COMMUNITY PROTECTION (OFFENDER REPORTING) AMENDMENT BILL (NO. 2) 2011

Second Reading

Resumed from 9 November.

MS M.M. QUIRK (Girrawheen) [3.20 pm]: The opposition will support the Community Protection (Offender Reporting) Amendment Bill (No. 2) 2011. We accept that if it protects one child from the trauma and heartbreak of being a victim of sexual abuse, we are duty bound to give the bill our support. It is also our duty, as a thoughtful and competent opposition, to point out the limitations and some of the unintended consequences of these laws, including our reservations that it could potentially lead to more paedophiles in Western Australia being unknown to the authorities and unsupervised in some cases.

I make those comments from a very strong basis. Labor has an excellent record when dealing with child sex abuse and paedophiles who prey on our children. I stress that good record because as our support for this bill is somewhat equivocal, we will no doubt have the unfair accusation levelled at us that we are soft on paedophiles and child abusers. Nothing could be further from the truth. It was the Labor government that introduced the current sex offender register. No-one has told me that the register is not working satisfactorily. I certainly have had complaints from police in the regions saying that it is onerous for them to keep track of the people on the register, but from my assessment of the system, it works quite well. Labor also introduced legislation on cyber-predators, which I think has been very important. The police have the opportunity to stalk would-be paedophiles who groom young children on the internet, and that has been a very good tool for the police. When I was the Minister for Corrective Services, some hardcore child abusers refused to be involved in a program in prison. The very people who need to have programs were completing their whole sentence without being subject to parole and then went back into the community unsupervised, having undertaken no programs. There was an attitude at Corrective Services that these people were not amenable to programs because they did not want to change. I talked to one of the world's leading forensic psychologists in this area, Dr Bill Marshall, who is originally from Perth but now lives in Canada. He trained a number of officers from Corrective Services in the psychological department so that they could deliver a program to those offenders who are called "deniers"; that is, people who deny their offending behaviour. Unfortunately, I understand that this government has dismantled that program. We offered those types of practical solutions. There are no facilities outside of prison for people who have paedophile or child abuse tendencies. The program in Victoria Park, the name of which escapes me, also has been closed down. There is very little support to ensure that people who do not want to re-offend can have assistance with that.

I will talk about my own experience, which is not something I normally talk about in this place. However, this issue is of particular concern to me and I have been professionally involved with it for some years. When I was a prosecutor in the Canberra Director of Public Prosecutions, I was the only female in the office, so for some reason it was thought that I would be better at dealing with child abuse cases and prosecutions, and with child witnesses. I did that for about three years. During that time I was also on a committee that was set up by the Chief Magistrate that introduced, for example, a facility so that child victims of sex abuse could give their evidence via video link rather than confront the people who had perpetrated those crimes. This is an area that I know something about. At that time—it is some time ago; it is getting close to 20 years ago or more—when matters went to trial, jurors were prepared to accept any explanation other than the child could have been a victim of child abuse. It was very hard to secure a conviction in those days. I am happy to say that through public discourse and campaigns in the media, people are much more prepared to accept that these horrible things can be done to young children and they are prepared to convict the offenders. In my day it was a hard slog; it was very difficult. I used to see firsthand what happened to those victims, who were victimised again by the court system.

We would say that we are well qualified to point out some of the flaws in this legislation. I have described it as "legislation by tabloid" because the legislation bears very little resemblance to what the Liberal Party promised. The headlines in the newspapers about this legislation have implied that it is something akin to the Liberal Party's promise but in reality it is quite different from that which the Liberal Party promised. Admittedly, the Liberal Party's election commitment was imprecise. It talked about having a public sex offender register. It has one of sorts, and I will explain in the time remaining to me why I do not believe that the government has even honoured its own commitment. That is one of the reasons that we have some issues with the bill. We believe that many offenders will fall outside the gap of being persons whose details will be required to be disclosed. It is also limited by locality. It is important to note that some people who have not committed any sexual offences whatsoever will have some of their details disclosed.

As a preface to discussing this legislation, it is important to note that there are 2 557 offenders on the register, and exactly none of those 2 557 are currently missing. The register is working well. There are 644 persons on the

register in regional Western Australia and 1 913 in the metropolitan area. There are also dangerous sexual offenders. I should have mentioned that when referring to the Labor Party's good legislative history in this area. We also introduced the Dangerous Sexual Offenders Amendment Bill 2005. There are 29 so-declared dangerous sexual offenders in the state. Of those 29, 14 are in the community.

