his promise to the Dhu family about Ms Dhu losing her life in a lockup over a fine. In addition, the Minister for Corrective Services at that time said in here on several occasions that the best way to deal with Aboriginal over-representation in the prison system is to tackle juvenile over-representation. After all that, the first thing the government has done is to introduce this bill that will hobble any efforts the government has made in that regard. The government is committing to increasing the numbers of Aboriginal juveniles in detention. That is a fact. I would like to know the Minister for Police's view about this proposed legislation and how it will impact on that promise made by the Premier. Did the Premier make his promise completely in isolation of the minister? Did the minister draw up this legislation in complete isolation of any other commitments by the government? Did the Minister for Police talk to the Minister for Corrective Services about its implications and whether there is any way the minister will listen to the concerns of organisations like Amnesty International about the likely outcomes of the legislation?

Amnesty International drew my attention to probably the most recent and only study of the three-strikes legislation done by an independent authority—not by the clowns who advise the current government with regard to this legislation and its likely implications. I have not seen any advice that the Minister for Police has received. I would like the minister to table any advice or any research that has been conducted that suggests this legislation will reduce offending, particularly recidivism, which was a commitment made by the Minister for Corrective Services. If the Minister for Police has research that suggests increasing sentence lengths and imposing mandatory sentences will result in a reduction of this type of offending, other than through precluding those individuals from offending because they are locked up in a prison—that is, if the minister has any research that suggests that when they come out, they will be less likely to reoffend—I would like to see it. I do not think there is any.

The study suggested to me as being the most relevant was by Professor Neil Morgan, the current Inspector of Custodial Services, and Professor Harry Blagg. They were both at the University of Western Australia in December 2001. Their study, entitled "Mandatory Sentencing in Western Australia & the Impact on Aboriginal Youth", is the best reference that I can find with respect to the Western Australian legislation that the minister seeks to amend. It will result in at least 60, but potentially, according to the president of the Children's Court, as

many as 130 extra juveniles in two years in the prison system. That report made a number of observations. It effectively condemned the three-strikes legislation.

[Member's time extended.]

**Mr P. PAPALIA**: I find most compelling their observation that the laws have no consistent rationale. These laws were launched with unequivocal assertions that they would reduce the rate of home burglaries. It was reflected in contributions to the debate—such that there has been public debate on this subject—by the Minister for Police and others from the government. That was the reason the laws were introduced. The Minister for Police said the same thing. She said the reason she introduced these laws is that they will reduce the rate of home burglaries. I am assuming the theory is it is a bigger, scarier sentence; therefore, the offenders will resile from committing the offence. A theory that is often presented by members from the other side is that if sentences are longer, offenders will be less likely to offend because they will think about it beforehand. They will say, "I won't do that because I might end up in prison for X period as opposed to X minus one"—whatever it was. The observation in the report to which I was referring states —

> However, when evidence emerged that they had not achieved any such effect, the previous government —

The government that introduced these laws —

> claimed that this had never been their purpose and that they had been designed to 'reflect public concern' and to reduce recidivism rates.

I think the minister does the same thing. The minister realised that she could not go out and say, "This will categorically reduce burglary rates", because she is worried that it will not. The Minister for Police has no research to suggest that it would. I think that is why the minister stays away from that point, but the Minister for Police said that judges are getting it wrong. The minister criticises the judiciary. She attacks them because she knows they cannot hit back. The minister knows she will get some easy points on talkback radio without any scrutiny. If she talks to poor, aggrieved victims—for whom I have a great deal of sympathy—they feel so aggrieved that there is no way they will think about this in anything other than an emotive fashion, and they will agree with the minister. The truth is there is no evidence to suggest what the minister says is true. It is a falsehood; so the minister dropped that one. The moment that there is no research and no evidence to back the claim, the minister drops that and goes back to, "We will reflect community interest." The great "community interest" is a category that cannot really be defined. It is like the great silent minority claim: one can say anything on behalf of the silent minority and those who agree will agree; the others will say, "Oh well, that's stupid." But the minister will get away with it. How can we refute the claim that the minister is acting on behalf of the silent minority until the election? When the Minister for Police makes a claim prior to the election, she can potentially claim that they supported her.

There is great moment put on it. Ben Morton certainly thought it was really important because he spent millions in advertising the law that the Liberal Party did not talk about right through its first term of government. It was completely ignored in its entire first four and a half years in government. Then, in the last two weeks of government, the Liberal Party made it the most important thing and it had to be advertised on every single radio station that had advertisements, to the exclusion of any other advertisers, costing Liberal Party donors millions of dollars. That is all the Liberal Party talked about. Obviously Ben Morton thought it was a pretty good deal as a sales pitch. Some appalling things were done during that election campaign. The Minister for Police should be ashamed to be in a party that was responsible for things like robocalls to electorates. A person answering the phone was accosted with the message, "If a member of your family was subjected to rape by a burglar, would you want them to go to prison? The Labor Party is voting against that law, so vote Liberal."

**Ms L.L. Baker**: It is disgusting.

**Mr P. PAPALIA**: It is appalling. It is shameful and disgraceful. The Minister for Police was a member of the government that ran that sort of ad in target seats. It was appalling and disgraceful. The minister should be embarrassed. The government should come out and apologise for it. It was offensive to the people who received the calls and it was an offensive claim to make against the Labor Party. Thank goodness members who were far superior to the Liberal candidates managed to beat them anyway regardless of the fact the Liberal Party ran those appalling calls.

The reason I referred to that is that this is Clayton's legislation—Clayton's tough guys. When the government is not tough, it introduces a law into Parliament and calls it a tough law. Bonnie and Clyde of the Liberal Party of Western Australia—the Minister for Police and the Premier of Western Australia—come into this place and say how tough they are because of this law. They are backed up by Charles Atlas from Forrestfield over at the far

reaches of the Parliament, wandering around the beach, kicking sand in people's faces, saying how tough he is. The reality is the government is not tough! The Liberal Party has been in office for six years. You guys do not scare anybody. The prison population is 5 460. It is a record already. It is on its way to even greater records. Almost half the number of people who have entered the prison system under this government are fine defaulters and minor offenders—offenders who have gone to prison for an offence for which the maximum penalty is two years or less, not the actual penalty for which the maximum penalty is two years or less. That is 45 per cent of the prison growth under these guys. What has happened in the meantime? Burglaries are through the roof. Western Australia is the car theft capital of Australia. Western Australia is the methamphetamine capital of Australia. Are we not also the "violent offences against the person" capital of Australia? The only thing protecting the Minister for Police from absolute derision by everyone in Australia is the fact that the police and members opposite keep all the statistics secret. The government is increasingly refusing to allow scrutiny by outside sources, independent authorities and even journalists of statistics that enable us to measure whether the government is failing. We know it is failing, but whether it is failing is kept secret. The police commissioner gets the data, and releases what he wants to release. If it does not work, the criteria are changed. The Minister for Corrective Services no longer publishes any of the data. All the information on people in prison is now dated. We cannot go to databases as we used to and determine that this month there has been a massive growth, or even a drop, in the number of a certain type of people in the prison system because the data is hidden. That is because the government is manipulating the statistics. If it is not doing that, it should release everything.

My view is that we desperately need what is in New South Wales—a crime statistics and research centre—an independent authority that collects the raw data and analyses it on behalf of the public, and publishes it. That body could determine a benchmark for laws such as the one the government is introducing. As an independent authority, it would be able to state categorically whether after a few years the government's policies have failed. Anything the minister says in the course of this debate or in coming days, weeks or even years in the public domain is subject to incredible scepticism by everyone, and rightly so, because independent authorities are no longer checking the data on behalf of everyone else. It is all manipulated by the government. The government does not reveal statistics unless they are good news for the government. The only time we get to see statistics is retrospectively when occasionally the Australian Bureau of Statistics gets hold of some stats. The member for Midland questioned the minister about them in here and the minister did not even know about them.

**Mrs L.M. Harvey**: Yes, I did.

**Mr P. PAPALIA**: I beg your pardon! It was pretty clear that she —

**Mrs M.H. Roberts**: After you got the text!

**Mr P. PAPALIA**: After the text or the note was written and passed to the front of the room is how she learnt about them. It was pretty clear that the minister had not even read that ABS report.

**Mrs L.M. Harvey**: You needed to specify the actual report.

**Mr P. PAPALIA**: It is only three pages; it is not very long. The suggestion that the minister had not had the opportunity to go through it did not ring true, I am sorry. The report itself was pretty simple; it was broken down into easy-to-read sections with bold highlights. The way the minister responded to questions the shadow police minister asked of her was very revealing. I think the questions were revealing to the minister at the time because I do not think she had heard about it before then.

I am opposed to mandatory sentencing as a concept. I am not convinced that this legislation will have any great impact. I understand that the government made the commitment to introduce it at the last election and is claiming it has a mandate to do so. That is fine. This is where the rubber hits the road on justification. During consideration in detail the minister has to come in here and do a number of things. She must present the evidence-based research that has convinced her that this legislation will have a net positive effect for the people of Western Australia. We want to see the evidence that has convinced the minister that this will reduce burglaries in Western Australia and will not result in a whole lot more young Aboriginal offenders going into Banksia Hill Detention Centre. We know that one in every three young offenders ends up going on to adult offending when they enter the prison system. Sending them to Banksia Hill is not a formula for stopping them from committing crimes. It is the formula for committing them to a lifelong career of criminal activity. In Western Australia the recidivism rate for Aboriginal adults who go into the prison system is over 70 per cent. If the government is going to deprive some of the kids who might otherwise be engaged by some of the diversion or intervention programs that the Minister for Corrective Services has been advocating, or the former WA Labor government's programs such as the family intensive team—an internationally acclaimed and recognised program that implemented multi-systemic therapy to target the problems in the family home, cancelled by

Hon Christian Porter in 2010—and put them in a system that has been statistically proved to turn them into lifelong criminals, the minister will want some good research to back that. She cannot just step in front of a camera and pretend that she is tough when she is not, and neither is the Premier or the member for Forrestfield. Was the member for Forrestfield seriously lecturing the WA Labor Party about being tough? What a joke! If the minister wants to do that, she needs to come in with some more evidence, backed up with real research and statistics that confirm that what she will do will not create a worse situation, and that is what I fear will happen.

Apart from that, there is no money in the budget to fund the at least $93 million recurrent funding that will be added to the budget in the next three years. I want to know where that is coming from and why it is not in this year's budget and whether it will be in next year's budget.

**MRS M.H. ROBERTS (Midland)** [4.35 pm]: I think the member for Warnbro has raised a number of good points on the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. It is not sufficient for the minister to talk tough on crime and say that she is going to do a number of things and it is not good enough to up the rhetoric and play politics with this whole area. If the minister is genuine, she will attempt to do things that will make a real difference in the community, things that will reduce the rate of crime. If we reduce the rate of crime, it will result in fewer victims in the community. It is all very well getting a rush of blood to the head and saying we will punish people and so forth. The really important thing in this space, as pointed out by the member for Warnbro, is about fewer victims and fewer crimes committed in the first place. If the government wants to achieve that, it has to not just talk tough on crime but be tough on the causes of crime. That is an area of extreme neglect for this government—extreme neglect. It has done somewhere between nothing and very little in dealing with endemic drug abuse issues in this community.

We have seen in the media from time to time that there have been amphetamine busts. Some of them are really significant hauls, but I put to you, Mr Acting Speaker, that this is just the tip of the iceberg. The fact is that amphetamines can be relatively easily manufactured in suburban houses and backyards. As a result, there is a proliferation of them. There are a couple of issues: one is the proliferation of these drugs in the community, and there is lots of evidence of that; it has been available for years. There is evidence also that there are higher rates of methamphetamine use in Western Australia than there are in other states. There is evidence, for example, in various reports on urine samples taken in various designated police lockups around Australia, as part of a study. A couple of years ago we knew there was a dramatically higher percentage of people in the Perth watch house testing positive to a drug such as methamphetamine than was the case in other places around Australia. That is just one area that is driving crime. The Commissioner of Police is on record talking about how amphetamine use drives crime. Traditionally, probably 15 years ago, heroin was at an epidemic level and was driving up crime rates, particularly burglary rates, with people stealing either cash or goods to pawn for cash to buy drugs. Methamphetamine is cheaper but, if anything, it is actually more addictive than just about any other drug. A great deal of evidence suggests that it is driving the rate of assault in this state. I believe it is one of the factors driving the high incidence of domestic violence in this state. The abuse of methamphetamine has got to the stage that we all know of someone—if not someone close to us—who has been affected by it, either as a user, a victim or in a family situation, and is confronting those issues. Those are the kinds of issues that the community wants to see addressed.

In recent years I have had come into my office constituents, mothers, who have sons—mainly but in some cases daughters—with amphetamine issues, and it has been absolutely traumatic for those families. They want help, they want intervention, they want some assistance, but the sad fact is that until the individual in question who is addicted to methamphetamine wants help, no help can generally be given. It then becomes an awful cycle of either waiting for that son or daughter to offend in a major way that attracts police intervention, or they become a victim themselves of crime; therefore, a lot more needs to happen in that space. Just locking up people and throwing away the key is not the answer. I do not for one minute say that people should not be responsible for their actions, be they on drugs or not. I say what a waste of a life for someone who is 16, 17, 18, 19, 20, 21, 25 or 28 years of age if they are addicted to methamphetamine and it is allowed to go on and on destroying their life and destroying their family life!

I had the opportunity last week to attend a Landgate breakfast for International Women's Day. A guest speaker there, who is now 37 years of age, had a heroin addiction in her youth. Jade Lewis is her name. She has written a book and I would encourage people to have a look at her book and at her Yellow Ribbon Project charity. It is not just bad people who get hooked into the drug scene. To meet her now, people can see that she is a lovely, 37- year-old married woman with three children. When she attended Albany Teen Challenge, she said that if she got over her drug issues, she would devote her life to assisting other people; and that is exactly what she has done. She admitted that she had a sister who subsequent to Jade also got hooked on heroin, partly because of friends of hers attending their family home and because of Jade's drug abuse, which obviously had a huge

impact on the family including on her sister who was suffering from depression and other issues. When someone approached her sister at a vulnerable moment, she too got hooked on heroin, and I think ended up being on heroin and potentially other drugs for a longer period than Jade. Jade was an athlete. She had a bright future and some real expectation of participating in the Olympic Games and at an elite level in sport. One choice of hers as a 16-year-old, despite the fact that she was a great young woman with a great future and a supportive family, dramatically affected the turn that her life took. For her the checkpoint was when the police arrested her. Her father attended the station with her and said, "If you've done the things that they're alleging you've done, you need to fess up and take the consequences of your actions." I say that by way of introduction because there is a lot of cheap talk by this government about solutions to our crime problem, but there is very little in that space about turning around and supporting people. The fact of the matter is that Jade's charity provides support for women in prison and women who are vacating the prison system to help them stay off drugs and lead not only a crime-free life, but also a worthwhile and productive life in the community, which takes a lot of support. Supporting people in that way is not about being soft; it is about doing the right thing by members of our community, and it supports not only those who have committed a crime, but also all potential future victims. I know that some members on the other side of the house will say that that is being soft on crime; "Who cares a toss about people who offend? They deserve everything coming to them." I will tell members: I care about them, because I care about there not being further victims and I care about those who have committed a crime, because I do not like to see people's lives wasted. The toughest thing to do is to deal with those issues and support people. I do not for a moment suggest that they should not face the full consequences for their actions when they do wrong; indeed, that was certainly part of Jade's message at the breakfast the other morning. I commend her and I think everybody in attendance was certainly very impressed.

That kind of message has been quite strongly put by my colleague the member for Warnbro over recent years. In his contribution he raised the issue of being denied access to statistics and information that had previously been made available. He referred to police statistics in one instance. Perhaps the Minister for Police can tell us whether the government will continue to publish sanction rates, which have been published for decades. They used to be called clearance rates, but were changed by the government to sanction rates. Will the government continue to make that information available, minister?

**Mrs L.M. Harvey**: We are still collecting the information, but we are measuring our KPIs on offences against people that are resolved within 60 days and offences against property that are resolved in 30 days, so we are putting a time frame into the measurement of police performance around resolving crime.

**Mrs M.H. ROBERTS**: I concede that there may be some merit in seeing how many crimes the police can solve within 60 days and in having key performance indicators; however, I see no merit in keeping information from the public. Indeed, every government in living memory has made public the clear-up rate or sanction rate for crimes. In recent times, particularly with crimes against the person, there has been a dramatic decrease in the number of crimes cleared. We can argue a little about semantics and whether the crimes are cleared up, solved or whatever, but that makes a minuscule difference in terms of the percentages. There has been a dramatic decrease in the clearance rate for crimes. It is little wonder that people are rightly suspicious when figures that have been available for decades are now being kept from them, especially when recent history shows that the clear-up rates are getting worse. I do not have a particular argument with how the police assess their KPIs—they can do that under whatever criteria they want—but I do think that that information should be publicly available. It is wrong for the government to essentially hide that information, information that Western Australia Police and, ipso facto, the government has at its fingertips.

I want to focus on the statistics. I note that the minister referred to some statistics in her speech. From time to time, she says that this legislation is really important and that we need to get on with it. I remind members that it has been a year since the government introduced this legislation. It was promised about February 2013. It was introduced at about this time last year. It has been in development for a full year. Like a lot of the other policies that this government took to the election, it made it up as it went along. For a full year, it had nothing to show. There was no legislation, no details about the legislation; just a few words—a vacuous promise. Eventually it featured in the Premier's Statement last year: the legislation was going to be a priority last year. We were told by the minister all last year that it would be progressed as a priority. The fact is that it was not. It was introduced and laid on the notice paper for the whole year. I think in the last sitting week the acting police minister brought it on for about 10 or 15 minutes and then took it off and moved on to another bill. That is the kind of real priority that the government has given this legislation. We have to wonder how dinkum it is about it when it has taken two years to get this far. When it was introduced into this house, a couple of government backbenchers—the members for Joondalup and Forrestfield—used not just their 20 minutes of speaking time but they asked for an extension of time. They used up an hour debating this bill. If they agreed to the bill and they had no complaints,

I would have thought that they might have just got on with it but, again, they have played some kind of pathetic politics. We will get to them at a later stage.

The minister has wasted a year sitting on this legislation, having made the second reading speech on 12 March 2014. Some of the selective figures that she quoted were from the "Report on Government Services 2014". I assume that the figures quoted were the 2011–12 figures. I have taken the opportunity to look at the "Report on Government Services 2015". It makes very interesting reading. Although the government has done nothing in this space, Western Australia has continued to have the worst crime rates of any state. The minister kept saying in her speech that we had the second worst rate in the country. She included the Northern Territory, which statistically, is a very small sample with some specialised issues.

[Member's time extended.]

**Mrs M.H. ROBERTS**: If we just look at the states of Australia, we should be in no doubt that we are the worst. The minister waves the bill around and says that home burglary is the issue that we are going to deal with. There are some really major problems with the lack of funding and support to police in this state. The statistics that are printed in this year's report on government services indicate that we are the worst state in Australia for every category of crime listed. Let us go through those figures. For break-ins, the rate per 100 000 households in Western Australia is 4 374. The 2015 report—there is always a lag with the commonwealth report because the information from all the states has to be collated—refers to the 2012–13 financial year. In the 2012–13 financial year, the rate of break-ins in Western Australia was 4 374 per 100 000. That compares with a national average of just 2 699 per 100 000 people. That is dramatically worse. How did the other states fare? None of the other states had a figure of above 3 000, but we are up there on 4 374, while New South Wales has 2 440; Victoria, 2 334; Queensland, 2 709; South Australia, 2 130, which is less than half the burglary rate in Western Australia; and Tasmania, 2 367. Our figure is dramatically worse than the Australian average, and I note that between last year and this year, the national rate for break-ins has gone down.