There are a number of categories within this legislation that I need to talk about. The first is quite clear and, frankly, is an area that is most obviously open to this sort of disclosure—that is when someone has breached their reporting conditions and their whereabouts is unknown, and that person is on the sex offender register or, as I understand it, is a dangerous sexual offender. Is that right, minister? Does the first category, the whereabouts of the person is unknown, include those on the community protection register and also dangerous sexual offenders?

Mr R.F. Johnson: Yes, if they are in relation to the ANCOR register. Obviously it is for offences against children.

Ms M.M. QUIRK: Yes. Dangerous sexual offenders would also be on that Australian National Child Offender Register.

Mr R.F. Johnson: Yes. As far as I am aware, yes, they would be.

Ms M.M. QUIRK: So, this first category in which all details—photograph, name and full details—are published is for offenders whose whereabouts are unknown and who have breached their reporting conditions. The rationale for this, I think, is clear: it is a community safety issue and police probably need the community to be vigilant as there is a danger that these people will go underground, which again is not useful.

Mr R.F. Johnson: On tier 1, those ones have gone underground.

Ms M.M. QUIRK: No, they continue to go underground. They have been missing for a while and have breached their conditions but there is a danger that they will go fully underground and never be seen again.

Mr R.F. Johnson: I don't know how you go from underground to fully underground.

Ms M.M. QUIRK: In any event, I think that provision is less contentious. These people have not complied with their orders and have not reported.

Mr R.F. Johnson: We need to know where they are.

Ms M.M. QUIRK: Yes.

Mr E.S. Ripper: Member, can you just clarify something? I think you said that none of the people on the register fits that category at the moment.

Ms M.M. QUIRK: No; there is none at all.

Mr R.F. Johnson: When did you last ask?

Ms M.M. QUIRK: It was about a week ago.

Mr R.F. Johnson: It can vary, obviously, from week to week.

Ms M.M. QUIRK: Yes.

Mr R.F. Johnson: I was told a couple of months ago that there were six people on that register.

Ms M.M. QUIRK: They have obviously found them all, minister, and congratulations to the police.

Mr R.F. Johnson: They have obviously found them, which is great news, but I am told that at any time there are probably a maximum of six but there could be none. But they are the people who we need to find.

Ms M.M. QUIRK: Yes. The second category is of those persons who are on the register. I am sorry, minister, that I am not using the tier 1, 2 and 3 categories, as I find them a little confusing. The second class of persons who are covered by this legislation are those who are on the sex offender register. I understand disclosure on the internet will be of their photo and the locality where they are residing. That information is not generally accessible. This is the first occasion in which the government has breached its promise, as this information is not publically available universally; it is available only to persons within the locality. Therefore, someone who lives in Girrawheen, for example, can type the 6064 postcode into the internet and they might get information on someone in the 6021 postcode just over the road in Wanneroo Road or someone in the next postcode. Therefore, information will be available for the general locality, not for the whole of the state. No name will be published and, as I will say later, I think there is some issue there about potential mistaken identity. If there is only a photo and a locality and no name, there is the possibility of mistaken identity. I will go into that in a minute.

There is another category of people who are not on the sex offender register because they have not committed a sexual offence, but who the minister—I gather after representations from the Commissioner of Police—thinks

for some reason should have their photo and locality published on that internet site that is available to people in the immediate vicinity.

Mr R.F. Johnson: If they're deemed to be a risk against the safety or sexual safety of a child.

Ms M.M. QUIRK: That is right.

Mr R.F. Johnson: I've got to be convinced by the commissioner, though.

Ms M.M. QUIRK: The minister quite rightly points out that he has to be convinced that they are a danger either to the safety or to the sexual safety of children—or is it to the safety of the community more generally, minister?

Mr R.F. Johnson: No, it is to children.

Ms M.M. QUIRK: Children, right. In that context, I have to say that there is a paradox. In many areas the minister says, "That is an operational matter that I can't get involved in", and this is of serious significance because the minister will put someone on the register that the community will genuinely interpret as a sex offender register, yet this person has not committed a sexual offence. This therefore seems to me to be highly problematic. I cannot understand why the minister himself has to be involved. If it is an operational community safety decision, I think it would be much better made by the Commissioner of Police.

Mr R.F. Johnson: It is actually to try to give, if you like, an umpire or a referee to decide. If the commissioner wants to put somebody on there who has psychological or psychiatric problems and all sorts of things, he can't at the moment. It is a safeguard. He can't but he might want to, and if he wants to put someone like that on there, he has to come to me for me to agree to that as well. I will look very carefully at that because I do not believe that certain categories of people who are suffering mental problems should actually be on there. So it is a safeguard in both ways.

Ms M.M. QUIRK: To be fair to the minister, his advisers gave me the example of someone who had committed an offence, and it does have to be an offence punishable by imprisonment of five years or more.

Mr R.F. Johnson: Yes.

Ms M.M. QUIRK: For example, someone might have been convicted of burglary and there might be the suspicion of, say, serial stalking; so that gives rise to the suspicion that they may be a danger in terms of the legislation.

Mr R.F. Johnson: Can I clarify that? That is burglary, if the burglary was of children's underwear and that sort of thing—things that have a link to children.

Ms M.M. QUIRK: The legislation does not actually say that, minister. The advisers said that someone might be guilty of, say, burglary but in the course of the investigation—this is a pretty unsavoury example but it is the one the minister's advisers gave me—the police might find out that this particular offender masturbates in nappies. That was the example that I was given. I do not like to think about that too much, but there is no offence committed in doing that. It might be an offence in the eyes of some people, but it is not an offence if it is done in the privacy of his own home. So, that person, however unsavoury that conduct is, has not committed a sex offence.

Mr R.F. Johnson: Would they have committed an offence that warrants a five-year prison sentence?

Ms M.M. QUIRK: If it was a burglar who was found in the course of the investigation to have engaged in conduct in the privacy of his own home. I was given that as a possible example that the police might put up to the minister to pre-disclose.

Mr R.F. Johnson: Okay. I wasn't given that example, I'm glad to say. I was given one of a burglar who might steal a little girl's knickers and things like that—or even a teenage girl's knickers and bras and things like that—where there is a sexual connotation as part of that burglary.

Ms M.M. QUIRK: Yes. I accept that is the minister's intention and that is how he might interpret the act. It is not actually that narrow in the legislation.

The third type of disclosure relates to permitting carers or parents to make an application to receive information about a person who may have regular access to their children. This is sensible. I know that this is an issue that we were concerned about when we were drafting the original legislation. For example, if the police or the Department for Child Protection had concerns about someone who had moved in with, say, a single mum, we were concerned about which mechanism would be used whereby we could communicate that to the single mum to make sure that the child or children were not at risk. The legislation says that such a mother or carer can provide their driver's licence information and other evidence that the person is with children unsupervised for regular periods, and that information will then be given to the inquirer. Again, there is some sensible rationale

for doing that. It might be an area where, for example, information has fallen through the cracks with the current working with children checks.

It is significant, however, that the legislation refers to not disclosing information when there is a prospect that it will have the effect of identifying the victim. This is one of our major concerns, because it means that when an offender has committed an offence within a family, there is a very good prospect that that person's information will not be published under this regime. That means that the vast majority of sex offenders will be outside the scope of this scheme. Again, this is an example in which the Liberal Party promise has been seriously compromised and qualified.

As I understand from my research in relation to young children, about 93 per cent of offenders commit child abuse offences within the family. I repeat that: 93 per cent. What I want to ask the minister is: how many offenders is it estimated that this legislation will cover, bearing in mind the exclusion of those who are involved in child abuse in a family context? Are we talking about 50, 100, 200? What are the numbers?

Mr R.F. Johnson: In total, how many will it cover?

Ms M.M. QUIRK: Yes; how many is it estimated that this legislation will cover?

Mr R.F. Johnson: At any one time it would cover approximately 40 who would —

Ms M.M. QUIRK: Forty?

Mr R.F. Johnson: No, let me finish. Well, it would cover everybody who is on the sex offender register; it could cover them. But out of that number, the only people who will appear on the register under tier 2 will be approximately 40 to 50. Under tier 1, of course, it could be anything up to six, or it could be nothing. I have to tell the member that I think tier 3 is one of the best parts of the bill.

Ms M.M. QUIRK: Tier 3 is the single mum example, if you like.