Looking at attempted break-ins, Western Australia has a rate of 3 466 per 100 000, compared with the national average of 1 926. Again, that figure is well up on every other state in Australia. Western Australia has an attempted break-in rate of 3 466 per 100 000, while Victoria's rate is only 1 585; New South Wales, 1 629; and South Australia, 1 660. Our rate is 3 466—again, more than double the rate in both South Australia and Victoria. Something is going dramatically wrong here. We can see why the minister might want to tackle this state's appalling statistics for break-ins and attempted break-ins.

However, the problem is much broader than that. I will not give quite so many details on these statistics, but the other listed categories of crime include motor vehicle theft and theft from a motor vehicle. Western Australia's rate of motor vehicle theft is 929 per 100 000, which is again the worst of any state in Australia and compares with a national average of only 644. Our rate of theft from motor vehicles is 6 232 compared with a national rate of 3 110. In the category of malicious property damage, we are up at a massive 9 208, compared with a national average of 6 260 per 100 000. In the category of other theft, Western Australia is on 3 247, compared with a national average of 2 802.

I point out that I have not been selective with these statistics; this is drawn from table CA.4, and they are the only categories of crime listed in that table in the 2015 "Report on Government Services". In every single category—not just burglaries or attempted break-ins—we are worse than any other state in Australia and, in most instances, dramatically worse. That indicates to me that we have a much bigger problem than just, "We need to toughen up on home burglaries." It also indicates to me that when we compare the penalties that apply in this state with those of other states, they are no weaker, so other states have not found a solution for keeping their crime down—in some instances, to less than half our rate—through tougher penalties.

When in Queensland last year for its estimates hearings, I heard the then Queensland police minister, Jack Dempsey, claiming that Queensland had the toughest hoon legislation in the country. I thought to myself, "Where have I heard that before?" He also claimed to have the toughest legislation in a couple of other categories as well, and it was like being in a bit of an echo chamber. It must be that police ministers all around Australia claim to have the toughest laws.

In any event, there is no significant difference in penalties. In fact, where there are differences, it is my general view that Western Australian laws are as tough, if not tougher, in just about every category. That has not driven down our crime rate; it has seen Western Australia have a massively worse crime rate than other states. The government needs to target other things. I think that police resources is key amongst those things and that successive budget cuts dressed up as efficiency dividends have not assisted. I also think that letting police leave and creating vacancies in the police force has not helped either.

The fact that there are no real proactive strategies in areas such as drug abuse and the like is a major problem. That is not to say that police are not doing their part. Police do the best with the resources they have as a general rule. There are just not enough police to go around; there are not enough police to respond. It will be interesting to see how the new model goes, but the fact of the matter is that the old model had probably become unsustainable because the government simply did not have enough police. We have seen the number of police per 100 000 people in this state decline over the last six and a half years in real terms. The number of police in this state has not kept pace with population growth, and that has put enormous stress on our police service. It means that the police often struggle to react to crime and attend those emergency situations rather than engaging in more proactive strategies to tackle repeat offenders and the like. I know that they have some programs, I know that they get intelligence and so forth about offenders released from prison and I know that they act upon the information that is available to them. However, I also know that that demand is such that they struggle to meet day-to-day demands and they do not have the time or resources or, indeed, the overtime available to them to do better than that.

In my remaining time, I want to reflect on a couple of comments that the member for Butler made in his opening address on this legislation. Specifically, the member for Butler has foreshadowed an amendment, which is on the notice paper, to insert new clause 4A, which reads —

> **4A. Section 27 amended**
>
> After section 27(2) insert:
>
> (3) A person suffering from a mental impairment as defined in section 8 of the *Criminal Law (Mentally Impaired Accused) Act 1996* who is not relieved of criminal responsibility under subsection (1) or (2) for an offence under a provision listed in column 1 of the Table is nevertheless not subject to a minimum sentence requirement under the provisions listed in column 3 …

Members can read it on the notice paper. Having a drug addiction is simply not a mental impairment. I expect that we should get from the minister a much better consideration of the amendment put forward by the member for Butler. I think he has made a very strong case for consideration. It is one thing to talk tough, but the government also has to be fair. I note that it is proposed that this legislation be reviewed after five years. It may need to be reviewed sooner if there are some presumably unintended consequences. Maybe the government intends to lock up mentally impaired people for lengthy periods for no good reason; I do not know. Just as happened with its so-called tougher hoon laws, when it amended the hoon legislation that I introduced as a first in this state, it got it wrong. The government had to bring it back and amend it because it got it wrong, and it had to amend it along the lines that the opposition suggested at the time. This has the potential to be exceedingly detrimental to people with genuine mental impairments. That is a concern that the minister is being either flippant about or ignorant of—one or the other—but her response so far has been unsatisfactory, and we hope that we get something better from her when she responds to the second reading debate.

My final comment concerns the non-reduction of sentence. The member for Butler has already clearly explained that there will not be a 25 per cent discount for someone who pleads guilty at the earliest opportunity, something that the Attorney General in the other place, Hon Michael Mischin, supported previously. There may well be some significant consequences as a result. I have spoken to victims of rape and sexual assault, and in particular to the children of 80-year-old women who have been raped in their homes. Those women really do not want to go to court, even if they last that long. This provision will mean that the offender could well get off scot-free if a victim or witness dies before the case goes to court. It could also potentially have the effect of re-victimising the victim if they have to wait two years or so after the original offence and have to re-live every detail of the offence, because the offender has nothing to gain by an early plea.

**MS L. METTAM (Vasse)** [5.06 pm]: I welcome the introduction of the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. This bill seeks to make the following changes to the current legislation: an adult offender who commits a serious physical or sexual violent offence in the course of a home invasion will face a mandatory sentence of 75 per cent of the statutory maximum, or three years' detention for juveniles 16 years and above, for such offences; the existing mandatory penalty of 12 months for a third home burglary has been doubled to a mandatory minimum of two years for an aggravated burglary committed by an adult three-strike offender; for adults, three burglary offences means three strikes rather than three trips to court for a larger number of offences; and juvenile offenders over 16 years will be given one opportunity to avoid a mandatory sentence on their first court appearance, but each further burglary offence will count as a strike.

Arguments surrounding this bill go straight to the core of our parliamentary system and the role of elected representatives. I am conscious that my role here is as the member for Vasse and that we are all here to represent

the best interests of the community. This bill targets some of our most serious offenders. Currently aggravated home burglary carries a maximum penalty of 20 years' imprisonment and is recognised as a serious offence. Only armed robbery and murder carry greater penalties. Therefore, I approach this bill as a representative of the community of Vasse, and one of the messages sent to me during the Vasse by-election campaign concerned the perceived deterioration of values in some sectors of our society. There is an expectation that the government will reflect, uphold and provide a framework through which appropriate legislation provides and protects our values, and sends a clear message about what will not be tolerated. I have spoken to police officers in my electorate about this legislation, and there is support for it. They have said to me that crimes of aggravated home invasion with serious offences of a sexual or a physical nature are not commonplace—in fact, they are rare—but they have a lasting and significant consequence and deserve harsh penalties, which this bill provides. The officers also talked about the frustration they feel when such criminals are released into the community after a reduced or lenient sentence.

I speak to the bill on behalf of many seniors in society who often feel as though they are prisoners in their own homes. During the recent election I doorknocked plenty of homes across the electorate and spoke to some of our older citizens about what concerns them. I went to plenty of homes with extravagant security doors and spoke through many thick security screens. It prompted me to think that after working all of their lives to build and pay off their homes, what a shame it is that people feel they need to invest in security doors and alarms, and are made to feel as though they are prisoners and are afraid of invasion in a place in which they should feel comfortable.

Just the other day, I spoke to a woman whose mother-in-law lives in a Perth suburb and has had her home broken into nine times. She has invested in security and a guard dog in response to these home invasions, but they continue. I heard my constituents' concerns and frustrations about the leniency of sentences delivered to some of our worst criminals. I am saddened that our seniors have fallen victim to violent home invasions and by the penalties that the criminals associated with these crimes have received. In one case of aggravated burglary, aggravated sexual penetration and aggravated assault occasioning bodily harm, an offender smashed a window to gain entry to a unit in a senior citizens complex and confronted the resident, a 78-year-old woman, who he then sexually assaulted. The assault resulted in six separate counts of aggravated sexual penetration, including various forms of rape. Although the maximum penalty available for aggravated burglary and aggravated sexual penetration is 20 years, this criminal was sentenced to just 11 years and will be eligible for parole after nine years.

Today, I am here to support the Liberal–National government, my community and a policy that sends the message: a penalty that reflects the crime. That is, a minimum of 15 years' jail for a violent offender who breaks into a house and rapes someone, and seven years and six months' jail for an offender who breaks into a house and seriously physically assaults someone. The introduction of minimum sentences is a reasonable approach to sentencing laws in Western Australia. It ensures that the sentences delivered by the courts to some of our most serious criminals are more in line with community expectations and values. These mandatory sentences are attached to some of the most serious crimes that cause the most damage to victims. We know that serious sexual and violent crimes have an untold impact on the lives of the individuals affected and that irreparable emotional and psychological damage is often done. There is also a financial cost to victims. Insurance Council of Australia data indicates that the total cost of burglary or theft claims in WA for domestic building and contents policies in the 2013 calendar year was almost $28 million for over 12 000 claims.

This bill also addresses and tightens the counting rules around three-strike mandatory jail terms for home burglaries, stopping multiple offences being bundled into one strike when dealt with at one time. Essentially, this brings common sense into this legislation, so that it can better reflect the intention of the government's three-strikes policy. Juvenile offenders between the ages of 16 and 18 years will have a single chance to avoid a sentence of detention before three burglary offences trigger a mandatory term of one year in detention. Juveniles who commit serious physical or sexual violence during a home invasion will now face a mandatory three-year term of detention. I have details of a juvenile who committed 114 offences, including 25 burglaries, of which 23 were in dwellings and 12 were aggravated, over a six-year period. The first period of detention was imposed upon sentencing for the fifteenth offence. It is amazing that this juvenile committed 15 separate burglary offences in dwellings and numerous other offences prior to any detention being imposed. Under this legislation, a custodial sentence will apply earlier, intervening in the escalation of offending and preventing up to 14 burglary offences and numerous other offences.

It is valuable that these penalties are supported with the government's $14 million investment in rehabilitation programs for young offenders. This is in conjunction with the Youth Justice Board, which has been established to put a clear focus on the disproportionate detention of young Aboriginals.

Many adult prisoners receive education and vocational training for the first time when they are in custody. Last year over 5 000 prisoners completed nearly 25 000 units of education. This has a direct impact on recidivism rates, with 28 per cent of those who engaged in education and vocational training reoffending compared with 42 per cent of those who did not take up the opportunity. The Minister for Police has referred to the fact that according to the "Report on Government Services", WA has one of the highest rates of estimated victims of break-in, with 4 472 for every 100 000 households, a figure that is well above the national average of 2 873 for every 100 000 households. The figures that I have for burglaries, not necessarily aggravated burglaries, show that in Busselton in the year before last 152 burglaries were reported, and in the last 12 months we have seen a reduction in that figure to 121 burglaries. In Dunsborough, the figure has grown from 21 in the year before last to 36 in the last 12 months. The figures I am able to provide for sexual assaults are less accurate because I am told that much of the reporting of these events comes well after the fact and may be historic. For the year to date, there were nine sexual assaults in Busselton. The average sentence length for people who received imprisonment or detention conviction for a home burglary or aggravated burglary offence in any court in 2012 was 15 months for persons 18 years or older.

I also approach this bill as a mother, recognising that rape is one of the worst things that could happen to a person and supporting a mandatory sentence of 15 years minimum jail for a violent offender who breaks into a house and rapes someone. As I think about my family at home this evening, I turn to what this government and this proposed legislation says about the seriousness of such crimes, when someone invades the sanctuary of the home, the place where our loved ones should feel safe. I approach this bill with some insight as to what it could be like to be a victim of home invasion—an experience that highlights why home invasion needs such a focus. When I first moved to Perth from country WA, I experienced a pretty frightening ordeal for a young woman that has never left me. On a Sunday afternoon, I was followed for several blocks by someone and then I was chased and then grabbed and pushed at a train station. It was a pretty frightening experience but, of course, minimal compared with what other victims of crime have experienced. The perpetrator ran away in response to my screams; however, whenever I hear someone walking behind me at a train station, I get chills and obviously feel, for those moments, the experience I had at that time. I can only imagine what the experience would be like for me if that event had happened in my home and if those recollections of that attack took place every time I opened my front door. My experience provides two areas of insight into the issues raised here. One is a taste of the lasting damage on the individual from an act of violence, and the other is the seriousness of home invasion crimes. This bill sends a very clear message to criminals who seek to invade the home of the individual. Providing a minimum mandatory punishment is nothing new in our legal system.

I also approach this bill as a Liberal. This bill goes straight to the heart of why the Liberal-led government was elected. This was one of the key election commitments made by the Liberal Party in 2013; that is, to deliver on law and order issues and to represent the vulnerable in our community and the values of the broader electorate. We have already seen success in the mandatory sentencing for assaults committed on our police and public officers—again, that was a policy delivered by the Liberal–National government. Last year a report, which was tabled by the Minister for Police to Parliament, indicated a 30 per cent drop in the number of assaults against police officers since the legislation was introduced. The amendment to the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 extends the strong sentencing approach as a deterrence and as a response to those who are violated in their own homes and it deserves to be supported.

**MR D.A. TEMPLEMAN (Mandurah)** [5.21 pm]: I would like to make a brief contribution to the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 that is before the house tonight. I preface my comments with the view that we always need to be mindful of those whom crimes are perpetrated against. I need to tell the house the story of a woman from Mandurah who was not involved in a burglary occasion or assault. She came to my office a couple of Fridays ago and will be in the news in a few days' time because of the sentencing for the crime that was perpetrated against her. We talked about this bill because I highlighted to her that this bill was before the house, and she had what I consider to be a particularly important message and I agreed that it was important that Parliament heard her story. I am going to read part of it and also elaborate on sections of it. I am talking about a Mandurah woman, Debbie Tippett, who was involved in an incident in Mandurah on 24 April 2013. She writes in her report of the incident —

> The outcome of this horrific day was Grant Collard being recently found guilty of Murder and Kidnapping of Lyndsey Furgeson taxi driver of Mandurah.

Debbie writes that for herself, or the crime against her, he has been found guilty of kidnapping. I understand sentencing will take place in the next few days. Debbie writes —

> I worked for Richards Mining Service at the time as a heavy Rigid driving instructor it was Wednesday the 24th of April 2013 at 10.20 am, a Man walked into our premises on 26 rafferty rd mandurah, at the time there was only myself and our secretary Chenoa…
>
> He approached the counter grabbed a pen held it up and said somebody is gonna give me a lift or someone's gonna die.
>
> Chenoa and I had become friends as well as a work colleagues, I believe this bond we have gave us a huge advantage on this occasion.

Debbie writes that —

> We knew immediately were in real danger.

She continues —

> I managed to disarm him of the pen, he then obtained a carving knife out of our kitchen and came at me with that, I was in fear of mine and Chenoas life and managed to disarm him of the knife also. I informed him I would get him a taxi, which he agreed, instead i covertly rang Mandurah police station, the police officer I spoke to said I am onto you Debbie. I was relieved that help was on its way all I could do now was to keep him at bay until they arrived. Unfortunately for me, the police rang me back to see if my life was still in danger. He —

That is, Mr Collard —

> became extemely agitated with the phone call, he did not know who called, but then every second before police arrived was critical, at that point I was scared that I was not going to make it out of this alive. Police arrived a short time later, I ran out of the building with him very close behind me and police arrested him.
>
> What we found out after was horrific this man had been on a drug fueled rampage through Mandurah for 45 mins resulting in the death of Lyndsey Furgeson, leaving Lyndsey dead after spitting on him and throwing a cigarette he walked off and tried unsuccessfully to hijack cars on Mandurah rd before walking into our promises on Rafferty rd.

Debbie is critical of her employer, but she is also critical of the lack of response to her need as a victim of crime after that particular horrific incident. She is critical that the company did not follow regulations and procedures and she is also critical that the follow-up response from WorkCover was also not to her needs. It resulted in Debbie resigning from work in October 2014. She said she could not take it anymore. She also said that she had to resign from her job because the issues associated with this event were not understood by her company nor by those who she believed were charged with supporting her after this event.

Further, Debbie writes —

> What happened to Chenoa and myself is becoming a to common thing in our beautiful country. I think of Sheila Tran in Carlisle and my heart aches, a victim of drug fueled rage.
>
> I think of Larry Maiolo stabbed to death repeatedly by a drug fueled stranger, just waiting on the beach for whoever came long …

He was in the wrong place at the wrong time, but he was a dad, father and brother and for many people who are victims of crime such as this, it can be their mother, their father, their sister, their aunt or their cousin. It could be their child.

Debbie's letter continues —

> What has changed is these drugs
>
> These attacks are so vicious and random,terrifying and traumatizing innocent people.

To me, her key point was —

> These drugs are a whole new ball game.

In her view we are dealing with something we have never dealt with before. Debbie's letter continues —

> My passion was teaching driving has been for 25 years cars, road trucks and haul trucks, I was pursuant in changing things for the better.
>
> The day of the hold up was our test day, Wednesday the most exciting day of the week.
>
> I was very excited as always to see my students pass. That's my personal reward for all the hard work.

However, things for her, and for Mrs Ferguson's family, changed dramatically that day. Debbie states —

> … I have been unable to teach driving they way I use to, the passion had gone. My life has changed forever, sure you deal with it and move on, if you survive. But something's changed its hard to say exactly what that is, but now there is a kind of sadness that hangs around me.
>
> A victim of a crime such as this should not have to get to the stage of ringing "Beyond Blue" There should be systems in place to protect people like me and other innocent victims of crime.
>
> These are horrific terrifying crimes, we should not be living in fear.

In Mandurah, in a period approximately over three or four months in early 2013 there were four or five murders. It was one of my darkest times as member for Mandurah. I would sit and watch the evening news, and if there was a story about a bashing or murder, the first thing I would think is, please, not Mandurah again. Debbie Tippett, her workmate Chenoa, Ms Tran in Carlisle and the Maiolo family are just some examples of people in my community—apart from Ms Tran of course—deeply affected forever by events that occur. In this case, for Debbie it was when she was at work. How is this associated with this bill? As Debbie kept saying, this issue has to be looked at in a holistic way.

When I was listening to Chief Justice Martin on 25 February I was interested in what he, as an astute and highly respected member of the judiciary, was talking about. He was talking about the court system seeing methamphetamines and intoxication leading to gross levels of violence. The majority of the criminal cases the courts see are—he was quoting, I think—95 per cent drug-related. One-third or up to a half of homicides are drug-related and nearly all the most gruesome and violent homicides are drug-related. This was an interview on 720 ABC; I think a lot of people heard this one. He highlighted methamphetamines and the prevalence of that being profoundly disturbing. In his words, what we are seeing in our courts is only the tip of the iceberg. He talked about the effect on hundreds if not thousands of families. The violence as a result of methamphetamine use is utterly irrational, and most of those appearing in court cannot even explain what they did, how they did it and why they did it. For the past decade, though, the courts, he says, have been handing out heavy sentences. It is not reducing the spread of drugs; they continue to flourish and by the time people get to court it is a bit like shutting the gate once the horse has bolted.

In Debbie Tippett's words, the community has to come to terms with this new and damaging drug craze, or drug-afflicted influence on crime. It has to be taken very seriously, but also a range of approaches need to be employed to address what is a sickness in our community. This bill is one method, or one means that the government is intending to use to address what it sees and what we see as a serious offence—that is, burglary-related crime. At the end of the day, we also need to look exactly at what we are doing as a community and how we need to collectively respond to this challenge, which has the potential to affect all of us.