Mr R.F. Johnson: The example of the single mum, yes. In the UK, I think there were 330 in the constabularies where it happened. Inquiries were made, and I think there was a positive result on about 21. So there were 21 kids, or 21 cases —

Ms M.M. QUIRK: There were potentially more kids if there were 21 offenders.

Mr R.F. Johnson: Yes.

Ms M.M. QUIRK: All right. So this is what we are looking at. Of the 2 500 sex offenders registered in the state, possibly at any one time there may be 50—that is being optimistic or putting a high figure on it—who in some way are covered by the tier 1 and tier 2 offences.

Mr R.F. Johnson: For tier 1 and tier 2, we are looking at approximately 50, yes. I would suggest that is an estimate.

Ms M.M. QUIRK: Without meaning to absolutely stress the point, it is quite clear that this falls way short of what the Liberal Party promised in its election commitments, and I think it belies the headlines we have seen in the newspaper as to what this legislation will achieve.

I want to talk briefly now about the flow-on consequences of this legislation. Given those numbers, there is a real problem, and this has been identified, I think, even in regimes such as that in the United States, which has Megan's law, and in the United Kingdom, which has Sarah's law. It has the potential to lull parents into a false sense of security, for example, if they think that they will have knowledge, through the internet, of everyone who could significantly be an offender against their children. We know that is wrong because it covers only those within the location. We also know that there are, of course, first-time offenders, and, by definition, they are not covered. Therefore, we are concerned that it may have the effect that parents will be unduly complacent, when this legislation is highly qualified.

Secondly, I think an absolutely legitimate point is made; that is, given that in the case of some offenders they have only their photograph and the locality published, there is a very real danger of mistaken identity. I do not have to go too far to talk about mistaken identity, because in June 2004, in a couple of seats from where I am now, the then member for Warren–Blackwood, Paul Omodei, said this —

> I begin my remarks by drawing attention to something that concerns me greatly. I have just been given information that Gary Narkle, the repeat rapist, has been located in my town and is living within 400 metres of the senior high school. There are some 700 students at that high school, and there is a primary school just down the road. A large number of students walk to and from the school. I was hoping that the Minister for Justice or the Attorney General would be here to give me some assurances that there are funds in the budget to monitor the movements of these kinds of people in our community.

> It seems to me that Mr Narkle is in transit. He was in Toodyay or Northam a few weeks ago, and now he is in Manjimup, in my electorate.

A couple of days later we received a personal explanation from Mr Omodei. He said —

> Last Tuesday, 15 June, I raised a matter in the House concerning information I had received that Mr Gary Narkle, a repeat sex offender, was residing in Manjimup near the senior high school. The information I received was from a very reliable source. However, it is now known that Mr Narkle does not reside in Manjimup.

That is just one example—someone as astute and clever as Mr Omodei can fall into the trap of mistaken identity—and I could give the house numerous other examples.

The next issue I wanted to raise is vigilante action. That, I think, has been discounted a bit by the government. It has said, "Oh, no, no; it didn't happen in England; it's not going to happen here." Well, it did happen in England under the so-called *News of the World* regime, which I will talk about in a minute. However, the UK scheme that the government is talking about related to only the tier 3 offenders. Therefore, on advice given to me by the minister's advisers —

Mr R.F. Johnson: I agree with you. It is mainly in tier 3 that it happened in the UK.

Ms M.M. QUIRK: It is tier 3.

Mr R.F. Johnson: Yes, I accept that.

Ms M.M. QUIRK: So vigilante action in relation to tiers 1 and 2 is a very real possibility, and I will give the house a couple of examples.

Mr R.F. Johnson: Well, you say that, member, but you can access a person who is registered on the sex offenders register only if they reside within your postcode or adjoining postcodes. That is why, out of, say, 40 who could be in the state—we are taking only the serious ones, the repeat offenders; that is, schedule 1 or schedule 2 offenders—you might find in your postcode and the surrounding postcodes, in total, two people who are on the sex offenders register. You might find none. In some areas you might find six, because you are taking it out of a pool of 40. I am saying 40; it is 40 who have been, if you like, chosen as being ones of serious interest to police. That will be the pool that will go in the state. So none could show up. Therefore, I think that the chance of vigilante action is reduced enormously by that, because we are not giving their location and we are not giving their addresses, their names or anything else; we are just giving a picture, if you like —

Ms M.M. QUIRK: If people are getting the picture, they will know that they are somewhere near; right?

Mr R.F. Johnson: Somewhere near? Well, my postcode covers about four suburbs.

Ms M.M. QUIRK: There are these things called Twitter and Facebook, and there is already a site that people in Western Australia can access called MAKO. So, as I understand it, there is very little to stop people putting information on those sites. I understand that the government is currently seeking a legal opinion about the consequences if people put that information on Facebook, but it is by no means clear what the legal implications of that are. Anyway, I will give a couple of examples of vigilantism. There was one in *The Guardian* headed "Doctor driven out of home by vigilantes", and the report states —

> Self-styled vigilantes attacked the home of a hospital paediatrician after apparently confusing her professional title with the word "paedophile", it emerged yesterday. Dr Yvette Cloete, a specialist registrar in paediatric medicine at the Royal Gwent hospital in Newport, was forced to flee her house after vandals daubed it with graffiti in the middle of the night.
>
> The word "paedo" was written across the front porch and door of the house she shared with her brother in the village of St Brides, south Wales.
>
> …
>
> Gwent police confirmed that the attack last Friday night was prompted by a confusion over the words "paedophile" and "paediatrician".

According to the report, the police said —

> "We are concerned that some people in the local community have taken it upon themselves to do this, and would urge them to think about the consequences of their inaccurate and inappropriate actions."

What is really sad about this case is that the action they took was against a valuable member of the community who had, in fact, devoted her life to helping children.

As I mentioned earlier, there were some issues about the name-and-shame campaign undertaken by *The News of the World*, that infamous newspaper. I might add that the infamous Rebekah Brooks had recently been appointed

editor of that publication before the campaign began. *The News of the World* published the photographs and addresses of 83 convicted sex offenders over two weeks. It was then forced to drop the naming procedure after meeting with police and child welfare groups. It had to back down after more than 100 people rioted at the home of a convicted paedophile in Portsmouth. That paedophile subsequently disappeared, leaving *The News of the World* in an untenable position. The head of the Association of Chief Police Officers said that the association certainly did not support *The News of the World*'s action or any other activities that happened as a consequence of *The News of the World*'s campaign.

Another article from *The Guardian* entitled, "After the vigilantes", states —

> The scene played out in Portsmouth in the early hours of yesterday morning will have stirred oddly mixed feelings. A first reaction may have been revulsion at the sight of a lynch mob of 150, surrounding the home of a man, overturning and torching a car, apparently demanding his neck. There is something primitive about a baying crowd, driven by a lust for vigilante, string-em-up justice. And yet, some may well have understood the crowd's anger: they were furious to discover they have a child molester living among them. Some were parents, anxious for the fate of their children. They saw what happened to Sarah Payne, the eight-year-old girl killed last month, and they do not want their child to be next. In their view, the News of the World had peformed a service with its week-by-week roll-call of paedophiles, warning people of the threat in their midst.

The article continues —

> The paper's decision to drop its drive to "name and shame", announced last night, gives us all a chance to reflect on what can be done to reconcile these conflicting emotions. Clearly, random vigilante publishing was not the answer. If its objective was the protection of children, then it simply failed. In fact it served the opposite purpose, driving paedophiles underground, where neither police nor probation services could keep track of them. Already the relevant agencies have told of convicted sex offenders, once under their watch, who have now moved off-radar. That has increased the risk to children, not reduced it. It is only a pity the News of the World took so long to realise it.

That is an assessment of what happened with *The News of the World*; vigilante action does not run far from the surface.

Another issue is that this legislation has the potential to divert valuable police resources. Apart from the fact that the government is not providing the 500 police officers it promised to provide—yet another broken promise; it is only going to provide 350—there is also the issue that this legislation could have the effect of diverting police resources away from where they are needed. In fact, the Western Australian Police Union of Workers has publicly expressed its concerns about this legislation. An AAP article retrieved from the internet states —

> But WA Police Union president Russell Armstrong says the register would make it harder for officers to monitor and track serious sex offenders.
>
> "Our fear is that they will go underground, move from the locations that they're at, making it difficult for us to find them and make sure the community is protected," he said.
>
> Mr Armstrong said registers in the United States had led to the formation of vigilante groups.
>
> Police monitoring of serious sex offenders in WA was working, he said.
>
> "Our officers do a great job. We know where they are and what they're doing," he said.