I admire Debbie Tippett. I wonder whether it could have even been more tragic if it had not been Debbie there on that day. It was already tragic with the death of Mr Lindsay Ferguson, but I think in many ways we were fortunate to have someone who was as strong and as resilient as Debbie Tippett. Debbie is a knockabout sort of person; she has mixed it with the best of them, in her life and work, but the impact of what occurred to her on that day had an immeasurable effect on her and she feels frustrated. She highlighted to me the hype of even the Bali Nine issue and the two gentlemen who face the inevitable death sentence that they have been given. She reminded me that whilst that is an issue that is out there now, we must not forget people such as her who have experienced this. We also need to re-look very closely at what happens to victims of crime and the supports they are not only offered but provided, because quite often, in my view, the quick response to a person's experience as a victim of crime is important if they are to have a chance of getting over what they have experienced. I admire Debbie, and I understand where she is coming from.

One of the things that always disturbs me is the claim made by some people that, for some reason, they care about victims of crime, while some members on this side do not. That is absolute rubbish. I have sat with people like Debbie, and I have sat with Mr Ferguson's wife and his family after the horrific murder of Lindsay on 24 April 2013. I have sat with other people—seniors and young people—who have been victims of crime. I get a bit angry when some members in this place try to claim that they care about people and that some members on this side do not. It is totally false, and I reject it unreservedly; people who say that are wrong.

This bill will not be opposed by the opposition, despite a number of issues and concerns that we have raised, as not only the opposition but any member in this place should do. However, to attempt to take the high moral ground and then dismiss everyone else who may raise issues as being non-caring is totally unacceptable, in my view. I hope that in the coming days, Debbie Tippett, Mr Ferguson's family, and Chenoa and her family get some deserved justice when sentencing for that incident is announced. I admire Debbie for her courage and tremendous resilience in what has been a most horrific experience for her and others involved in that fateful day.

**MS R. SAFFIOTI (West Swan)** [5.38 pm]: I rise to make a short contribution to the debate on the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. I acknowledge the contribution of the member for Mandurah, describing a horrific case. It goes to the key point that I want to make today, which is about victims of crime. The Labor Party, of course, supports victims of crime and, importantly, we want to see fewer victims of crime in our community. We need to try to ensure that, where possible, we can prevent some of these horrific crimes happening in our community. We do not want to deal with the consequences of crime; we want to prevent crime. We do not want anyone to have to experience some of the awful cases that have been described at length in this chamber.

I want to talk about crime prevention and the issue of methamphetamine, because all evidence points to the fact that the abuse of drugs in our community, in particular methamphetamine, is creating more violent crime and situations in which people have lost control. Evidence given to a committee of this house described the behaviour of addicts to different drugs. Over time, the experience we are seeing in our hospitals and courts is of completely different behaviour. Those people who are addicted to cannabis behave very differently from those addicted to methamphetamine. The member for Mandurah outlined such a case, and we have all heard of cases in which people are simply out of control. That is something that should scare everybody, because we do not want to be in a situation in which our friends or our family are confronted with someone who is completely unable to reason at all.

The whole issue of methamphetamine abuse in the community is significant. However, this issue is not being taken seriously by this government. We do not want to have victims of crime. We want to prevent crime. The Leader of the Opposition has outlined that more needs to be done and more avenues need to be explored to see what we can do to crack down on this scourge in our society.

Another issue is rehabilitation. The member for Warnbro is more of an expert in this field than I am, but we need to find ways to reduce the rate of recidivism, because that is not happening to the degree that it needs to happen if we are to make our community safer. I always find it interesting when a government that has been in office for six years reads out crime statistics. That is because it is an acknowledgement of failure. That is all it is. Every member in this place has the opportunity to contribute. But when members opposite talk about how much crime there is in the community, they are basically acknowledging that after six years in office, they have not made our community safer. That is because the government is taking a DL approach to law and order. It is also taking a campaign approach to law and order. As someone I have been talking to about this issue said recently, there is no doubt that the Liberal Party is a very good campaign machine, in Western Australia in particular. However, it does not know how to govern. Law and order is complex. It is not about just throwing in $400 million to dig a hole in the ground. If we want to reduce the number of people who are impacted by crime, we need to have ministers who work with each other, we need to find the cause of the problems, we need to invest early, and we need to be serious about keeping people out of jail.

I agree with the member for Mandurah. I also resent the fact that Liberal Party members stand up and talk as though they are the only ones who are taking the moral high ground and who care about victims in the community. That is absolute rubbish. All that the politicisation of crime and law and order in this state has done is lead to worse outcomes. Members opposite stand up and talk about how bad crime is in this state. This government has been in office for six years, but it has not invested in the right areas, and people in the community are feeling less safe.

I want to go through some of the key points. There has not been enough focus on crime prevention; there has not been enough focus on rehabilitation; there has not been enough focus on deterrence; and there has not been enough focus on supporting victims. The member for Mandurah highlighted some of the people who have become victims of crime. I agree that some of the crimes that he described are absolutely horrendous. Of course we would all agree that we do not want anyone in the community to fall victim to crime. But we need to be far more proactive in the community, and our agencies need to work together. The member for Warnbro talked briefly about the family intensive supervision program. Under that program, which was nationally and internationally recognised, agencies worked together with families in the community. The law and order experts, the police, and people in the justice system all say that there are certain families in the community that cause a significant percentage of crime. The report that was released in June 2009 on the review of the intensive supervision program pointed to that program as being very effective. However, that was one of the first programs cut by this government.

Methamphetamine is currently being contained—perhaps that is not the right word—in certain sectors of the community. This issue was also raised by Justice Wayne Martin. If it were spread more widely throughout the community, the repercussions and the consequences would be absolutely enormous. We need to work together to try to reduce the number of victims in the community and the amount of crime. I do not like the politicisation of

the law and order debate. I take offence at a lot of things in this place, but I take offence when members on the other side stand and say the Labor Party does not care about law and order in the community. It is simply crass politics that does not achieve any aim.

I do not think I was in the chamber when the member for Joondalup made his contribution last week but I listened to it from my office. When I read his speech, I counted how many times he mentioned the word "victim". Members would be disturbed to know how many times the member for Joondalup mentioned the word "victim"—zero! Do members know how many times he mentioned the words "Labor Party" or "Labor"? It was ten times. Legislation was meant to be introduced to this place to deal with victims, yet members from the government backbench, or people with the "key lines" talking about the Labor Party, did not really seriously consider how to reduce crime in our community.

I will continue talking about politicisation. The member for Warnbro noted some of the things undertaken during the last state election campaign. Many members of the legal fraternity comment about the politicisation of crime, and the law and order auction that occurs at election time.

**Mr W.J. Johnston**: It is a one-sided auction.

**Ms R. SAFFIOTI**: It is a one-sided auction. It is incumbent on all those who care about it in the community to stand up when that is happening. There is no use sitting back during an election campaign, when the Liberal Party is running scare tactics in all these seats and across the community, and then, after the election is lost or won, saying, "Geez, we don't like a law and order debate or a law and order auction." Honestly, those who care about it should stand to speak about it at the time.

Nothing could be worse than what happened in my seat during the last election. Members of the community contacted my office to say they had received a robocall from the Liberal Party. The question that was put was, "If one of your family members was sexually assaulted or raped, would you want them to go to jail, because the Liberal Party will and Labor won't send them to jail." I know the member for Southern River smiled about that, but seriously! That is absolutely disgraceful. Scaring community members like that is absolutely disgraceful. It would all have been authorised by the Liberal Party. The Liberal Party authorises all these things during an election campaign and then tries to walk away from it as if it had nothing to do with it. This is what the Liberal Party is.

The DL flyer stated, "To lock up home invaders and make your community safer: Natasha Cheung and the Liberals will introduce tough mandatory minimum jail sentences for offenders so they are locked up for years as punishment." Look at that—to scare every little law-abiding citizen in my electorate that somehow they will all be victims of crime and only the Liberal Party can stop it. Seriously, I was absolutely disgusted when I heard about those robocalls. It offended people so much it probably swung votes the other way because people were so offended by that type of crass politics.

**Mr W.J. Johnston**: It is not true. It implies that it is for all offenders.

**Ms R. SAFFIOTI**: Exactly. I thank the member for Cannington because that was my next point. It says, "To lock up home invaders." First, they have to be caught. Under this government we have seen particular crime rates increasing, and the rate of clearance going down. That is a key point. I will refer to many media articles and commentary on this issue. It was reported in *The Sunday Times* in 2012 that —

> *The Sunday Times* can reveal police resolved just 54 per cent of the 32,091 crimes against people in the year to July—down from 67 per cent three years ago.

Then in October 2012 —

> WA Police are solving fewer cases than ever before—with almost half the state's serious crimes going unpunished.

An article in *The Sunday Times* on 11 January 2015 showed the significantly falling sanction rates. In 2009-10 the sanction rate was 64.3 per cent. It fell to 46.7 per cent in 2013-14, but we do not know the figure for 2014-15 because, apparently, WA Police does not think these figures are worth collecting anymore. The government does not want to know how many crimes it is clearing up in the community. Does that not tell us exactly what we have here? We have a government that is not serious about clearing up and preventing crime. If it was, it would give us the statistics. Here in this DL it states it wants to lock up home invaders; well, it is not, it is actually letting more people get away with crime.

The statistics are very interesting—I like my statistics, as people realise. I was interested in the response of the Commissioner of Police and the Minister for Police to the figures we put forward in the Parliament two weeks ago about Western Australia being the crime capital of Australia. WA has the highest percentage of victims of

crime in seven out of 10 categories. In every crime survey WA performs worse than the national average, and we are the worst of all the states and getting worse. We use the other states for comparison; as the member for Midland stated today, no-one ever uses the territories for comparison. The Minister for Police tried that on, but we do not normally compare ourselves with the Northern Territory.

Western Australia is the worst of the states and getting worse for sexual assault, break-ins, motor vehicle theft, malicious property damage, face-to-face threat and assault. Those figures came from the Australian Bureau of Statistics. After the member for Midland referred to these figures, I was interested to read the response of the Minister for Police and Commissioner of Police. It was said that the ABS survey was not reliable, and the Commissioner of Police also said —

> … respondents to the survey sometimes did not understand the legal definition of the crime …

The Minister for Police said —

> "Michelle Roberts, as she is fully aware, is being mischievous by using isolated statistical data from the ABS, …

Does the minister stand by that?

**Mrs L.M. Harvey**: Yes, I do.

**Ms R. SAFFIOTI**: Why did the minister use ABS statistics in her second reading speech to prove the need for the legislation?

**Mrs L.M. Harvey**: The survey that the member for Midland was referring to —

**Ms R. SAFFIOTI**: The ABS data?

**Mrs L.M. Harvey**: — is a victimisation survey, and it is not surveying reported crime as in crimes that have been reported to police for police to attend to.

**Ms R. SAFFIOTI**: Sure; okay.

**Mrs L.M. Harvey**: It's a different method of collecting data, and you can't compare the two subsets.

**Ms R. SAFFIOTI**: I understand that, but the minister used the ABS figures in her second reading speech to justify the legislation.

**Mrs L.M. Harvey**: From a different report —

**Ms R. SAFFIOTI**: The Productivity Commission?

**Mrs L.M. Harvey**: No.

**Ms R. SAFFIOTI**: Sorry, just to let the minister know: the Productivity Commission uses ABS data for its interstate comparisons. The minister used the Productivity Commission report that uses the ABS survey data.

**Mrs L.M. Harvey**: Can we just —

**Ms R. SAFFIOTI**: No; the Productivity Commission —

**Mrs L.M. Harvey**: I will sum up at the end, because you don't understand the methods of collection.

**Ms R. SAFFIOTI**: I do understand!

Several members interjected.

**Ms R. SAFFIOTI**: I do understand that the minister said many of these crimes were committed by repeat offenders. The minister said —

> According to the most recent "Report on Government Services 2014", WA had the second highest rate of estimated victims for break-ins …

The Productivity Commission uses ABS data. How else does the minister think it figures it out? It uses ABS data—go and check it out!

**Mrs L.M. Harvey**: They are two different surveys, and they use different data collection methods. So with the ABS victimisation survey, they are reviewing their data collection methods.

[Member's time extended.]

**Ms R. SAFFIOTI**: The minister used the ABS data in her second reading speech to justify this, and then she said that the shadow Minister for Police was being mischievous. The Minister for Police got it wrong.

**Mrs L.M. Harvey**: Did you read about the caveats in the ABS victimisation survey?

**Ms R. SAFFIOTI**: The minister got it wrong.

**Mrs L.M. Harvey**: Have a look at the caveats.

**Ms R. SAFFIOTI**: The Productivity Commission does an annual survey that compares a whole range of services undertaken by government across Australia. It is used by the Council of Australian Governments; it is used by every intergovernmental body to seek funding for other purposes. It is the only legitimate analysis done on an intra-jurisdictional basis that can be used by governments across Australia to base decisions on. I know what it is.

I want to finish because I cannot stand here and talk about law and order without talking about the Ballajura Police Station. Again, there was absolute politicisation by the government.

**Mrs L.M. Harvey**: We are building it though.

**Ms R. SAFFIOTI**: I know and everyone is giving me the credit for it.

**Mrs L.M. Harvey**: An election commitment being achieved.

**Ms R. SAFFIOTI**: If it were not for me, it would not be built. I know that.

**Mr P. Papalia**: They know who's responsible.

**Ms R. SAFFIOTI**: They all know it. They laugh every time the government tries to take credit. They all know that if it were not for me, it would not be built.

**Mr P. Papalia**: Karl wasn't going to build it.

**Ms R. SAFFIOTI**: Karl was not going to build it. When the 11 days of robocalling with scare campaigns about home invasions did not work, the government resorted to committing to building a police station. The government robopolled everyone in the community and asked what was the biggest issue in the community. What did they all say? They all said law and order. Then the government robopolled them and said it would introduce mandatory sentencing, and they reinforced that with a DL card. However, the community still wanted a police station. The government was so absolutely desperate to win my seat that it committed to the police station. I welcome that a police station will be built, but is it not interesting that for year upon year we heard about the hub model? Do members remember the police hubs? The government loves the hub, then it realised, hang on, the community does not like hubs; people like seeing police officers. Remember that we talked in this place about how we needed community policing and members opposite asked: why do we need community policing because every car is a mobile police station? Remember that?

Several opposition members: Yes.

**Ms R. SAFFIOTI**: Then the government worked out that that was not biting. No-one believes a police car is a mobile police station. People like seeing police officers. I have to say that the police commissioner is politically very good. He has to build a police station at Ballajura because I campaigned hard on it. What slogan did they come up with to save the hubs? "Local community policing". Go figure!

**Mr P. Papalia**: Every mobile phone was contacted.

**Ms R. SAFFIOTI**: Sure. Even though the phones were rung and there was no response—all that detail as members on this side will admit—it was all about protecting hubs. We could build these big hubs and close police stations, but everyone on the opposite side and our side have said that we like seeing police officers because we believe they help prevent crime by gathering local intelligence. The police commissioner thought, "The political wave is moving; I will save the hubs by creating this new initiative called "virtual local policing". Anyway I am very happy about the Ballajura Police Station. I received a lot of emails containing thanks, because those people know that without me the police station would not have been built. It is as simple as that. I am glad and the Ballajura community is glad that it is being built. The Ballajura community is thanking me on a daily basis, so thank you very, very much.

As I said, I take offence at members opposite who come in here and try to pretend that we do not care about victims. We are serious about crime prevention in our community. We are serious about community policing. That is why I was appalled when the government closed the Ballajura Police Station. I have even gone through the emails. Remember when the government said that it was not a government decision? I did not realise I had this freedom of information line lying around when at a meeting of the minister with the police hierarchy in 2009, Mr Italiano queried whether a decision had been made about the closure of the Ballajura Police Station. The minister advised that he would visit Ballajura on 29 April and that a decision would be made after that. We were told that the minister had nothing to do with it, but it was the police commissioner. Go figure! Then all the Liberal stooges wrote emails. Luke Simpkins wrote that he thought it was a matter of time before the closure of

the police station became an issue for him as a Liberal, and he proposed to send a letter to everybody saying the government was doing something about it. His level of activity was to put a letter in everyone's letterbox saying he was doing something about it. But he did not. As I said, Labor is serious about preventing crime, reducing crime and helping victims. As I said, I resent some of the crass politics thrown from the other side.

**Dr G.G. Jacobs**: I haven't made my speech yet.

**Ms R. SAFFIOTI**: I know that the member for Eyre would not be crass.

**Dr G.G. Jacobs** interjected.

**Ms R. SAFFIOTI**: If the member for Eyre thinks that making robocalls of that nature to my electorate is appropriate, I might have misjudged him.

*Sitting suspended from 6.00 to 7.00 pm*

**MS J.M. FREEMAN (Mirrabooka)** [7.00 pm]: I, too, rise to speak on the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. I put on the record my support for community policing and victims of crime. I particularly want to put on the record my support for police presence. I agree with the previous speaker, the member for West Swan, that one of the greatest capacities for crime prevention is on-the-ground assistance, which I have witnessed in my time as the member for Mirrabooka.

We have some great community policing initiatives in the Mirrabooka area, including the multicultural police liaison officer, who was named police officer of the year. The multicultural liaison officer had spent many years working in the community and ensuring that the community had a good understanding of the roles and responsibilities of the police in their interaction with people, especially young, newly arrived Australians from other countries. A lot of those people have grown up in places such as the Congo, Liberia, Burma, Vietnam, Afghanistan, Iraq and Iran, and when they see a police officer, they run. They do not stay to find out why the police officer has decided they need a chat with them. When they run, the police run after them, and suddenly we have a set of circumstances that has purely resulted from people coming from cultures in which police were inherently mistrusted. In those cultures, if police stopped them, they stopped them because of corruption and to extort money from them. The police presence—in particular, Don Emanuel-Smith—working with many in the Mirrabooka community was of great advantage in ensuring that not only the police understood the newly arrived communities that live in the area, but also those newly arrived communities understand and respect police, and realise that policing in Australia is not to be feared.

I am very, very concerned, as is the member for West Swan, about the politicisation of crime in our community. I believe that that has occurred primarily because the Liberal Party wants to tag the Labor Party as soft on crime. I am in no way soft on crime. I believe that we need to ensure that there are commensurate penalties for people who break the law. I am a strong believer that if an employer kills someone in the workplace because they do not provide a safe workplace, that is a crime. Unfortunately, manslaughter in the workplace is not a matter that this place has considered or wanted to see in legislation. Perspective is an amazing aspect of how to look at crime and how the community responds. However, the law and order auction, which the member for West Swan so aptly talked about, seems to perpetuate a feeling of fear.

Again, one of the great jobs in community policing that many people in Mirrabooka do is get involved in many events in the community, such as Harmony Day, National Aboriginal Islander Day Observance Committee events and Christmas in the park events. Those events, again, break down the "us and them" idea. They bring together people who would not usually have exposure to someone from a multicultural background. When they meet, they realise that there is no difference; and when we realise that there is no difference, we are stronger for it. One of the strengths of community policing was the police and community team—PACT—that I worked with the Mirrabooka police to establish in Nollamara. The Minister for Police would well know that in the lead-up to the 2013 election, PACT was suddenly stopped. I raised that matter in this house, but it was disregarded as the government claimed it politicised policing. However, the team has never recommenced. It was an amazing, great community policing initiative forged through the community and through us listening to the community. PACT met quarterly in a local church hall. The team comprised police, local government people from the City of Stirling, and people from church communities, the Neighbourhood Watch community and the residents' association, and also the general community because it was well advertised. There would also often be people from the Department of Housing and other service agencies such as the Department for Child Protection and Family Support. When someone raised an issue in that room at the quarterly meeting in the church hall, people could address the issue in a calm and reasonable manner, without pointing the other way and saying, "No, that's the City of Stirling" or, "No, that's the police" or, "No, that's the Department of Housing" or, "No, that's the Department for Child Protection" or, "No, that's the education department." Having those people in the room made people realise that they had the capacity to have their issues listened to.