Those are sentiments with which we would certainly concur.

The next issue is really serious and very concerning to me. At present, we have pretty similar laws Australia-wide in all the states. It has been expressed to me by senior police officers that if we were to suddenly adopt a different regime to those of the other states, in which we disclose information about offenders—which is inconsistent with the regimes in other states—there is a strong suggestion that the other states will no longer share with us information about offenders moving interstate. We could potentially have sex offenders moving from other states and we would not be made aware of them by the other states, so instead of increasing community safety it could, in fact, compound the existing problem.

This is not fanciful. When we were drafting the original laws, I talked to New South Wales police and they told us that when New South Wales brought in similar laws—it was the first state to introduce child sex offender laws—paedophiles left New South Wales in a mass exodus across the border to Queensland, where no such laws existed. We have had weak assurances from the Attorney General that this is not going to happen.

I have written to ministers in other states on this matter; I am waiting on answers. I really think that the government should be getting, over the break, rock solid assurances from other states that this will not occur, and disclose those assurances in this Parliament. Frankly, the whole system will fundamentally break down if that is allowed to occur.

Mr R.F. Johnson: Can I just answer a question you referred to earlier?

Ms M.M. QUIRK: Certainly, minister.

Mr R.F. Johnson: You are talking about Facebook. The information I have just been given is that the State Solicitor has confirmed that Facebook, more than likely, would be deemed a public place in relation to this legislation. We're actually waiting to get that in writing, but that's what they've told us verbally.

Ms M.M. QUIRK: Therefore, if one puts something on Facebook, it is deemed to be publishing, but one would need to say that one had the intent to create animosity or whatever the terms are under the defence.

Mr R.F. Johnson: If you deem it and it is likely to create animosity, there is obviously a lesser sentence given; I think it's two years. If what you do, you do with intent to create animosity, vigilante action, so on and so forth, then you can get up to 10 years in jail. So that's the difference and, I would suggest, if that's what we're looking at, that would apply to Facebook as much as anywhere else, in relation to publishing.

Ms M.M. QUIRK: I am certainly heartened by that, minister; I do not know that I would want to prosecute the first case when that occurs.

Mr R.F. Johnson: They might want you for a defence counsel.

Ms M.M. QUIRK: Defence counsel? Thank you very much, minister. It is not a position I feel that comfortable with.

Mr R.F. Johnson: I don't blame you, either.

Ms M.M. QUIRK: I want to briefly refer to an excellent paper—it is a long paper—written by Chris Goddard and Bernadette J. Saunders in 2001, entitled, "Child abuse and the media". We appreciate that these are complex, difficult issues and it is hard to get them right. One of the sections in this paper really identifies the tension between children's right to protection and getting the balance right in terms of the privacy of individuals. The paper states —

> At the heart of this matter is the tension between children's rights to protection, on the one hand, and, on the other, the right of those who abuse children to be considered to have reformed after serving their sentences.

The paper then refers to another author, Caroline Lewis, and continues —

> She suggests that "growing feelings of frustration and powerlessness" have been expressed by communities as media coverage has brought home the realisation that sex offenders are living in their neighbourhoods. High rates of recidivism and lack of success in rehabilitation have been quoted in support of legislation such as Megan's Law in the United States. According to Lewis, opponents of such laws argue that they infringe the released offenders' civil liberties and limit their chances to rebuild their lives. These opponents also question the data on high recidivism rates and argue that most sex offences against children take place in the family or in child care.
>
> A lack of confidence in the courts pervades many discussions. The case of Said Morgan in New South Wales is considered to reflect a lack of confidence in the courts' ability to deal appropriately with those charged with sexual assault. On 1 August 1997, a jury took little more than half an hour to find Morgan not guilty of murder or manslaughter. Morgan, a former detective, claimed that it was instinct that caused him to shoot an alleged child molester six times in the head with his police-issue revolver … The unnamed alleged offender was killed two days after Morgan learned that the man was charged with sexual assaults on three girls aged six, eleven and fourteen. Two of the victims were related to Morgan and the girls claimed that they had suffered four years of abuse including anal intercourse and digital penetration (medical evidence confirmed that abuse had occurred). The alleged perpetrator had threatened to kill the girls if they disclosed the abuse …
>
> In an editorial describing the verdict as "astonishing", the *Sydney Morning Herald* suggested that the fact that "juries simply do not like paedophiles" might have contributed to the decision. Speculating about other factors, the editorial suggested that: "Perhaps the explanation for the outright acquittal was the jury's unwillingness to leave the question of punishment to the court, as would have occurred had the jury found Mr. Morgan guilty of manslaughter" …

This is an area in which there are really complex issues. There are legitimate concerns on both sides, and we concede that getting the balance right is very hard.