One of the big issues occurring in the community around Nollamara, and now also in Westminster, is begging. Begging is not something we think happens in Australia; we think it happens in other parts of the world. Begging can be an extraordinarily uncomfortable and challenging behaviour. It is hard enough for people to experience begging when they turn up at a shop. It is even harder for people who walk into a shop to find someone asking for money and that person suddenly gets abusive when they are not given any. In all likelihood the person has a mental illness, but it is hard for the community to know how to respond to that situation. If we think about it, most police officers would say, "That's pretty low level." However, it is pretty confronting for someone to walk into a shop and be abused by beggars on a regular basis. It can put members of the community at unease and give them the feeling that there is no safety in their community. It is even more interesting to note that at the moment a person in Westminster is knocking on doors and begging. When people say, "No, sorry, I'm not interested", that person becomes quite agitated, quite upset and quite confrontationist. Thankfully, police at the Mirrabooka Police Station have been great. Unfortunately, members of the neighbourhood policing team do not answer their phones—I recently spoke to the superintendent about that—which makes the community fearful, and that is the law and order auction. It is that whole aspect that if the police are not on the ground in the community and if they are not a presence that can deal with these things in a manner that makes sure people feel safe, then it is easy to ramp it up and say that the next thing to happen is that people's homes will be invaded or that something else will happen. It is those little aspects of community safety that make a community feel safe.

Frankly, I absolutely agree with the member for West Swan who said that an offender has to be apprehended before people feel safe. I looked at the statistics that she read out. On 14 October 2012, *The Sunday Times* revealed that police resolved just 54 per cent of the 32 091 crimes against people in the year to July, which was down from 67 per cent for the previous three years. She also read further reports about lesser crimes being solved and burglary of dwellings statistics for 2013–14, which remain at constant levels. An article in *The Sunday Times* of 11 January 2015 revealed that the sanction rates have fallen from 64.3 per cent in 2009–10 to 46.7 per cent in 2013–14. People in the communities that I represent feel that there is no use ringing the police—they do not come, they do not deal with a problem. When that is conveyed to me, I convey it to the local police and they follow up, but it should not come down to that. It should not fall to the odd person to contact my office. Members do not want their electorate offices to become a quasi–police response line; rather, we want people to have confidence in the police.

The Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 seeks to increase the third-strike mandatory minimum sentence for aggravated burglary to two years in jail and to change the strike system. Presently, multiple offences that result in a single court appearance are treated as one strike. Under the proposed new laws, only offences that occur on the same day will count as one strike, which means that someone could receive an automatic two-year jail term after their first appearance in court. Youths aged between 16 and 18 years of age will face a three-year mandatory detention period for serious offences committed during an aggravated burglary or face a 12-month sentence under the three-strikes law. What is most interesting about that is that youth repeat offenders do not know or care about the law; they are not aware of the ramifications of the law unless someone is working with them. The Minister for Police would be aware of the great work of the police youth liaison officer in the Mirrabooka area, to which I have referred in this house, and of the great work he does dealing with repeat offenders to ensure that they reduce their offences and attend school. But that great work was undermined when funding was withdrawn for the three social workers he would refer repeat offenders to. That is the sort of thing we need to do to make sure that people in our community are not caught up in the revolving door of the justice system. We need people to work with them because that will make our community safe. Professor Harry Blagg, Associate Dean of Research at the University of Western Australia law school, basically summed it up when he said —

> The idea that they are black-mask wearing criminals who are going to be deterred by some black and white definition of justice is absurd, it's just a fallacy that exists in the minds of some members of the Liberal party."

I do not agree with mandatory sentencing because it produces discriminatory results and does not reduce crime rates. I accept that the Labor Party was placed in a situation of agreeing to the law and order option prior to the election and that this government has a mandate but I do not agree that it in any way delivers a safer community. Studies in the United States, Australia and the United Kingdom illustrate that when people are given an explanation of how people are sentenced, they understand the sentences involved and we are just playing on people's fears or distress. That is no way to run a justice system.

It is my view and the view of many in the community that the change will likely result in more people being brought before the courts for the first and second time for offending. That would not ordinarily result in jail time. In my view, it will result in very discriminatory outcomes. As Aboriginal offenders are overrepresented in our

criminal system and jails generally, we would expect that these changes will result in even more Aboriginal offenders spending time in jail for lower end offences. This government and certainly the federal Liberal government say they are committed to ensuring that the rates of Aboriginal incarceration, which, frankly, are at international highs, are reduced. It is an international disgrace what we are doing to the young Aboriginal people in our community, yet we have a piece of legislation before us that is substantially discriminatory. Such results are completely contradictory to what many people in the professions and the community are looking for in trying to address the overrepresentation of Aboriginal people in jails.

The criminal law amendment bill will also incarcerate people or set mandatory sentences for home burglaries and other offences. The government's own figures show that when it passes these laws, they will result in an additional 260 people being imprisoned over the next four years, costing around $120 000 a year per prisoner, which could be better spent on victims of crime or prevention of crime. As I have already mentioned, one of the ways to prevent crime is to work with offenders. That money could be used in communities to prevent offences. It could also be used in the registered training organisation Community and Youth Training Services, which runs courses at the Herb Graham Recreation Centre for year 10 and 11 students who no longer attend school.

[Member's time extended.]

**Ms J.M. FREEMAN**: These courses are based on an engagement model for disengaged youths. The organisation works with about 50 kids. It has two trainers and a support officer and it does a lot of work with repeat offenders. The organisation has been used quite consistently by the police youth liaison officer since three social workers were removed and he no longer had the capacity to use them to deal with repeat offenders. It has had great success in dealing with people. This organisation is unfunded. It gets students on board and then it has to apply for an education grant for those year 10 and 11 students. These programs need to run on an ongoing basis in our community. We do not want to see people imprisoned, which costs taxpayers money that we can ill-afford. We need to reinvest that money in crime prevention.

Frankly, it is my view that mandatory sentencing has no basis. I have previously referred to some of the studies on mandatory sentencing. I believe that mandatory sentencing obligations interfere with the idea of judicial independence of prosecuting authorities and executive government because it restricts the ability of the judiciary to determine a just penalty that fits the circumstances and the crime. I do not have any experience of working in the criminal justice system, but I have certainly represented people in unfair dismissal cases, commission hearings and workers' compensation cases. One might think that one will know what the outcome will be in many cases, given the evidence and circumstances of a given case. One thinks, "This will not be accepted", or, "This person won't have their claim accepted", or, "This person seems to have been dismissed unfairly", but after hearing evidence, circumstances can often reveal that the decision is much more equitable and apportioned to the given circumstances. If we remove that from the judiciary, we damage not only the judiciary, but also the democratic system as a whole.

The fact is that an offender who breaks into a house and seriously physically or indecently assaults someone in aggravated circumstances will, indeed, go to jail. There is no need for mandatory sentencing, as there is no evidence that the courts are in any way soft on crime. The courts have developed guideline judgements that are intended to ensure consistency and appropriateness in sentencing practices within a broad discretionary framework. Judges weigh all of the factors and principles relevant to each case, and it is not the role of Parliament to determine a case before the facts have been put. Courts discharge their judicial functions appropriately, but if there is ever a problem with that, we need to have in place a mechanism with which we are able to converse with the judiciary. That is not unheard of; in the past, the judiciary often made outrageous judgements in cases of sexual assault and rape, and there were many cases of victim-blaming and decisions based on stereotypes of women who fell victim to sexual assault. As a result, Justice Martin set about a very rigorous process of educating judicial officers on the seriousness of crimes against women and the importance of ensuring that sentences were commensurate with those crimes. For the government to bring forward this legislation without first having had that conversation with the judiciary is very much to undermine our democracy.

As I said earlier, it is my belief that we should move to the justice reinvestment model, which is championed by Labor and by many community members. I have talked about community training services and police youth liaison officers, and I am sure that there are many other examples to put to the house. This legislation, however, could result in very unsatisfactory situations in which people are imprisoned when they clearly should not be, simply because the judge has no discretion to make any order other than imprisonment.

I remember a gentleman who came to my office about his son; the member for Warnbro knows about this particular case. The son suffered from a severe psychotic or schizophrenic illness and one evening he became

particularly agitated. The man's neighbours called the police and when the police arrived, the son went into an even more extreme state. The parents did not necessarily want the police to be there because they felt that they were able to deal with the situation, but the police on arriving determined that they should arrest this young man, and in the course of arresting him, one of the officers dislocated ligaments in his knee. They claim that that injury was caused by his struggle when he was arrested. I do not know the outcome of this particular situation; the member for Warnbro might know. However, the point is that this young man was going to be incarcerated, because he was likely to receive a mandatory sentence for assaulting a police officer, and all that would do is heighten and aggravate his illness. No crime had occurred that evening. Again, I do not know the outcome of it, but I had to sit across the table from this man who was facing the likelihood that his very ill son would face an extreme prison sentence and that would have massive impacts on his mental illness. I think that a court of law should have the capacity to consider all those circumstances to come up with a decision that is in the best interests of the community as a whole.

Of greatest concern to me is that no discount can be given for an early plea of guilty. The member for Butler put this in quite an extreme way when he talked about a particular sexual assault of a woman. He said that that assault was so hideous that, had the accused not pleaded guilty, because there was a discount for the early plea of guilty, and had the accused had no other option but to plead not guilty because there was mandatory sentencing, the woman would have had to go through court proceedings, which would have meant that she would have to give witness evidence all over again about the hideous crime that was perpetrated against her.

If there is mandatory sentencing but there is no discount for an early plea of guilty, in all likelihood the victims will be traumatised and punished again. If this piece of legislation is supposed to deliver to the victims, it will not succeed. It will increase the workloads in the courts, it will be a major drain on legal aid services and it will not benefit the community. Research shows that mandatory sentences do not deter crime. In the Northern Territory, where mandatory sentencing has been introduced, crime rates have risen, not declined.

I will talk again about the importance of community policing. I began my comments by talking about the great community policing and the community policing office that was in Mirrabooka. When the Commissioner of Police came to Mirrabooka at the end of last year, he committed to keeping open the community policing office at the Mirrabooka shopping centre. He committed to that because the people in the community were very committed to having access to community policing and to the role that it played, but also because it made them feel safe in their community. He committed to that because that office had been such a success, and that success was clearly demonstrated when senior police sergeant Don Emanuel-Smith was awarded police officer of the year. The police commissioner committed to that because a whole bunch of people came out not to whinge or yell at him about changing the system, but to commend what was going on in their community because of the Mirrabooka community policing office. That community policing office remains mostly closed. When I raised that point with the superintendent recently, he told me that it is open on Mondays and Tuesdays from nine to 11 o'clock. I have never seen it open and I am sure that I have passed it during those times. This is an absolute demonstration of the fact that the government cannot get the nuts and bolts of policing right. If the government cannot get the police into the community, it does not matter what legislation it puts before this house, it will see in the community, which it is supposed to represent, that the community increasingly feels unsafe and despondent, and we will see an increase in crime in the community because people do not feel that the police serve them well. I say that the police commissioner has to hold good on his promise to the people of Mirrabooka and he has to reopen the Mirrabooka community police office, and I will put that to the minister.

**DR G.G. JACOBS (Eyre)** [7.30 pm]: I rise to make a contribution to the debate on the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. I would like to read a tragic story involving constituents of mine, who gave me permission to read their statements to the house today. Merle Elliott's statement reads —

> My name is Merle Elliott.
>
> My husband and I were both attacked in our own home on the 5 May 2013 by three men who broke into our home on the outskirts of Esperance at Lot 20 Davis Rd, Monjingup.
>
> My husband and I were eating our dinner when three intruders entered the kitchen and attacked us with a heavy blunt instrument, while two other people waited outside.
>
> He was hit over the head several times with the heavy blunt instrument, —

They found out later that that instrument was a hammer that was picked up from the porch by one of the offenders as they entered the house —

> causing his skull to fracture and bleeding on the brain.

> Bill was flown to RPH by the RFDS for treatment and spent 4 weeks in RPH and three weeks in Shenton Park Rehabilitation.
>
> I spent one week in the Esperance Hospital with injuries, then went to Perth to be with Bill.
>
> The intruders stole the keys to our Toyota Hatckback, which we only had for 8 months, and 2 mobile phones and my purse with all my credit cards and $90 …
>
> It was very hard for us to cancel cards while in hospital. We were lucky our daughter and son-in-law handled all this for us and all the details with insurance companies.
>
> Our live as we had known it has now been changed forever.
>
> Bill was fairly fit for a man of his age, looking after a 5acre property, doing all the gardening and maintenance himself, playing lawn bowls and the occasional game of golf, riding his bike and enjoying retirement.

He had worked very hard as a carpenter and handyman around the region for a number of years. Merle's statement continues —

> All these things have been taken away from us now.
>
> Because of the attack we had to sell our home, below value for a quick sale, and move into a retirement village in town with a very small garden, with help to my husband, we can manage together.
>
> The attack has caused Bill's memory to deteriorate, he can't remember some things he did a week ago, but his long term memory is fine. He's am quite forgetful now.
>
> Bill's driver licence has been taken off him because of his injuries. For a time, he didn't know if he will ever get it back. Bill was completely dependent on me for transport.
>
> This incident has also had an impact on our two adult children and our grand-children, who have been very helpful to us.
>
> This attack has completely turned our lives upside down.
>
> Sometimes I feel as if I will never be normal again.

The day of the assault was 5 May 2013. Bill's statement of events of that evening, which he gives me permission to read to the Parliament, begins by stating how five young people stole a car from a person in Boulder and then travelled to Esperance. He explains that they got to the outskirts of Esperance that evening and ran out of fuel. The statement continues —

> … but their car stopped and they started walking along a railway line and approached several homes in my area, but they were seen each time and left.
>
> At my home, my wife and I were having supper; the back door was unlocked so they entered.

Armed with a hammer and a screwdriver, they asked no questions; they just pounded Bill's head several times. The statement continues —

> From this point onwards I have no memory from then and the next 4 weeks I spent in Royal Perth Hospital …
>
> My wife —

That is, Merle, whose story I have recounted —

> was also hit on the head and made unconscious, however she came too and rang the hospital to report the invasion and at the time gave a description of the attackers and when the police and ambulance arrived, she was sitting on the floor with me on her lap.
>
> Upon my leaving Esperance with the Flying Doctor, my family could not be advised of my condition and when my son came to see me at RPH he was asked to sign an organ donor document. It left him so scared he would not sign it.
>
> My wife was hospitalized in Esperance for one week and I was in Perth for 7 weeks. In RPH I fell off the hospital toilet and hit my head …

He hit his head again —

> and was dragged out of there by staff. And when I got home I fell over in my backyard and I called for my wife who came out and helped me onto my feet. After these two falls I went to Esperance A&E and

> was flown to Perth by Flying Doctor to have an operation to remove a quantity of blood from between my skull and brain.
>
> As I was finally released from Shenton Park, I was advised that my driving licence has been suspended and I should not even drive my ride-on lawn mower on my 5acre block, so I have not driven any vehicles from that time on. I received a letter by the Police that my licence was to be suspended … This was sent to me … from the Transport Board.

He had to wait for six months and two days after the assault before his licence was suspended. He followed this up with a letter to the transport minister, and he got some reply. The statement continues —

> We decided not to live at our farmlet after the attack so we moved in with our daughter until we could sell our property as we both feared living there could eventually bring more problems. As our home was previously on the market for $490,000 we reduced the price to $450,000 so we could get a quicker sale and move into the retirement village where we now live.
>
> I now seldom leave home only to help my wife when she is shopping. As there is no public transport …

That is, available in Esperance —

> I do not go out often to visit friends and then I find I have a short term memory and have trouble remembering my friends names and have to ask them their name.
>
> My wife is doing a good job being my carer, as I do not always appreciate this as I long to be independent as I was before this assault.
>
> We believe the attackers will be in the Kalgoorlie Court for a 10 day trial on the 18 August.

This trial was actually at the beginning of this year, in February. Merle and Bill had to go to the Kalgoorlie Court—they said that they would be away from Esperance for a few days. Bill continues —

> … I do not know if I will have an enjoyable time as it may tell me a lot about the assault that I do not know about.

Of the five young assailants, there was a 17-year-old girl, a 20-year-old boy, or man, and three other men: a 22-year-old, a 24-year-old and a 32-year-old. The statement continues —

> Of the five who were involved in the attack the two youngest, a young lad of 20 and a young girl of 17, have pleaded guilty. The 17yo girl has been given community service till the 31st July 2014 and the 20yo boy was given a 12 month suspended jail sentence, which means he is still … in the community.

The older three did not do so well under sentencing as far as their heinous attack, but of course that is not always the result. In this case—all this comes under aggravated home burglary—the 22-year-old man who assaulted Bill with a hammer got 12 years' imprisonment, with 10 years to serve before parole; the 32-year-old who got a screwdriver and ransacked the house got 10 years, with eight years before parole; and the 24-year-old charged with grievous bodily harm without intent got seven years and nine months, with the provision of parole. All denied the charges against them. Although one could say that the 32-year-old, the 24-year-old and the 22-year-old probably got sentences that were deserved, it could be argued that the two younger people, who were accomplices in this heinous crime, would have got longer sentences under the new law that we are introducing. The juvenile, the 17-year-old, would have potentially got a three-year sentence. The bill provides that if an offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must impose a term of imprisonment of at least three years or a term of detention under the Young Offenders Act 1994 of at least three years. The 17-year-old would fulfil the definition of "juvenile offender" in the bill, which states —

> … a person convicted of an offence, a person who had reached 16 but not 18 years of age when the offence was committed;

I think it is very important that Parliament sets a bar and sets a term of imprisonment. I heard the member for Mirrabooka say that this legislation undermines democracy. It is puzzling that the member believes that lawmakers undermine democracy when they argue for mandatory imprisonment for heinous crimes, such as those committed against Mr and Mrs Elliott. I put it to the member for Mirrabooka that she go to Mr and Mrs Elliott and tell them that the Parliament will not say anything about strengthening mandatory prison terms for heinous crimes because it undermines democracy. I do not think any member in this house would say that about these heinous events. I ask members in this place: what is democracy? Democracy is about the freedom for Mr and Mrs Elliott to be able to live in retirement after the very long hard work of their lives as free people without these kinds of people coming into their home and physically assaulting them. In a lot of cases, this

causes irreversible damage—in Bill's case, he is now irreversibly brain damaged. I would like the member for Mirrabooka to go talk to Mr and Mrs Elliott about this Parliament not doing anything about mandatory imprisonment for these heinous crimes because it would undermine democracy. I think it is really important that Parliament sends a message to the judiciary. We have been democratically elected to give a message to the judiciary about these types of offences and laws. It is important for lawmakers to send a message to defend the rights of Mr and Mrs Elliott, and I commend this bill. This is not draconian; I do believe that it is justified. In the case that I elucidated to Parliament, I think that it is appropriate.

**MS M.M. QUIRK (Girrawheen)** [7.45 pm]: The member for Eyre's description of a particular case study is a good segue to what I want to say. The community treats with great opprobrium crimes against vulnerable people, such as the case that the member cited. It does so because seniors in particular have a fear of crime. In fact, research shows that their fear of crime has no correlation to their actual prospect of being victimised. Laws such as this are seen as being of comfort to people who feel as though they are vulnerable if they are victims of crime. However, my issue with this, as the member for West Swan said, is that we should be endeavouring to ensure that there are fewer victims of crime—in other words, shutting the stable door before the horse has bolted. A number of us on this side have been criticised for raising concerns about the kind of sentencing regime in the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. It has been asked: if we are raising this criticism, why are we supporting the bill? It is because we respect that the government has a mandate for this kind of legislation. Having said that, however, it is our legitimate right to say that it is flawed, and it is flawed for a number of reasons, which I will talk about briefly. Before I do so, I also want to talk about the fact that there are other areas in which the government has acted with glacial speed in securing the rights of the elderly and making sure that they are not prey to victims of crime, and in particular I want to talk about financial elder abuse.

Some time ago—it is a matter of years ago now—the Attorney General committed to have a review of things such as enduring powers of attorney. They are used as an instrument for financial elder abuse, and what is even more shameful for the victims of that crime is it is usually perpetrated by carers or close family members. It is the added shame to those victims of crime that they do not want to report it, because it is a family member who is perpetrating those crimes. The government can talk about how it is protecting vulnerable seniors in their homes, but one of the most prevalent crimes that is not being addressed by this government is elder abuse and, in particular, financial elder abuse. I call on the government, if it is really dinkum about protecting seniors, to do something urgently on this matter.

The government and, I have to say, the honourable Minister Simpson has in fact funded a helpline for elder abuse, but that is insufficient. That does not acknowledge the need to have a number of measures in place to ensure that a senior feels confident enough to report elder abuse, not the least of which is that general practitioners need training to identify the signs that a person is a victim of elder abuse. Similarly, other professionals in contact with elderly people need that training and confidence to act on their instincts when they see a senior who shows such signs. Characteristically, what happens in this kind of crime is that the seniors are very socially isolated, rely very much on their relatives and have no-one else to turn to. In those circumstances, they are very conflicted about reporting the crime, because it effectively means that they have no-one to care for them and that they are probably cut off from accommodation and their ongoing maintenance.

I make the point that if the government is really dinkum about seniors and crime, why has it refused to act in a timely fashion in a whole range of areas? The extent of elder abuse is the tip of an iceberg: we do not know how bad it is. In the last 12 months, there have been cases that I am aware of in which an elderly person was murdered by a relative in order to perpetrate financial abuse.

The other issue I want to mention that relates to seniors is why home invasion, and possibly sexual assault, is so heinous and odious to the community. It is because the impact on seniors is always a lot greater. As we heard in the story told tonight by the member for Eyre, seniors who already feel marginalised and socially isolated and who have been victims of crime no longer feel they can live in their homes; they have increased fear and concerns and their level of independence drops markedly. It is not uncommon in those circumstances for that elderly victim to have to go into some form of care because they no longer feel safe at home and their physical wellbeing is quite often affected. I perfectly understand that we need to put in place measures that signal to the courts that we regard these kinds of crimes and these kinds of circumstances most seriously; however, I am not sure that that is the whole story. In fact, I am not sure that the effect of this bill will not be to further undermine the community's confidence in the justice system.

There are a number of justifications for mandatory sentencing. Firstly, it is retribution; and I can see, in the kinds of circumstances we are talking about, that people would want to act in a retributive way. Secondly, it is to act as a deterrent.

**The ACTING SPEAKER** (**Mr P. Abetz**): Members, there are a few too many conversations happening at once. The member for Girrawheen has the call.

**Ms M.M. QUIRK**: As we heard previously, it may act as a general deterrent, but it is arguable that it would act as a specific deterrent. Another argument for mandatory sentencing is so-called incapacitation; in other words, if we get that perpetrator out of the system and behind bars, he or she is not able to commit further offences. A further justification is denunciation, so it is a statement that this kind of crime is particularly objectionable and odious to the community. The final justification is consistency in sentencing. We have heard from other speakers in this place that it can similarly produce unjust results. A remark made by the Law Council of Australia on 6 May last year in a note titled "The mandatory sentencing debate" makes the point that I think was made by the member for Mirrabooka, which is —

> … mandatory sentencing schemes undermine community confidence in judges to administer justice and deliver appropriate sentences. For example, there is evidence to suggest that when members of the public are fully informed about the particular circumstances of the case, they support judges' sentences as appropriate.
>
> Community confidence in the criminal justice system is vital in ensuring a sense of safety among Australians and victims of crime. Confidence in judicial decisions, as former High Court Chief Justice Murray Gleeson observed, is 'essential for the peace, welfare and good government of the community'. The independence and impartiality of the judiciary are not the only factors that are relevant to the development and implementation of effective criminal justice policies. Achieving a just outcome in the particular circumstances of a case, while maintaining consistency across similar cases and with Australia's human rights obligations, is paramount.
>
> A primary assurance that a responsive government and parliament can give to the community is that it will be 'tough on crime' in a way that delivers sustainable and meaningful outcomes for individuals and the whole community, rather than implementing costly mandatory sentencing schemes without sufficient evidence to suggest a commensurate reduction in crime.

I concede that the research can support either argument. There is evidence both ways that some regimes of mandatory sentencing have acted as a deterrent or incapacitater, while others have been less successful.

There are a couple of issues that have not readily been raised. If the government is really serious and believes that the justice system is flawed and the community no longer has confidence in it, two other tiers of that system also need to be addressed, and by failing to do so, the government will effectively not fix the system it says is broken. I have a legal memorandum prepared by the Heritage Foundation of the United States in February 2014. Those members who know American think tanks will know that the Heritage Foundation is a conservative think tank and it is a policy maker for the Grand Old Party on a number of issues. In relation to mandatory minimum sentences, the memorandum states the following —

> Mandatory minimum sentences have not eliminated sentencing disparities because they have not eliminated sentencing discretion; they have merely shifted that discretion from judges to prosecutors. Judges may have to impose whatever punishment the law requires, but prosecutors are under no comparable obligation to charge a defendant with violating a law carrying a mandatory minimum penalty.

That is very important and we need to be mindful of it. It may well be that police or the prosecutor want to follow the path of least resistance, so instead of charging for an offence that attracts the mandatory sentence, which they predict will be robustly defended, they in fact undercharge with a lesser penalty. There have certainly been cases that we have debated in this chamber. I can recall instances when people have raised issues on talkback radio such as why the Director of Public Prosecutions or the prosecution has charged someone only with X when the seriousness of the matter is really X plus Y. There are certainly cases I can point to in which confidence in the justice system is undermined not by the sentence imposed by the judge, but by the fact that there has been inappropriate discretion exercised either by police or the prosecuting authorities. If that is not fixed, it will still be a major issue and it will not solve the mischief that the minister puts before the chamber.

While we are talking about the United States, I have to say that although a number of states have had mandatory sentencing for some years, a number of them are now rethinking it for the reasons we have heard in the course of this debate, including the fact that it can create unjust outcomes and have disproportionate impacts. One of the oft-cited cases—I have talked about this before—is when mandatory sentences were introduced in relation to crack cocaine offences. Certain minority groups would consume crack cocaine rather than cocaine and they tended to be Hispanic and African–American populations. There was a situation in which jails became full of Hispanics and African Americans who were subject to mandatory sentencing in relation to crack cocaine

offences, but the middle class and well-heeled who could afford ordinary cocaine were able to avoid mandatory sentencing because it did not apply to cocaine. A number of jurisdictions are now looking at whether such provisions disproportionately impact on minorities and are actively changing them.

The second issue I want to raise is in relation to something I think is not done but should be if there is to be consistency and greater confidence in the judicial system—that is, the idea of a sentencing council. Such a council or commission would promulgate sentencing guidelines and channel the discretion away so that the discretion exercised by sentencers is consistent with other such sentences.

Another matter I want to raise, and I think the member for Mirrabooka raised it, as did the member for Butler, is the issue of the impact on victims. I was a prosecutor for some time and I think for a couple of years I even prosecuted child abuse cases. I know from personal experience that those cases are very difficult in terms of the victim having to give evidence in court. In most cases, although not all—there are provisions now in relation to child abuse in various jurisdictions—victims must face their attackers. Now there is potential for the evidence to be gathered by video link, or for screens to be used, or whatever. However, the issue is that it is a trying process. While the court proceedings are in train, the victim cannot effectively get too much counselling, because then the defence accuses the victim of being coached in the evidence they give. I know, probably as well as anyone in this place, with the possible exception of the member for Butler, how traumatic court proceedings can be for victims, especially in cases of sexual abuse. Victims have to live and relive their story. They are firstly questioned by police, and then might be prepped by the prosecutor before going to trial, and then they might have to give evidence in the trial itself. Previously, they had to give evidence at a committal hearing, but now at least that has been dispensed with. They have to recount their harrowing and trying story on a number of occasions. It is incredibly traumatic. For that reason, the law quite rightly says that, in some circumstances, if the perpetrator pleads guilty and acknowledges wrongdoing in an early stage of proceedings, we need to give a discount on sentencing. For whatever reason—it might be self-interest or compassion or on the advice of a lawyer—at a timely stage, the defendant has decided to plead guilty. That means that the victim can start the healing process, start to get counselling and at least start to move on with their life, however injured and traumatised it has been. Removing that provision will provide more incentive for people to contest things quite robustly. That is a very difficult situation, and I think it is a backward step.

The final issue I want to talk about briefly is the fact that sometimes sentences reflect the evidence that is before the court. There can be a tendency for the prosecution to perhaps not present all the evidence it needs to, or as comprehensive evidence as the defence would provide in a plea of mitigation. All the facts are not before the court, and that is very unfortunate. Once the verdict is in, the prosecution should be able to present a comprehensive and well-researched case, including the impacts on victims. I believe that in some of the cases in which there is community disquiet about the leniency of the sentence, quite often, looking back at the matter, we find that the prosecution was a little complacent in putting the facts before the court. Had the prosecution been more diligent in the matters put before the court, the sentence might better have reflected the level of criminality. I am not saying that that happens in all cases, but it has certainly been my experience that there has been more focus on the guilty verdict than on providing comprehensive information at the time of sentencing. The prosecution needs effectively to do as much work as the defence does in a plea of mitigation to ensure that the court has before it all the evidence it needs to sentence. If it does not have that, people can hardly complain if the sentence is not reflective of the criminal conduct.

**MR P. ABETZ (Southern River)** [8.04 pm]: I want to briefly rise to give my support to the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. One of the issues that is very much in the forefront of the minds of my constituents is what they often perceive as inadequate sentences. In the situation that the member for Eyre recounted, the sentences handed down to the adult people who perpetrated that crime on his constituents, from the brief information the member provided, were appropriate.

I think there is a general perception in the community that all too often the sentences handed down by our courts are inadequate. There was a particular incident in my constituency that caused quite some outrage. It was not a violent home invasion, but it involved a stolen motor vehicle that was being driven by an unlicensed driver at nearly double the speed limit and on the wrong side of the road. The driver hit a car in which there was a family, and the 13-year-old girl will continue to have severe health issues for the remainder of her life. The perpetrator of that offence was given a sentence of less than two years, if I remember correctly.

I believe that this bill, which mandates a minimum jail term of 75 per cent of the maximum term available for an adult offender who has committed a serious physical or sexual assault in the course of a home burglary, is certainly appropriate. I appreciate the fact that there are many in the community, particularly in the legal profession, who take exception to mandatory sentencing. When I was in Sweden on a study tour on an unrelated matter, we did a quick tour of the Swedish Parliament. It was explained to me that in Sweden, any legislation

that has penalties attached to it must provide for both a minimum sentence and a maximum sentence, and judges are required to sentence within that range. However, if a judge believes that because of exceptional circumstances he or she needs to go above or below that range, they must give detailed written reasons for that. Apparently, there is some kind of check on that—I am not sure whether the chief justice has to concur, or whatever—but there is provision to go outside that range in exceptional circumstances. I quite like the idea of the Parliament, which is the house of the people, saying that this is the range of sentencing that should apply for a particular crime, but provision is made for exceptional circumstances.

I have to say that mandatory sentencing is not a magic bullet. It will not solve all our problems. The real problem that we have in our society is the crime. I am a great believer in what is generally referred to as restorative justice—that is, restorative justice for the victim, and rehabilitation for the offender. One very good restorative justice program is the Sycamore Tree Project, which is run by Prison Fellowship Western Australia. Under that program, prisoners are able to be confronted by people who have been affected by crime and hear their story, and that often has a quite profound impact on prisoners. However, one of the major problems in our prison system is that prisoners are often moved between prisons, and that actively prevents them from completing a rehabilitation program. That needs to be addressed.

I also want to briefly mention the issue of criminal injuries compensation. The Criminal Injuries Compensation Act currently provides for maximum compensation of $75 000 to be paid to victims of crime to recover fees paid to health professionals or counsellors, loss of earnings and damage to personal items. In the case of a home invasion during which the victim is raped, the victim certainly suffers enormous trauma. However, from my understanding, no compensation is payable for that trauma under the Criminal Injuries Compensation Act. That is an issue that should be looked at. But, by the same token, I do not want people to think for one moment that I am suggesting that any sum of money could ever compensate a person for the trauma experienced in such a terrible assault.

I now want to briefly mention the issue of rehabilitation. I touched on it a moment ago. I believe that all too often in our society the emphasis within the community at large is, “Let’s lock them up and throw away the key”, but the reality is that every human being has the potential to find the right path; therefore, I believe we need to give great attention to the kinds of programs offered in our prisons. I recently came across a program known as InnerChange that is being run in some prisons in the United States of America. I recently made the Minister for Corrective Services aware of that program. It has been run since 1997 as a voluntary correctional program. It is pretty intense. It basically teaches input group work every morning and, in the afternoons, the prisoners work in the prison. After keeping track of the participants, there was a massive reduction in the recidivism rate of prisoners. Two years after release, of those who completed the program, only eight per cent came in contact with the legal system again. That is a huge difference compared with those prisoners who did not participate in the program. A whole research paper has been written on it. I will not bore members with the details; time does not permit me to do that.

Some other speakers have mentioned the problem of methamphetamines and the whole issue of drugs. Some people become very violent when on drugs, whereas when they are not on drugs, they would never dream of doing something like that. I think it was the member for Mandurah who referred to that. One thing we need to continually look at is what we are doing to reduce the use of illicit drugs within our community. I was recently in Sweden on a different study matter. I was very impressed by the Swedish approach to dealing with illicit drugs. In the 1970s and early 1980s, Sweden had the highest illicit drug use rate in the western world; today, it has the lowest. What did Sweden do? In the mid-1980s, it realised that with this high drug use rate, not only was its prison system hitting the wall, but also its health system would eventually hit the wall because of the damage that illicit drugs cause. The law in Sweden was changed so that it was an offence to be under the influence of an illicit substance. For example, if a teacher believes that a university or a high school student is under the influence of an illicit substance, they can ring the police and the police will size up the situation. The person is not taken to a police station; they are taken to a government-run rehabilitation facility where they are tested for drugs. If they test positive, they are given a choice—stay and do rehab or go with the police and end up in court. If they go to court, they end up with a criminal record and will never be able to work in the public service et cetera. Ninety-eight per cent of people opt to do the rehab that is assigned to them, given their circumstances. Not all rehab is residential; it depends on the severity of the issue. That is determined by the rehab facility.

It is interesting that 70 per cent of people who go through that rehab never come in contact with the legal system again. The result is that Sweden now has the lowest illicit drug use rate in the western world. That is something really worth exploring in our context because we have such a serious issue with the use of illicit drugs. Having run a drug rehab support group for about four years in the southern suburbs in the late 1990s, I understand the trauma that illicit drug use causes to not only the victims of crime, but also the family members of the drug

addict, and the enormous pain and disruption it causes families in their work and the whole family relationship. Although I am fully supportive of the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014, I want to highlight that mandatory sentencing is only a very small part of what needs to be an overall package to address the issue of crime in our community.

**MS J. FARRER (Kimberley)** [8.15 pm]: I would like to make a contribution to the second reading debate on the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 on mandatory sentencing from the perspective of the people of the Kimberley.

Last year I tabled the "Kimberley Juvenile Justice" report, recommendation 13 of which states —

> In the event that the Criminal Law Amendment (Home Burglary and other offences) Bill 2014 is passed, Magistrates will sentence Kimberley youth to a juvenile justice program site located in the Kimberley.

As a group of people in the Kimberley, we talked about looking at ways of preventing these kids from offending. Some of the ideas our people have in regards to trying to make sure these kids do not reoffend are around setting up programs to work with the kids. These kids have been diagnosed with all sorts of illnesses such as foetal alcohol spectrum disorder and mental impairment—things like that. There are numerous cases of juveniles with no direct or reliable access to financial resources. In the Kimberley we find that a lot of young children, because of their movement or placement—whether they have been taken from the family and put into homes under the court system, or it may be a child whose parents may both be in prison—are left to look after themselves. There have been lots of cases in which there should have been that support for these children who have fallen through the cracks, as we say. They become involved in petty crime, such as stealing food, in order to address their needs; we see the breaking into and entering of shops, mainly to get food. These are kids who could be as young as seven years of age; it is not uncommon for children to become involved in these sorts of petty little crimes at around that age. Very young children are breaking into homes to take food or coins to buy fast food just to, I guess, supress their hunger and whatever needs they have. Patterns of crime become normalised for these kids because they see crime as a necessary method of survival.

As I was saying before, some of these children do not have parents. Either they have come from a single-parent home or, if both parents are in prison, these kids are left in a defenceless state. Sometimes they are cared for by their grandparents or grandmother. We find these problems with a lot of the kids who are living in the towns. When the kids are placed with family members out on the communities, they receive a lot of discipline from family members who are very concerned about their behaviour. The recommendations of the "Kimberley Juvenile Justice" report, which I tabled, outline some of the ways those kids could be worked with; the Yiriman Project is one. They work on programs to make sure that these kids address all areas of what happens after breaking the law and what they need to do to make amends. They make them go back and address a lot of those things. Sometimes they make some of those kids go and back and talk to the people they have broken into the houses of. They are the sorts of programs that our people are running in the Kimberley. They are being run not in every part of the Kimberley but in some of the areas around the Fitzroy Valley. The Halls Creek kids are taken to places such as Mulan or Balgo where they are taught about respecting their culture and themselves, making sure that in whatever they are doing, they need to come to terms with the fact that their behaviour is not normal. Those programs ensure that those kids become involved in a lot of these things.

We would like to see methods for dealing with these kids and the issues they face that will ensure they have fewer reasons for recidivist behaviour by providing support through in-home activities. Some of the in-home activities that our people talk about are emergency food access, recreation, mentoring and bush placements. Two little boys were talking one day, one of whom was up before the court that morning and he said to the other little boy, who I think had never been in prison before, "Look, brother, they're sending me to Perth, so when I come back I'll see you then." The other one asked, "Why are you going to Perth?" The other chap said, "They're taking me away." The other little fellow asked, "Well, can I come too?" His friend said, "You can't come unless you offend or break in." "Oh", he said. They are the sorts of conversations that are becoming normal for a lot of our kids. It is really sad to hear, especially when children have been sent from up north to remand centres down here. They talk about how they feel, because to them a detention centre is like a home. Some of those kids do not have homes up there. Staying in a detention centre down here is like living in a home because they get to have a lot of things. I do not know what they do in the prison system or the detention centres, but these are things the kids talk about and it is becoming normal for kids to have these sorts of conversations.

**The ACTING SPEAKER** (**Mr I.M. Britza**): Members, the conversations are getting a bit louder.

**Ms J. FARRER**: I find that a lot of our kids need mentoring, especially when they come from broken homes and their parents have been in prison for various reasons, including family violence. Family violence is probably one of the main issues our kids get caught up in. This lifestyle is intergenerational now because some of our young kids think it is normal. We need to break the pattern of their going into prison or being held in a lockup. When the kids come out of detention, they are a lot tougher in their thinking and they do not show much respect to families. Some of the grandparents find it scary when they see that their children have changed so much. However, taking them into the bush and teaching them all about who they are and what they should be contributing to is different for them and it changes the way some of them think.