There is provision in the legislation for deleting information from the websites, for example, in the case of offenders whose whereabouts are unknown. There might be legitimate reasons why offenders were not able to be contacted. There is provision for removal of that information from the website. As we all know, the internet is

forever. It seems to me that deleting stuff from the internet may not be sufficient and there may well be ongoing information. For example, the information that is uploaded onto the MAKO site means that there are some serious implications about how this information is handled that have not been thought through sufficiently, although I am glad to hear that the minister has an opinion on Facebook.

I want to refer briefly to some other unintended consequences. I refer to a letter that I received, and I think the minister also received it. I am sorry that it is long but I think it really emphasises the point that we are trying to make about this legislation. It states —

> Dear Minister
>
> I write on behalf of my extended family in relation to your *Community Protection (Offender Reporting) Amendment Bill (no 2) 2011* which was introduced into State Parliament this week.
>
> I am the sister of a 1st offence sex offender (not a paedophile) who is currently serving the remainder of his sentence at Acacia Prison. My parents (who are in their early 80's), my brother's 5 sons and two daughters and I have great concerns after reading the "Explanatory Memorandum" to the abovementioned Amendment Bill. Recent press regarding the above has done little to allay our concerns that despite a year going by, you are acting on this election populist promise without thinking of the consequences.
>
> My brother has been a model inmate during his incarceration. He has participated in any and every possible program offered to rehabilitate and educate himself and is looking forward to being granted parole and recommencing his life. He isn't, and never was, a dangerous paedophile or serial sex offender. He is a passive, quiet, and hardworking family man who had a gradual and serious mental and physical breakdown, with attempted suicides, and had a history of sexual abuse perpetrated upon himself as a 10 year old boy.
>
> I make no apology for my brother and the crime he has committed. He will live with this crime every day of his life, but he is trying to repay a debt to the community by becoming a better more worthy person. I do not wish to devalue the effect this crime has had on his young victim who will also have a lifelong sentence. The circumstances of the crime itself are tragic and a good man and a young girl must now be allowed to repair and rebuild and as members of this community we must encourage this.
>
> The concerns our family have relate to many issues in your Amendment Bill and I would ask that you please respond so as to allay our concerns.
>
> Our first concern is naturally the well-being of my brother. As I said above, he has accepted his incarceration and vowed to use the time to become a citizen worthy of taking his place in society. He has taken advantage of the rehabilitation courses and the counselling offered through the prison system. Not a day goes by that he isn't diligently working hard at one program or another. He is a "trusted" inmate and on top of the list for the self-care unit at Acacia Prison. We are all concerned that his remarkable progress from the Psychiatric Ward at Sir Charles Gairdner Hospital, to his present healthy state of mind will be undermined by being put on a publicly accessible sex offender register.

Mr R.F. Johnson: The chances are, member, that from the description you made he would not be accessible.

Ms M.M. QUIRK: This is not so much about him as the family. It does illustrate some of the consequences of the effects of the bill. The letter continues —

> He has a home waiting for him, with a loving family and caring friends willing to support him, and has plans for a future of hard work and contributing to society again. We are concerned that identification will force him away from his support network. He has already suffered from vigilante activity and vilification with hateful SMS messages going out to friends, family and neighbours prior to his incarceration. Please can you tell us how it won't get so much worse for him if anyone can access his private information?