We have seen the goodness of a couple in Broome who set up a little organisation called Feed the Little Children. The husband and wife team and other members of the organisation donate their time preparing hot meals, which they take to families from broken homes or single-parent families at high risk of household and food insecurity. These kids get fed. There has been a dramatic change in the numbers. I guess these kids realise that there are people who care for them. Feed the Little Children delivers about 300 meals of hot food and milk. Some of the kids are not able to get that sort of food at home due to the family's low income.

This government must address the underlying issues contributing to criminal behaviour. As I said before, I have called on the government to do this, but still nothing has been done. We really need to work together as a Parliament to overcome the issues that our young kids face and to stop them going off the rails. It does not matter who we are and whether we are Christians; we all need to work on a plan to help endorse some of the recommendations in the report.

The fundamental human rights of Kimberley youths are being compromised. Poverty, housing and education are all intertwined areas that need urgent attention to break the cycle of offending. We all know that, in the Kimberley, these are the sorts of things that we should be looking at, instead of saying that they should be in prison for what they have done. A lot of these kids do not realise that it is a crime to take something that belongs to somebody else. More and more often we see that as these children age, their offending becomes entrenched because not much support is given to help them stop. As they get older, we see them doing all sorts of other things. We need to break the cycle and the only way we can do that is by all working together.

The programs being done in some of these areas are very good for these kids. The camel walk in the desert near Fitzroy teaches the kids survival skills and about making sure they look after things. For kids to place themselves in that responsible role as a young person is a big contribution. I commend the program that some of these people have been doing in the Fitzroy area and I would like to see more of it done right around the Kimberley.

**MR P.C. TINLEY (Willagee)** [8.27 pm]: It is good to have the opportunity to make a contribution to the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. I am particularly interested in the contributions made by members on both sides of the chamber. Some have just toed the party line and some—in fact, very few—have made a genuine contribution with ideas. As our lead speaker, our shadow minister and others have said, we on this side accept the mandate that the Liberal–National government has for matters such as this and hence we are not opposing the bill. However, we object to the idea that somehow we on this side will be shown as weak on crime and criminals. Out of all the members on the opposite side of the chamber who contributed, only one offered any level of contribution of ideas—that is the member leaving the chamber right now, the member for Southern River. In his short contribution, he was absolutely the only one—I will take an interjection if members opposite think I am wrong—who offered something beyond the turgid mantras spouted by each and every other member across the way. The member for Forrestfield's contribution was absolutely appalling. All his speech did was show that he is just another spear carrier for the conservative view of: think nothing and act on a populist whim. That is what is before us with this bill. Before the people of Western Australia is a government bereft of ideas on how to solve an intractable problem. The government's simple reaction is to revert, in some Pavlovian sense, to an ideological response of saying, "Let us get tougher on crime." No-one in here has ever thought to ask: why do we not look at the causes of crime and the evidence that might be available to give us an indicator about how we can stem the flow?

The member for Southern River is the only person who identified an international story and a local story, and identified the root causes of some of the problems of recidivism and violent crimes that we see in our community—and he should be applauded for it. I suppose, though, as he was the only genuine contributor, I might rebut some of the commentary in his contribution. He talked about the Swedish model of legislation. He said that any legislation containing penalties that comes before the Swedish Parliament always has an upper and lower range within which the judiciary is required to operate, and that a publishable written ruling is required in circumstances that the judiciary deems exceptional to go below or above the mandated bracket. I have not seen one piece of criminal legislation in this place—I will take an interjection from anybody who is

more steeped in it than the member for Butler—that does not refer to penalties and penalty ranges; we already have them. The idea that the member for Southern River referred to, that other countries with a declining recidivism rate or a significantly declining crime rate have mandatory arrangements, is therefore fallacious and not reflective of what we do or what we should be doing. However, his point was well made and was a thoughtful and reasonable contribution. He also talked very much about diversion programs.

However, the evidence available to us in this place about violent crime and crime generally across Western Australia suggests that the problem is not the sentencing; it is the policing. Specifically, I am talking about the resourcing of the police force. I refer to a 2012 report that states that WA Police were solving 20 per cent fewer crimes against people, including assaults, murder, rape and robbery, than they were solving in the previous three years. An article in *The Sunday Times* reveals that the police resolved just 54 per cent of the 32 091 crimes against people in that year, down from 67 per cent in the previous three years. The crime-solving rate had therefore gone from 67 per cent down to 54 per cent in three years. The sanction rate, as it is called, has been a significant problem for the police force. Why? It has been a significant problem for the police force because there are not enough police. The minister might shake her head, but she herself came into government on a promise of recruiting 500 new police officers and then suddenly converted the promise to auxiliary police officers, because she squibbed on it.

**Mrs L.M. Harvey**: No, I didn't. My commitment was specific in 2013. It was for 200 police officers for training, 200 detectives and 150 police auxiliary officers.

**Mr P.C. TINLEY**: And where is the minister at now?

**Mrs L.M. Harvey**: That was explicit and I am on target to achieving that by 2017.

**Mr P.C. TINLEY**: The minister is on target! What about the prior —

**Mrs L.M. Harvey**: Including recruiting for those officers who took redundancy, member. So, just do a bit of research on that before you accuse me of squibbing on a promise.

**Mr P.C. TINLEY**: When I get lectured from you, minister —

**The ACTING SPEAKER**: Okay, member!

**Mr P.C. TINLEY**: I will have my say when I get lectured from the minister, who just puts a waving hand over it and cannot answer a question in this Parliament and cannot attend to any critique. What about her prior commitments? What about the prior promises of this government? She seems to just wash her hands of them. Can the minister tell me how many sworn uniformed police officers there are in this state per head of population?

**Mrs L.M. Harvey**: I can't give you per head of population, member, but I can tell you —

**Mr P.C. TINLEY**: Why can she not?

**Mrs L.M. Harvey**: I am not a statistician. I don't walk around with a set of numbers in my head, but if you want to put it on notice, I'll give you the answer.

**Mr P.C. TINLEY**: Could the minister tell me the number of police officers per head of population that has changed in her term of government, since 2008?

**Mrs L.M. Harvey**: What I can tell you, member, is that when we went to the last election, you promised 500 police and police auxiliary officers. We promised 550.

**Mr P.C. TINLEY**: I hear the minister. She is just waving away along the lines that her office has given her. She knows nothing.

**Mrs L.M. Harvey**: So where would we be if you were in government? We would be getting 50 less.

**Mr P.C. TINLEY**: Really?

**Mrs L.M. Harvey**: Yes.

**Mr P.C. TINLEY**: I want to talk about the evidence. The Minister for Police's method is simply to release one media statement after another. When the minister was confronted with the prospect of falling sanction rates in 2012, what was her response? Her response was —

> Police Minister Liza Harvey said she would grill police chiefs on why so many crimes were going unpunished.

Good on you—well done! She also said —

> I intend to get to the bottom of why the sanction rate has dropped by discussing the issue with WA Police …

The answer was very clear for the minister; she did not have to go too far. She need go no further than Professor Lampard, a former deputy commissioner, who clearly stated that the major contribution to the sanction rates is a lack of police resources and of police numbers being unable to keep pace with the population. The Premier, the Minister for Health and other ministers have often referred in this chamber to the unforeseen pressures on the services that are required by the Western Australian community and the unprecedented population increase, but the rate of recruitment, training and retention—I use that last point very importantly—of sworn police officers has not matched the population growth. The minister cannot even tell me what that rate is. There was the minister wringing her hands saying, "I intend to get to the bottom of why the sanction rate has dropped in 2012 by talking with the Commissioner of Police". In January this year, *The Sunday Times* reported that —

> Sanction rates, used to measure the number of criminals brought to justice each year, have dropped to 27 per cent over the past six years.

What was the minister's response? When responding to questions asked by *The Sunday Times* about the 2012 sanction, it was reported that —

> Police Minister Liza Harvey she said she would meet Commissioner Karl O'Callaghan to find out why.

What has happened between 2012 and 2015 and the minister's statement that she intended to get to the bottom of why the sanction rates had dropped by discussing this issue with WA Police? The minister has had lots of discussions, but she is not taking a lot of action. The sanction rate has become such a problem for the minister that the government no longer reports it. Indeed, the 2014-15 police report lists only the number of offences reported and does not refer to the sanction rate. Clearly, the minister does not want the public to know that her effectiveness against crime is absolutely woeful. The minister's answer is to wave the magic fear wand and say that judges are not strong enough, that sentences are not clear enough, that we need mandatory sentences and that we need to stare down the judiciary of this state and tell it how to operate and how to undertake its business. If the minister has a problem with the judiciary, why has she not met with its members? Why has she not looked at some of the suggestions that have been made, such as that of the member for Southern River, that judges should put their exceptional judgements in writing? She has done none of that. All the minister wants to do is put out a media release that she believes will, in some clever little way, wedge the Labor Party on mandatory sentencing and be tougher on crime. Why has the minister not looked at the underlying issues of what is contributing to petty crime and the gateway issues around petty crime and its contribution to more violent crime? Nothing proposed in the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014 and nothing in the information that has been given to members on this side of the house has explained how mandatory sentences will improve recidivism. One in 10 criminals—these are the basic numbers—are convicted, so nine out of 10 criminals will get away with their crime. Why are they getting away with it? It is because the police are under-resourced and the minister does not care about doing her job in the service of the people of Western Australia by reducing crime and taking meaningful steps. The minister cannot have that fight and she does not have the horsepower around the cabinet table to get the resources and funding to deliver those services. There is no better place to start than community policing and the way the minister allowed the Commissioner of Police to rip police officers from police and community youth centres and call them "youth liaison officers". The minister should not look at me and roll her eyes like that. I have a PCYC in my electorate. I have been going to it for 40 years. The police officers are no longer there. Neither the minister nor the police commissioner can tell me whether police officers have a presence in that PCYC. I find it quite ignorant of the minister to just simply sit there, roll her eyes and pout.

**Mr C.J. Barnett**: Be respectful to the minister. Make your point if you wish to but be respectful.

**Mr P.C. TINLEY**: I am taking the lead of the Premier, with the respect that he shows the member for Girrawheen, the member for Fremantle, the member for Midland and, dare I say it, every other female on this side. He has absolutely no respect for women.

**Mr C.J. Barnett**: What a load of rubbish! What a disgrace!

**Mrs L.M. Harvey**: Why don't you get back to the legislation?

**Mr P.C. TINLEY**: There we go. Look at the Premier and the minister—sniping, carping and just lolligagging around doing absolutely nothing.

**Mr C.J. Barnett**: Patronising fool.

**Mr P.C. TINLEY**: Look who is talking!

The other issue in relation to this is the downstream effect of the cuts that this government has made to the delivery of services. We have problems like the ones I already mentioned with the PCYC, which we cannot afford to staff correctly. The drop-in centre in the PCYC in the suburb of Hilton, which normally houses up to 50 kids and typically at-risk youth, had to close its doors. One of the important things about that drop-in centre is that it provided those at-risk kids with a positive adult role model. What happened when that drop-in centre closed? It was really simple. Those kids spilled onto the streets and undertook some petty vandalism, which is a normal activity of bored, young people who have dysfunctional families or risky homes to go to. The levels of vandalism in the immediate vicinity, in the community garden and at the local primary school started to increase—it was just minor stuff—and all we saw was an increase in what I would call gateway activity to further crime.

The other issue that has been highlighted in my electorate is this idea of education support for chaplains and the like to provide the whole-of-family support that is required to keep these people engaged in the education system because we know how education contributes to ensuring that these young people in particular do not end up in our justice system. We simply need to resource the causes of crime by adequately resourcing the things that stop the youth of Western Australia entering the system and ensuring that we are not just holding out a big stick called mandatory sentencing. We need to show that we are really genuine about finding the proper opportunities to do this inside the powers and capacities of government because one thing is for sure: there is no replacing deep intergenerational investment in education, work, training et cetera to ensure that we have an inclusive society because we all know that the costs of incarceration are far beyond those that are acceptable in the fiscally constrained environment we find ourselves in, and we need to attend to some of these issues.

**MR F.M. LOGAN (Cockburn)** [8.44 pm]: I wish to make a few comments about the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014, which is before the house tonight, and touch on a couple of things related to it and to my electorate.

The member for Willagee talked about the sanction rate for offences, which was introduced in 2009–10 by the current government. He also talked about how the sanction rate—that is, the number of cases that had actually been brought to trial and successfully prosecuted—had dropped from 64.3 per cent in 2009–10 to 46.7 per cent in 2013–14. As has been pointed out by a number of members, the sanction rate has now completely dropped off the radar altogether because the government and the Minister for Police cannot explain why those clear-ups and prosecutions have not been successful; according to media reports, it appears that the Commissioner of Police cannot explain it either. The member for Willagee referred to a quote by the Minister for Police in an article in *The Sunday Times* of 11 January 2015. The minister was quoted as having said in 2012 —

> "I intend to get to the bottom of why the sanction rate has dropped by discussing this issue with WA Police,"

She said that in 2012, when the sanction rate was at 54 per cent. When the issue was again raised by *The Sunday Times* on 11 January 2015, the Minister for Police declined to comment. The article continues —

> A spokeswoman for Mr O'Callaghan said the sanction rate had been replaced with a "new method", which tracked performance within a "particular time frame"—one month for crimes against people and two months for property offences.

There we have it; that is why the sanction rates have completely dropped off the radar altogether and the minister is not talking about it. However, the government continues its media blitz to the effect that it is a government that is tough on crime and that it will respond to the offences that have been listed as part of this legislation by increasing the mandatory minimum sentences and by appearing to be tough on the people who commit these heinous crimes.

The opposition is on record as saying that it will not oppose this bill, but we also want to put on the record that this is basically more spin from a government that simply cannot come to terms with the continuing burglary and violence offences that are occurring in our society. The reasons behind those burglaries and violent crimes, as with most crimes, are complex, but are primarily associated with the disturbed family backgrounds and economic circumstances of the offenders. Everyone in this chamber knows that, but instead of addressing those problems, we are tonight discussing spin from a government that wants to appear to be tough on crime.

Mandatory sentencing laws have been applied by various state governments and the commonwealth government. One would assume from the bill that we are debating tonight that Western Australia is merely following the trend of other states and that it is toughening up legislation in places where it needs to be toughened up because of the heinous nature of the crimes referred to in the bill, and that we are really not out of step with any of the other states in Australia on the issue of state governments and Parliaments directing judges on what sentences they should be handing down. That is what we are dealing with. Members must remember what we are dealing

with tonight. We are dealing with a government that believes that it and this Parliament know better than the judges who hand down the sentences and that it will direct those judges to hand down the sentences that we believe—or, in this case, the government believes—is appropriate because we just do not trust the judges. That is a very shaky and tricky path to walk down when elected members from various backgrounds believe that they are smarter than the judges who sit in our courts and have had many years of experience before being appointed as a judge. We are saying that we know better. That is what we are dealing with tonight.

Let us look at the current mandatory sentencing laws across Australia. In the commonwealth, there is a mandatory sentencing law under the Migration Act. It basically deals with people smuggling. There is a minimum mandatory sentence of at least eight years' imprisonment for the aggravated offence of people smuggling, particularly when there is exploitation or cruel, inhuman or degrading treatment. If it is just people smuggling of at least five people, there is a mandatory sentence of five years' imprisonment. They are the only two commonwealth laws that have mandatory sentencing.

In Queensland, a number of pieces of legislation have mandatory sentencing. The first is the Criminal Law (Two Strike Child Sex Offenders) Amendment Act, which has a 20-year non-parole period for repeat serious child sex offenders. Under Queensland's Weapons and Other Legislation Amendment Act, there is a series of minimum mandatory sentences ranging from six months to three and a half years for trafficking in weapons, supplying weapons, the unlawful possession of weapons, the possession of a weapon for committing or facilitating an indictable offence, and the possession of a firearm in a public place. There is one other piece of legislation in Queensland that has mandatory sentencing, and it is the controversial piece of legislation that was challenged in the High Court of Australia—that is, the Criminal Law (Criminal Organisations Disruption) Amendment Bill 2013. It is basically a bikies bill. The mandatory sentences are six months for participants in a criminal organisation who knowingly gather together; a minimum 12 months for offenders in a criminal organisation assaulting a police officer in aggravating circumstances; an additional 15 years if a declared offence, such as a sex offence, a serious assault or a drugs or weapons offence, is committed by a vicious lawless associate; and 25 years if the offender is an office-bearer of the criminal organisation.

Obviously, there is no mandatory sentencing legislation for burglary in the commonwealth, but there is no mandatory sentencing legislation for burglary in the tough state of Queensland—none. Queensland sees itself as the toughest state on law and order around the country. It is another state that sees itself as tough on law and order. Again, it usually relates to the hyperbole of election time, when political parties from both the left and right in the states where these types of bills originally emanate from try to outdo each other in who can be the toughest on crime. Of course, in New South Wales around election time there has always been a hotbed of hyperbole on who can be tough on law and order, but what has happened in New South Wales and what mandatory sentencing does New South Wales have? There is the Crimes Amendment (Murder of Police Officers) Act 2011, which provides for a minimum of life imprisonment for the crime of murdering a police officer. There is also the proposed law from last year, the Crimes Amendment (Intoxication) Bill 2014, which given that an election is nearly upon the New South Wales' government will obviously not be passed, that proposes amendments to the Crimes Act and provides for a range of different minimum sentences, from two years through to eight years if a convicted felon is under the influence of alcohol or drugs, for maximum imprisonment of 25 years for an offence of unlawful fatal assault—that is, in effect an assault that results in murder—through to the provision of a penalty of a minimum of two years for assaulting a police officer. That proposed bill from last year is not law, and it certainly will not become law under the current government because I think it is already in caretaker mode and it is only a mandatory sentencing proposal.

In Victoria there is the Crimes Amendment (Gross Violence Offences) Act 2013 that provides mandatory imprisonment with a minimum of four years for adults who commit an offence of intentionally or recklessly causing serious harm to a person in circumstances of gross violence. South Australia's Criminal Law (Sentencing) Act 1988 provides that a court must not suspend a sentence for a serious organised crime offence, a specified offence against a police officer or a defendant charged with a designated offence who has received a suspended sentence in the past five years for a designated offence—therefore, basically a second offence or more—for an action against a police officer. In effect it is not a mandatory sentence but, without doubt, it directs the judiciary on the type of sentence that should be imposed as a result of a violent offence against a police officer.

Those are the only mandatory sentences that exist in other Australian states. Mandatory sentences do not exist in Tasmania. I just read out the mandatory sentences in Queensland, one of the supposedly toughest law and order states. They are basically concerned with sex offences and bikie organisations, yet in Western Australia there is the Criminal Code Amendment Act (No. 2) 1996, which provides for a minimum 12 months' imprisonment for home burglary offences and which is the predecessor to the amendments that we are debating tonight. Then there

is the Criminal Code Amendment Act 2009, which was extended to youth custodial officers and which of course concerns assaults on public officers. The Criminal Organisations Control Act 2012 provides for mandatory sentencing for adult offenders who commit certain offences at the discretion of or in association with or for the benefit of a declared criminal organisation. If we were to compare state with state on the role of government to direct the judiciary on how to carry out sentencing, the most extensive mandatory sentencing provisions in a jurisdiction anywhere in Australia are all in Western Australia. Of any Australian state, Western Australia has the highest number of laws that require mandatory sentencing. I just read a list of the other states' various mandatory sentencing laws to the house. Nobody would argue that people who commit the type of offences that are the justification for the passing of this bill should not receive long and harsh sentences—nobody would argue against that—but the circumstances surrounding those matters, the backgrounds of the people involved in those matters and the ultimate sentencing really should be at the discretion of judges. While there is mandatory sentencing in place for these types of offences, it will be extended. The decisions of judges made under the existing legislation are not good enough for the government of the day, and the legislation will need to be toughened up and tightened up. Will that have an impact on reducing the number of those offences and the level of crime? There is no evidence to show that that will happen. It is already happening under the existing mandatory sentencing regime, never mind saying it will happen under a future extended mandatory sentencing regime. It would be interesting for the minister to get up and give a commitment to the house that the bill will reduce the level of offences of this nature into the future. But the minister is not going to do that, because she knows, as all members of this house know, that those offences occur with or without the threat of mandatory sentencing, and they occur because of a whole series of different reasons.

The nature of the bill is to deal with the violent offences that occur as a result of burglary.

[Member's time extended.]

**Mr F.M. LOGAN**: I want to raise the issue of burglary rates in my electorate and my attempts to put ideas to ministers and police to help resolve those burglaries. One of the major point sources of burglaries in Cockburn is what I call the "highway of crime". I was on television, only on the weekend, at an anti-trail-bike-riding rally in my electorate, complaining, with the residents, to the police present about trail bike riders' access to the freight railway lines that bisect Cockburn. Two freight railway lines run through Cockburn. One comes in from Midland, splits at Yangebup and goes south carrying wheat and grain to Rockingham, and a series of extremely volatile and dangerous chemicals, such as diesel, petrol and sodium cyanide, from the Kwinana industrial area to the mining areas, particularly the goldfields. The other rail line that comes off the junction at Yangebup goes north and continues on through Spearwood, Coogee, South Fremantle and then through Fremantle and into the port of Fremantle. There are extensive railway lines across Cockburn, and running parallel to the railway lines are the railway maintenance roads.

Those maintenance roads are easily accessible from a significant number of crossroads, whether it be North Lake Road, Spearwood Avenue, Rockingham Road, Yangebup Road or Beeliar Drive. All those major arterial roads have easy access to those rail lines. Consequently, residents of Cockburn and residents beyond Cockburn on trail bikes—sometimes their trail bikes and sometimes stolen trail bikes—use those railway access roads as highways. I call them highways of theft, because they are an easy way to do a burglary and get away without the police even considering giving chase, never mind trying to give chase. For example, bikes can come along any of the road intersections that I have referred to. They are ridden along the line, usually quite slowly, with the riders standing on the pedals looking in the backyards to identify a house that might not have a dog in it; they stop, turn the bike off, stand on the seat, jump over the fence, do the burglary and jump back over the fence, on the bike and are gone. They are in Fremantle in 15 minutes.

**Ms S.F. McGurk**: Thanks very much!

**Mr F.M. LOGAN**: They are in Fremantle—that hub of crime that I am sure the member for Fremantle will refer to in a minute; that hub for fencing stolen items in Western Australia!

I have asked various transport ministers to do something about stopping trail bikes getting on the railway line. They could get our friend and favourite company for running our freight lines, Brookfield Rail, that wonderful Canadian multinational organisation registered in the Cayman Islands for tax purposes, to do something and to block the blooming lines off. I know that Brookfield needs access for maintenance, but if it blocked off those lines, it would stop probably 50 per cent of the burglaries not only in Cockburn but right across the southern suburbs. It is the highway of theft. All the burglars use it to do the thefts and to get away with the stolen property. It drives the police absolutely ballistic. I organised meetings, first of all, with WestNet Rail, the predecessor of Brookfield, and then between Brookfield, the police and local government to beg Brookfield to put barriers and structures in place to stop access to those railway lines, but nothing was done. We have had

various transport ministers who have all said, "Well, you know, we have a lease with Brookfield for 49 years. What can we do? We can't tell them what to do. Effectively, they own the property and it is up to them to make the decision." The government owns the property but does not have the power or the wherewithal to direct this foreign company, which is allowing these burglaries to take place. Some of those burglaries have been violent and people have been attacked in their own home during the burglary process. The perpetrators have been allowed to get away with it, not because of anything the police have done—the police are doing their best—but the privatisation of a government asset and the failure of the government to control that company has allowed those burglaries to take place. It is a simple fix, but nothing has been done. That is why when pieces of legislation such as this one come before the chamber, arguing the point that violent burglary offences should be dealt with in a tougher manner, the opposition says, "That's great, but how about stopping the burglaries in my electorate in the first place by taking the simple action of stopping these trail bike riders and other people gaining access to railway roads that are assets of the state government controlled by a Canadian multinational?" It is a bit like that bridge. On two occasions in this place I have made a grievance against Brookfield Rail to fix up the fascia of a bridge at Beeliar Drive that has now been collapsed for three and a half years. Brookfield has just refused point blank to do anything and the minister keeps saying to me that he does not know what to do. He cannot seem to get Brookfield to fix it. The Public Transport Authority keeps saying it has nothing to do with it; Brookfield is now the lessee of the railway and the authority cannot direct Brookfield. If the authorities cannot direct Brookfield to fix the fascia of a bridge on Beeliar Drive, what chance have I got of getting the minister or Reece Waldock from the Public Transport Authority to direct Brookfield to stop trail bike riders getting access to the railway road and committing burglaries all the way across Cockburn? I have no chance whatsoever. That is why pieces of legislation like this irritate the hell out of me. If this legislation was meaningful in actually succeeding in reducing crime, the Minister for Police would not be getting as much of the pushback on it as she is.

As I indicated, we will not oppose the legislation, but I wanted to put on the record my criticism about the way in which mandatory sentencing laws are being introduced in Western Australia, the fact that Western Australia has the most extensive mandatory sentencing laws of any other state in the whole of Australia and the fact that the issue the legislation seeks to address of violent offences during the process of burglary could have been resolved in my electorate by simply having a tougher Minister for Transport and a CEO of the Public Transport Authority with the spine to take on Brookfield Rail and stop access to that railway.

**MR C.J. TALLENTIRE (Gosnells)** [9.12 pm]: I rise to speak to the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. I begin by saying that the people of Gosnells and Thornlie are not fools. Unfortunately, they are all too often the victims of crime. There is no doubt that Gosnells and Thornlie suffer from more than their fair share of crimes. I say that we are not fools in our electorate because we know that this problem has to be tackled at its source. We have to look at where the problem stems from and the idea of imposing mandatory sentences, although supported by many, also has many questioning its purpose. I suppose that purpose could be broken down into three categories. It could be said that perhaps a mandatory sentence could have some dissuasive value, but I think most people in my electorate are aware that when it comes to criminal behaviour, we are not dealing with people who are of rational mind. If someone invades someone else's home and commits a violent attack, rare is the occasion when that is done with a sound mind. Invariably, such an attack is made under the influence of methamphetamine or some other drug, so the dissuasive value of these sorts of penalties really has to be questioned. It is possible that really their dissuasive value is almost zero.

Then we move on to the question of the educative and reformative benefit of putting someone in prison through a mandatory sentence. It could be imagined that there are all kinds of programs in place that would take someone who has committed one of these terrible offences and sort them out, help them understand what has gone wrong in their life, help them understand what got them into committing the crime and then perhaps provide them with the skills and training such that they are able to leave the prison system and embark on a life that will not bring them back in contact with the justice system ever again. That would be the ideal of the educative value of a prison sentence. However, I heard a comment from my friend and colleague the member for Southern River that on too many occasions an offender is moved from one prison to another and a program that they have embarked upon is disrupted, such that the program never yields any benefit. We really have to question whether there is a reliable educative benefit from these mandatory custodial sentences. There may be times when that could be worked out better, but we do not see any evidence in this legislation to suggest that the necessary resources will be available in the future to ensure that we have good programs in place to not only enable people to see what went wrong in their lives, but also set them up so that they can be model citizens in the future. That obviously would require a program with an amazing capacity, and I am not convinced that those programs are being seriously thought of by the current government.

We move on to the idea that a mandatory sentence provides some sort of retribution. Looking at the various values, there is probably a zero value on the dissuasive side of things, and a big question mark over the educative value of a mandatory sentence, but perhaps many people in the community feel that a mandatory sentence satisfies their desire for retribution. It could be said that there is a value there, if that is what we are about. However, I am concerned—I am sure many of the people in my electorate would see this—that if we are about using the criminal justice system for retribution, we then hear the argument that the prisons are too soft; they are just like holiday homes or resort villages. We get the impression that for a certain group in the community the penalties will never be tough enough. They are never going to be satisfied. A small demographic in our community is of the mindset that it is never tough enough. We hear the old clichés similar to "Hanging isn't good enough for them." That is probably the crowd that would argue strongly for the retribution value of a mandatory sentence but, in fact, they would never be satisfied by it.

Having considered all that, we now look at the realities of the crime sanction rates. We find that those rates are actually falling. I will come back to talk about the excellent work I think the local police officers are doing in my electorate, but we find that the workload of the police force is such that they simply do not have the capacity to improve those crime sanction rates. In fact, it is my understanding that the sanction rate is getting progressively worse, and that is a source of great dissatisfaction in the broader community.

Another issue is the resourcing of our police. We know that they are severely understaffed. They are continually called upon to deal with more complex and difficult situations. These situations often involve a high degree of violence from people who are under the influence of methamphetamines in particular. These are frightening situations for a police officer to have to deal with. They are absolutely terrifying. Police officers are now encountering more and more of these types of incidents. I can well imagine that that drain on police resources means that the capacity of the police service to capture the criminal offenders in the community is dropping all the time.

Home burglaries are horrible things. I have mentioned in this place burglaries that have occurred at my home in Thornlie. Fortunately, I was not at home when those burglaries occurred. Had I been at home, perhaps it would have given rise to some sort of violent incident. I cannot imagine how terrifying that might be. It is unpleasant enough to come home and find that our home has been burgled, but to be present at the time and have to live through that burglary and be on the receiving end of the violence that someone might mete out as they look for items of value would be absolutely terrifying. Therefore, I can well understand why people get taken in by the idea of mandatory sentencing. However, there are circumstances in which we need to trust the judiciary and its call on these crimes when looked at individually. We need to do the opposite to eroding community confidence in the judiciary. We need to acknowledge the expertise and life experience of the judiciary and the fact that it takes many years to qualify to be placed in a judicial role. We need to explain to the broader community that the decisions that are made by the judiciary are not made lightly. They are made after careful reflection and after a careful hearing of a case. We need to explain also that the criminal procedures that we have in place are sound and robust, and we can have confidence in them. However, by imposing mandatory sentences, we are doing the opposite. We are eroding community confidence in the judiciary by saying that we cannot trust the judges and the magistrates, and instead we must have a mandatory sentence, because one size fits all. We know that in life in general, one size never fits all. Therefore, to remove that discretionary value in our system seems like a grave error to me.

I heard the member for Cockburn talk about some of the avenues of crime. He mentioned trail bikes. Indeed, that is a live issue in my electorate as well. People may be out on a burglary spree with no intention of committing a violent home burglary, but when they invade a particular property, they have not checked carefully to ensure that no-one is at home, and they find that someone is at home, they may then be in a face-to-face encounter with the occupant of the home and a violent situation may come about. That sort of reality is faced by people in my area. We need to ensure that our Criminal Code provides adequate penalties for home burglary offences. However, I say again that those penalties need to be tempered or fine-tuned occasionally by the discretionary role that judges can play. That is a key aspect of this.

In my area I have Gosnells Police Station and Canning Vale Police Station. The officer in charge at Canning Vale Police Station, Shandell Castledine, does an excellent job.

**Mrs L.M. Harvey**: She is great.

**Mr C.J. TALLENTIRE**: Shandell does an excellent job. She has only been in the role a relatively short time but she has taken to it exceptionally well. The standard of policing and the morale that I have seen is very high. Not only is it an area where I live, but also the minister knows the area well, having grown up in Thornlie. There are challenging issues for any police officer, but the attitude of police in my area is exceptional. We need to support police further by ensuring that their numbers are adequate to deal with the level of criminal activity. That

is the key issue. I worry that in talking about mandatory sentencing we lose sight of the reality that we need a well-resourced police force, not just a series of mandatory sentencing provisions.

At the Gosnells end of my electorate, officer in charge Ray Thompson does a brilliant job. He has a lot of experience. A very large team works with him and does amazing work, ranging from criminal behaviour that is probably more on the antisocial end of the spectrum, through to very serious crimes. Senior Sergeant Thompson and his team perform commendable work. They accept that is how things are at the Gosnells Police Station. It is intense, sometimes frightening and sometimes rewarding—I think they would probably say often rewarding—but it is a difficult job and they do it well.

There are other ways we can support police. I have mentioned supporting them by providing more police resources, but what about ensuring that we have communities that are properly designed so that crime is not as easy to enact? We need to look at the planning processes. We hear discussions from planning academics about how to design out crime, but I think we need to do much more. I realise this crosses from the Minister for Police's portfolio into the Minister for Planning's portfolio but it shows how, in government, everything interconnects. We need to do much more to ensure that developers design in a way that minimises, if not eliminates, the potential for crime. After all, developers make colossal profits out of the various projects they take on. Homes should be well exposed and in clear view, with no dark or unlit areas, so that neighbours can keep an eye on one another. Shopping precincts should be properly designed, well lit, with no blind alleys in areas where people frequently pass through. Things need to be properly designed. We should be demanding more of developers. I imagine many of them are members of the Urban Development Institute of Australia. I am frequently invited to breakfast and dinner functions that the Urban Development Institute of Australia puts on. I am sure that it occasionally touches on this topic of urban design through designing out crime. That sort of approach would really get us well on the path to tackling this problem at its source, not as the government is seeking to do, which is to mop things up at the end through some mandatory sentencing process. I am always of the view that we try to tackle things at the source. That is where we will have the most impact and invariably it will be the most cost-effective way to tackle a particular problem.

Given the lateness of the hour, I will not detain the house further, but I will conclude by saying that I remain very concerned about the low sanction rates. As I see it, the government is making a big play of how useful mandatory sentencing will be, but I do not think it has any statistical evidence to support the claims. As such, I think—to use an expression—the jury is still out on whether mandatory sentencing works. I await the government's presentation of the statistics that show we are living in a safer community, to really work out what will give us that safer community.

**MS S.F. McGURK (Fremantle)** [9.30 pm]: I, too, would like to make a brief contribution to the second reading debate on the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. I have been interested to hear the contributions made by, particularly, my side of the house. Probably the electorates of most members of the house, if we are honest, have a variety of views on this issue. There will be people who are frustrated at the level of crime in their communities because they have experienced it personally or have heard reports of it and feel anxious and concerned at what is happening with crime through the state and, in my case, in the metropolitan area. The people concerned about the levels of crime would be interested in knowing what happens with sentencing, what happens when people are charged and whether they are convicted, and if they receive a sentence, what that sentence is. Perhaps some of those views are formed by the knowledge of the length of sentences, perhaps they are not; perhaps they are formed by perception and generalisation. I think if we are honest, too, we all have constituents who understand that these issues are a little more complex than they first appear.

I think there is no better example of the complexity of some of these issues than illustrated in the recent public debates around the extent and rise of methamphetamine use in our community. As many members probably did, I listened to a discussion on 720 ABC a couple of weeks ago when Chief Justice Wayne Martin and the Commissioner of Police were interviewed. What struck me after those two interviews, as well as the number of people who rang in, many of whom were family members of drug users, was that there was no simple answer to the issue of the attractiveness of, in this case, methamphetamine and other drug use, what to do about people who have become addicted and how we deal with that in our community. When interviewed, the Chief Justice said he thought that around 95 per cent of cases that came before the criminal courts were either alcohol or drug-related. So, I think to deal only with crime issues—the bill before us is on the issue of aggravated burglaries and assault—without talking about how we deal with drug use in our community, in particular the current scourge of methamphetamine use, does not, by any means, look at the whole problem. It was interesting to listen to the family members of drug users who called in. They talked about how difficult it had been to access services. They said there are some services out there that are of use, but that they had difficulty accessing those services and finding out what was available, and that it was difficult to then convince their family member to actually make

use of those services and embark on the process of change away from their drug use behaviour. Many people who rang that program made the point that they had not been successful in getting their son, daughter, partner or grandchild to change. If we look at the rate of incarceration of drug users in our state, I think we will see that there is a very strong link that needs more attention than it is being given. I am not saying that I have the answers to those issues but I have not heard anything from this state government since my time in Parliament, which I think sometime this week is two years, about how it is dealing with those issues in our community. It is a big issue exacerbated by the ease with which those drugs are available. They are usually not imported but by purchasing prescription or non-prescription drugs from chemists they can be produced with some fairly crude equipment either in a house or a car. Without addressing the issue of drug and alcohol use in our community, we are really looking at only part of the problem in combatting crime in our community.

Many speakers who have contributed to this debate pointed out their concern that mandatory sentencing is not an effective mechanism for deterring drug use. We have heard about the amount of research that says that mandatory sentencing does not act as a deterrent. In the weeks that our country is questioning mandatory sentencing in Indonesia, which is being applied to the two Australian citizens before the Indonesian justice system, which has focused the country's diplomatic efforts to overturn that mandatory sentencing application in Indonesia, it is interesting that at precisely that time, our Parliament is pressing ahead with upping the ante on mandatory sentencing for home burglaries. The point has been made by many concerning the case of the two citizens in Indonesia that, clearly, the death sentence is not an effective deterrent to drug trafficking in Indonesia. That argument can similarly be used in the case of assaults during home burglaries. One of the many good points that has been made, largely by people on our side of the house, is whether mandatory sentencing is an effective deterrent. A range of research has been done and I think the members for Armadale and Girrawheen—there might have been others—quoted the Heritage Foundation in the United States, which is a conservative think tank. The foundation's paper "Reconsidering Mandatory Minimum Sentences: The Arguments for and Against Potential Reforms" concluded that there is no empirical evidence to indicate that imposing mandatory sentencing will reduce crime. In fact, we know that when people spend time in our justice system it may increase their propensity for repeat offending at a later time. It increases a prisoner's skills because they meet a community, if you like, in the jail system, for which situation I think criminogenic is the technical term. Spending time in jail has a criminogenic effect on people, so it can have the reverse effect of what we want.

We heard about the Heritage Foundation report. When we think about whether mandatory sentencing has a deterrent effect, we wonder whether those people embarking on a home burglary, let alone a home burglary with assault, would apply any sort of logic and think rationally: I will not do this because I might be subject to mandatory sentencing. These are not the acts of rational people. As I said, I have not seen the statistics, but I would hazard a guess that the overwhelming majority of those people embarking on these crimes would be drug-affected.

Another authority on whether mandatory sentencing has any sort of deterrent effect was quoted by other members. It states —

> As University of Minnesota Law Professor Michael Tonry has concluded, "the weight of the evidence clearly shows that enactment of mandatory penalties has either no demonstrable marginal deterrent effects or short-term effects that rapidly waste away."

As I said, there is a range of different authorities on this point of view. The challenge has been put squarely to the Minister for Police to give empirical evidence and some authority on what deterrent effect mandatory sentencing can have, because so far she has failed to do that. She has failed to give any sort of convincing evidence for why these measures will be effective.

Others have also made the point that mandatory sentencing regimes do not remove discretion from the criminal justice system, but shift that discretion away from judicial officers and on to the police and prosecutors. The whole basis of our legal system—that is, the separation of powers—is corrupted by this system, because the idea is that in practice prosecutors have discretion. We imagine that there are times when that discretion is applied in a positive way, but there is nothing to stop the system being applied in a negative way; prosecutors may be more likely to prosecute people for the wrong reasons or give them a harsher charge than what would otherwise be the case, and that is the same with the police. There is very little examination or vetting of that process. I think that a few members made this point: it is a real concern that important safeguards given to our judicial officers have been removed under the mandatory sentencing provisions.

I understand that sentencing in the courts occurs according to guideline judgements. The courts make an effort to ensure consistency and appropriateness of sentencing practices within a broad discretionary framework. A judge is not designed to be a technician or a robot, but has an active role of weighing up all the factors and principles relevant to each case. Of course, that is taken away under this legislation. The government is doing all it can to

up the ante, as has been talked about, in the law and order bidding exercise that it hopes will appeal to people's concerns, or fears, about crime rates.

I want to make a few other points about mandatory sentencing. It was again topical this week when the Prime Minister complained that he was brought under scrutiny by the United Nations over the treatment of asylum seekers in detention centres. However, only in December 2014 the UN also made the point to the Western Australian and Northern Territory governments that they should consider abolishing mandatory sentencing laws as a way of reducing the over-representation of Aboriginal and Torres Strait Islander people in prison. An article in *The Guardian* states —

> The UN committee against torture this week urged Australia to have its states and territories review the laws "with a view to abolishing them", saying mounting evidence shows they disproportionately affect Indigenous people. It said judges need to be given sentencing discretion on a case by case basis.

It was concerning to note that the article states that in WA, where the Indigenous prison population is about 20 times that of the non-Indigenous population, the Western Australian Attorney General had rejected the recommendations. The article continues —

> Nationally the adult Indigenous incarceration rate increased by 57% between 2000 and 2013. Indigenous young people are 24 times more likely to be imprisoned than non-Indigenous youth.

The articles makes the point that the federal government has been criticised for backing away from setting justice targets as part of the Closing the Gap strategy, and that multiple corners of the Indigenous justice sector have called for a closer examination of incarceration rates of the Indigenous population, including the Social Justice Commissioner, Mick Gooda.

[Member's time extended.]

**Ms S.F. McGURK**: In this case, the Social Justice Commissioner, Mick Gooda, said —

> "All sides of politics need to put aside populist 'tough on crime' rhetoric and punitive policies in favour of an economically, socially and morally responsible approach to criminal justice issues," …

I quote again from the UN committee, which said —

> … Australia "should also guarantee that adequately funded, specific, qualified and free-of-charge legal and interpretation services are provided as from the outset of deprivation of liberty."
>
> Funding cuts to Indigenous legal services have been widely criticised throughout the term of the Abbott government … Several legal services have had to cut staff or close offices as a result of the funding changes.

Of course, we know that justice denied is a real problem and results in some people being unfairly incarcerated or incarcerated for a longer period than might otherwise be the case. I am concerned that in my electorate the Fremantle office of Legal Aid WA, although not an Aboriginal legal centre, will close this year. There is a real concern that people who would otherwise get advice and representation may not be able to access representation as a result of the closure of the Fremantle office, which operates in conjunction with a very busy Magistrates Court. I and the community have been assured that people who require legal advice will be able to get it from the city office. However, I am very worried that the closure of the Fremantle legal aid office—I understand the Midland one will close as well—will result in the denial of effective legal representation to local people. I think that closure will also put a lot of pressure on the community legal centre, which is funded by the Fremantle City Council. It is already a stretched resource. I think it is of huge concern to the people who have been well served by the Fremantle legal aid office.

I wanted to briefly speak about a couple of policing matters in Fremantle. Like every other electorate in the metropolitan area, my electorate has moved to a new policing model. The south metropolitan hub is now covered by the same group that extends from Fremantle or the river out to Palmyra, all the way south of Mandurah to Pinjarra and I think slightly east of Pinjarra. It is an enormous geographical area for one police hub to be working in. The local police that I have come to know since I have been representing Fremantle are doing a good job but I am concerned that there could be less of a local police presence as a result of that spread service. I am keeping a close eye on that in my electorate and asking people in my community whether they have seen any change in the service; and, if so, to give me feedback. I commit to continue to monitor that. Obviously, there are particular policing issues in the centre of Fremantle as an entertainment hub. There is still a lot of antisocial behaviour along the strip late at night, particularly on the weekends, when an active police presence is demanded. Other areas in the centre of Fremantle need a visible police presence. The centre of Fremantle is not alone in that. I am concerned that police are stretched all the way from Pinjarra to Palmyra, which puts that on-

the-ground police presence at risk. I am also very concerned to see the impact of the removal of some specialist policing services. We have spoken today about family violence and what the removal of some of those specialist policing services might mean in trying to reduce the increasing incidence of family violence. There is concern about that changing structure.

One other point I would like to make about policing in my area relates to the need to have a permanent police station in Fremantle. The police moved from the old Fremantle station that was the courthouse in Fremantle, not far from the warders' cottages—I cannot remember the exact time but it was about 18 months ago—to the top of High Street. That building is being sold off under the government's asset sales. I know that Fremantle will not see any of the proceeds of that sale, which is very frustrating for us. The police are now in an old bank building. They are renting that site. We need a permanent police station in an appropriate location in Fremantle where police can continue to maintain a strong presence. I will continue to keep an eye on that issue. So far I have not heard what the government's plans are for a permanent police station in Fremantle. This is another issue of concern to the wider Fremantle community.

The member for Gosnells raised the point about other crime prevention strategies being important in the mix if we are serious about reducing crime rates and aggravated burglaries, as this bill asserts it will address. The issue of the design of suburbs and of particular areas is a real issue, and I have spoken a couple of times about Davis Park in Beaconsfield, an area that has an 87 per cent public housing density. It is a very old-style public housing estate; other similar estates in the metropolitan area have been broken up over time. As I understand it, people were not forced out of their homes but they were given options to leave, and, as people moved, opportunities arose to introduce some private housing into those areas and to redesign them and improve the streetscapes. In the case of Davis Park, it is an area that could not be more poorly designed; the layout of the area really does lend itself to antisocial behaviour. There is a park in the middle and laneways running throughout the estate, and it has been hugely problematic for people in the area who are trying to get on with their lives. At the end of last year I presented a petition calling on the Minister for Housing to consider breaking up that area. It is actually a number one priority for the Department of Housing in respect of its program to decentralise some of these high-density public housing areas, but the change has not been resourced so it cannot commence. I hasten to add that I am not interested in reducing the overall public housing density in my electorate or even in that suburb; but, as I said, the public housing density in Davis Park is approximately 87 per cent. It continues to experience a lot of antisocial behaviour and high-profile police raids. It is an old-style estate that needs to be broken up, and if the government were serious about dealing with crime and crime rates, it would take some proactive measures on some of these issues, which would also give us —

**Mrs G.J. Godfrey**: I agree with you, member.

**Ms S.F. McGURK**: I think the member for Belmont has interjected when I have raised this issue before, because I understand that she also has a similar concentration in her electorate, although I am not familiar with those circumstances. It would seem to me that the government could tick off a range of items; at the moment it is very problematic for people in that area who are trying to get on with their lives. The kids who are raised in that area are picking up very bad habits and it is not fair on the people who live in Davis Park. The petition I tabled at the end of last year was signed exclusively by people living in that area, not by people from surrounding areas; there were just under 100 signatures from local residents calling for the break-up of that particular estate. I hope the government gives some consideration to that call. Service providers are trying to do a lot of work in that area, but they need the help of the state government because that program would take a number of years.

I am confident that people in my electorate understand that dealing with crime—in this case, very difficult crimes, such as aggravated assault and the like—is a very complex issue and it will not be solved by simple mandatory sentencing legislation under which the government asserts that it will get tougher and tougher on crime, and that somehow that will produce some miraculous effect. Research does not back that up; these issues are a lot more complex, and I will be interested to hear the Minister for Police address some of the issues that have been raised on this side of the house.

**MRS L.M. HARVEY (Scarborough — Minister for Police)** [10.00 pm] — in reply: I would like to thank members for their contributions to the second reading debate on the Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014. It has been a wideranging debate and members have canvassed a range of issues, some of which were relevant to the legislation and some of which were not so relevant, but most of the matters raised were to a degree relevant to community safety, law and order and policing issues in the state of Western Australia.

A number of the issues that were raised need to be dealt with, and while it is fresh in my mind, I will start with the last issue first. To set the record straight on the changes to the family and domestic violence services model, I inform the member for Fremantle that the government has enhanced that model under the new local policing

structure by putting specialist family and domestic violence officers into the 24/7, around-the-clock district control centres. From there they can assist frontline officers to deal with domestic violence matters and improve responses to domestic violence victims, and ensure that we improve the coordination of connection to services for those victims. I think that the member for Fremantle will be pleased with that new model and she will start to see a better response for those families in her electorate who might be suffering in a domestic violence situation.

I will go to some of the specific issues that have been raised. In this debate I have been accused of a range of heinous things. I will go to the member for Warnbro's comments about my comments regarding the judiciary and judicial decisions. If members had gone back and read the second reading speech, they would have found that I had said that the judicial decisions are not consistent with community expectations. I make no apology for standing with the victims of crime. I have been listening to victims over a long period, and this legislative amendment is in response to what we have learnt from dealing with victims of crime.

There was some quite confused debate. It was claimed that this is Clayton's tough-guy legislation, yet the member for Warnbro also asserted that the legislation will result in rising Aboriginal incarceration rates. It will either deal with crime or not deal with crime. The member for Warnbro cannot have it both ways. The reality is that when offenders are incarcerated, they cannot be committing crime in the community. That is the bottom line, and everybody knows it.

I need to address the letter from Amnesty International that the member for Warnbro read from regarding diversionary options and current diversion options and referrals to juvenile justice teams being treated as strikes. That is not correct, member for Warnbro.

**Mr P. Papalia**: I read in a letter. Are you saying that the letter is not correct?

**Mrs L.M. HARVEY**: That is right.

**Mr P. Papalia**: I read a letter from Amnesty International.

**Mrs L.M. HARVEY**: I said that the assertion made by Amnesty International in the letter that the member for Warnbro read was not correct with respect to the way that we are treating diversionary tactics and referrals to juvenile justice centres et cetera; they will not be treated as strikes. The diversionary options such as police cautions and referrals to the juvenile justice teams will not count as strikes. This amendment bill does not change the status for police cautions and referrals from juvenile justice teams; they will not count as strikes.

The member for Midland and a number of other members raised the issue of methamphetamine in the community. That has been well canvassed. We are aware of this issue. The police are currently embarking on an aggressive strategy around methamphetamine, as is the Minister for Mental Health in the other place, who is developing a strategy around prevention for and treatment of people who are afflicted with an addiction to that awful drug.

I would also like to commend the speeches of our backbenchers, the members for Joondalup, Forrestfield and Southern River, who made very passionate contributions to the debate. An assertion was made that the government allowing backbenchers to contribute to this debate was some kind of delay tactic on behalf of the government. Nothing could be further from the truth. Everyone knows that every member has a right to debate every piece of legislation in this place. That is what the standing orders dictate. I welcome the contributions of all members of this house when debating legislation, especially legislation such as this that has introduced a wide range of commentary.

There was also a lot of debate about statistics, sanction rates and the effectiveness of police in this space to do with home burglary. I would like to address the way to measure these statistics. The Australian Bureau of Statistics puts out a number of different reports. One of them is a report on recorded crime that reports on verified recorded offences and compares jurisdictions and the way we deal with reported crime. A Productivity Commission report on government services also compares the states in a different methodology and the Australian Bureau of Statistics crime victimisation survey comes with a range of caveats. I have been criticised for ignoring the data in the victimisation survey in lieu of more favourable statistics from another forum. That is not the case. I draw to members' attention that the caveats in the crime victimisation survey are quite explicit. One of the caveats regarding the reliability of estimates basically states that the estimates may differ from those that would have been produced if all persons in a population had been included. This is a selective survey; not every person in a suburb is surveyed. People are surveyed until someone in a household is found who fits the criteria. Third parties can contribute to that survey and give information about a person in the household who may have been a victim of crime. The survey states —

> Information collected in this survey is essentially 'as reported' by respondents and hence may differ from that which might be obtained from other sources or via other methodologies. This factor should be considered when interpreting the estimates and when making comparisons with other data sources.

Further it states —

> The terms used for the crimes (such as robbery and physical assault) may not necessarily correspond with the legal or police definitions used.

It is very important that people understand that —

> This is because responses obtained in this survey are based on the respondent's perception of being the victim of a crime.

The responses are not necessarily based on a crime the respondents have reported to police. That is why we use the crime victimisation survey as a tool to inform us of the views and attitudes on crime, but when actually looking at crime trends, we prefer to go to those ABS reports that report on verified reported offences, because we know that is a standardised measure for us to benchmark against other states.

It is fair to say that sanction rates have remained somewhat constant for home burglary for the last 10 years and have hovered between 10.87 per cent up to about 13.76 per cent. The figure jumps around from year to year. Sanction rates include such outcomes for offences as lines of inquiry being exhausted, clearances, files closed, files resolved —

*Point of Order*

**Ms M.M. QUIRK**: I am having trouble hearing because there is another conversation.

**The SPEAKER**: Member for Wanneroo, can you take your private meeting with the member for Belmont outside, please.

*Debate Resumed*

**Mrs L.M. HARVEY**: Police will still record sanction rates, because they include a range of different options when dealing with offences —

*Point of Order*

**Mr J.R. QUIGLEY**: Not only did the member for Wanneroo not acknowledge the Chair when he left the chamber, he actually drew his finger across his throat like cutting his throat with a knife in contempt of the Chair. The video will show it, Mr Speaker. It was outrageous. As he left this chamber, instead of acknowledging the Chair, he drew his finger in a throat-cutting motion, looking at you. You were not looking at him, but he was looking at you and in contempt drew his finger across his throat in a throat-slashing motion. I find it absolutely outrageous and the member should be called back and asked to apologise to the Chair of this chamber.

**The SPEAKER**: I will take that up with the member for Wanneroo, thank you, member for Butler.

*Debate Resumed*

**Mrs L.M. HARVEY**: I was talking about sanction rates. We will still record sanction rates. It is a way to measure our effectiveness in solving crime, but it does not give us information about the effectiveness of police around certain offences. I have said before in this place that we are changing the new key performance indicators for police to report back on offences resolved against property in 30 days and offences resolved against people in 60 days. We know that that puts police under pressure to be responding to and resolving crimes within a time frame that we believe is acceptable for resolving these matters. The assertion that police are under resourced is a complete fallacy, and I will correct that record. The police have a huge budget—$1.2 billion—and we have been in a growth program for the past six years of this government. We have already achieved the commitment from 2008 of 350 additional police officers and 150 police auxiliary officers, and we are also well on the way to achieving the commitment made in the 2013 election. Notwithstanding the fact that we have had considerable redundancies, we have had an aggressive marketing agenda and we have been pushing people through the academy at a rate of knots to ensure that we can keep our numbers up and reach that election commitment.

Getting down to the substance of the legislation, and some of the issues that were raised about the amendment we are talking about, there are a few matters that I need to cover. A few issues were raised by the member for Girrawheen. She is correct in saying that a mandatory penalty cannot be discounted down by an early guilty plea. There is a potential that a not guilty plea could result in the victim having to relive the circumstances of the case in court. That said, when we drill down into some of the matters and some of the cases that were used as examples in putting this legislation together, we found it was quite evident that a large number of those offenders

were choosing not to enter guilty pleas regardless. When it comes to prosecutors and police looking at laying a lesser charge out of fear that a mandatory penalty will be applied inappropriately or in an unfair manner, members should acquaint themselves with the Director of Public Prosecutions' prosecution policy, which is quite well known; it is on the DPP website. Police follow the same policy. Prosecutors need to look at whether a prima facie case exists, and they also need to look at other matters, such as whether it is in the public interest to prosecute the case, and the likelihood of a successful conviction. The DPP will take a range of matters into consideration when looking at which charge to lay against an offender, and I do not expect that the DPP will be adjusting that methodology, and nor will police, as a result of this legislation going through.

The member for Butler made a number of interesting assertions about the second reading speech. The member asserted that I was incorrect about the maximum penalties available in the case of Thorn v State of Western Australia. In this case, the member is correct about the burglary conviction, because the maximum penalty available at the time of that offence, in 1995, was 14 years. However, I was absolutely correct in my speech about the sexual penetration offences, of which Thorn was convicted on three counts. The maximum penalty for that offence at the time, 1995, was and still is 20 years. The other issue the member commented on was the case of Ugle v The State of Western Australia, and this is very interesting. The judge imposed a total sentence of 11 years. I quote the member for Butler from *Hansard* —

> … he, the judge, was required by law of the Barnett government to give effect to a 25 per cent discount for a plea of guilty.

That is an interesting comment. But it is incorrect. In the case of Ugle v The State of Western Australia, Ugle was convicted in late 2010. The changes to the Sentencing Act that the member for Butler referred to, which provide for a maximum 25 per cent discount for a plea of guilty, did not take effect until late 2012. At the time Ugle was sentenced, there was a more general provision in the Sentencing Act that allowed the court to consider a plea of guilty as a mitigating factor. In sentencing Ugle, the court took into account an early plea of guilty. But, as commented by the trial judge, that was not nearly enough to avoid the necessity for the complainant to have to revisit all the details of the offences in the course of those offences being proved by counsel for the state.

The third issue that the member for Butler raised was the example of a 18-year-old offender who was involved in the commission of a personal violence offence as part of an aggravated burglary but who was suffering from a mental impairment, namely foetal alcohol syndrome or foetal alcohol spectrum disorder, or FASD, as we refer to it. In the circumstances outlined by the member for Butler, a number of issues would be taken into consideration concerning the offender's mental impairment. These would be considered as per the standard provisions of the court. Firstly, the court would have to consider, under part 3 of the Criminal Law (Mentally Impaired Accused) Act 1996, whether the offender was unfit to stand trial because of their mental impairment. Various options are available to the court under that act, as I am sure the member for Butler knows, to determine whether the accused is unfit to stand trial. Furthermore section 27 of the Criminal Code, which the member for Butler seeks to amend, determines that a court can acquit a person of an offence due to their unsoundness of mind at the time the offence was committed. In these cases, various options are available to the court under part 4 of the Criminal Law (Mentally Impaired Accused) Act to deal with the offender. Therefore, when members make assertions in this place about how the judiciary may or may not be bound by legislation that the Barnett government puts through, it is really important that they get their timelines correct and ensure that they are comparing court judgements in context and in the same time frame as subsequent legislation that was passed and that may be utterly irrelevant to the case that members are discussing.

A range of other issues were brought up by members opposite. Some of those issues were around offenders who commit burglaries and escape by using trail bikes and going along railway tracks. That is a problem for police, because the police will not pursue people on trail bikes in those circumstances because it is not safe to do so. We therefore need to find better strategies to deal with these types of offenders. However, the police take the policing of these matters very seriously. They do their absolute utmost to round up the offenders and bring them to court. They do that because they want it achieve justice for victims of crime such as Merle and Bill, who were mentioned by the member for Eyre. They have been through the most horrendous experience. For all of us, experiences like that make our blood run cold. This elderly couple were sitting down and having their dinner, and they were set upon by five offenders and brutalised in the most horrific fashion. They had their car stolen, their purse stolen and their credit card stolen. It has changed their lives forever, and they can no longer live in the place in which they had chosen to live.

That is why we are bringing this legislation forward. We believe that very heavy penalties need to be imposed by the courts for offenders who commit acts such as that. We believe also that significant penalties need to be

imposed by the courts for people who routinely and repeatedly break into people's homes and steal their belongings and cause damage to their houses. That is why we have brought this legislation into this place. I look forward to going into consideration in detail on this amendment bill that is before the Parliament, and I once again thank members for their very considered and passionate contribution to this debate.

Question put and passed.

Bill read a second time.