We know that is not true. It continues —

> The Attorney General, Mr Christian Porter stated recently that "ultimately this Government trusts the WA public to behave responsibly when given access to the information which will help keep children safe". With all due respect to Mr Porter, but is he living in a bubble? There are some people in Western Australia who will become vigilantes no matter what the penalty. How does this legislation do anything to improve the protection of children? There is an ever present possibility that there is an unconvicted sex offender or paedophile lurking in the suburbs or in the home, so I fail to see how this register in the amended format can help us feel safer. This just gives the community false reassurance. Under the current national register, there are good levels of compliance and it provides all the necessary information to accredited entities and the people who need to know, like the Police. The Commissioner

> of Police is right to be concerned that the existing system will be undermined. Is it really in the public interest to have this information accessible to all? Why not have a public register for murderers? Why don't we think this would be in the public interest? It is because it is an absurd concept that a public register for murderers will actually prevent murders just like a public register for sex offenders prevents sex offences.
>
> How will this legislation amendment protect the rights of my brother who will have served his sentence as ordered by the Courts and our community and is entitled to a clean slate? How does this allow him to move back into the community and live in peace? Isn't this in fact double punishment? Former prisoners do not forfeit their civil rights after they have served their term of imprisonment imposed on them by society itself. What it does is to encourage people to take the law into their own hands and often ends up in cases of mistaken identity and other unintended consequences with people who are not equipped mentally to covet this information in the first place.
>
> We understand your dilemma. Firstly you have an election promise and want to be seen as tough on crime. Secondly, you have a small number of sex offenders and paedophiles who have gone underground with current voluntary reporting. You are also correct in being concerned at the number of dangerous, repeat offenders who situate themselves close to schools and playgrounds.

It then talks about the Dante Arthurs case, and it goes on —

> He does not fall into any of your dangerous and/or repeat offender categories, so what should we be expecting for him upon his release? Are we saying to offenders that there is no hope of redemption?

She goes on further —

> His sons and daughters share his surname, and our father has the same first name and surname. My brother's last known address is at the home of our parents. Our parents are great grandparents. My father is an upstanding citizen who, in his 80's, still contributes to the community on several business and charitable organisations. Could our parents be targeted by misinformed vigilantes? I am concerned that our parents' wonderful reputations will be besmirched through no fall of their own and that the stress of this public register may affect their health. My brother's children have to attend school and work and don't need to have to deal with any more shame than they already have. His family have the right, just like the victim, to live in peace without victimisation and vigilantism. Please tell us where is he supposed to live and how is he supposed to fit into a community again if everywhere he goes he is "run out of town"? Where is the "right" place to house a sex offender? It may mean that offenders are less likely to remain in a stable, supportive environment and are forced away from the help of counsellors and psychiatrists. I see this legislation as being fundamentally flawed in that it does not address prevention and has no useful law enforcement purpose and will ultimately only serve to titillate people's prurient curiosity.

It goes on for another page and a half. I suppose the minister will respond to that person in due course. It makes the very important point that other people will unwittingly get dragged into this whole system. The idea that this offender's 80-year-old father has the same name as he does and lives in the same locality is clearly problematic.

Mr R.F. Johnson: From the content of that letter that offender would not be accessible to the public. He would not be one of the 40 or so. The only way he could be identified in any way would be if he took up with —

Ms M.M. QUIRK: He would come into the photographs.

Mr R.F. Johnson: No, he wouldn't.

Ms M.M. QUIRK: Why not, minister?

Mr R.F. Johnson: You described him as not a serious sexual offender; he is not a repeat offender. Did he commit a section 1 or two section 2s? They are the only people who will be in the tier 2.

Ms M.M. QUIRK: But his photograph could still be published, and his locality.

Mr R.F. Johnson: No; not if he is not a serious sexual offender. There are 2 500 on the register.

Ms M.M. QUIRK: We do not know.

Mr R.F. Johnson: Based on the description you have given —

Ms M.M. QUIRK: She is saying he is not a paedophile, but that does not mean that he is not a serious sexual offender.

Mr R.F. Johnson: It has to be against the child. I am saying that there are 2 500-odd on the register at the moment and only 40 are the really serious ones who have committed sexual crimes against children, who will be in the pool of, roughly speaking, 40. I do not believe —

Mr J.R. Quigley: And the level 1 absconders.

Mr R.F. Johnson: Yes; they will be on tier 1. There might be one; there might be half a dozen. I am told there is never more than half a dozen.

Mr J.R. Quigley: In tier 2, you'd expect about 40.

Mr R.F. Johnson: About 40, yes, the worst—repeat and serious offenders.

Ms M.M. QUIRK: Be that as it may, people fall into that category who have a similar family situation.

The point is still well made that if there is a similar name or they live in the same premises there could be unintended consequences for people who, through no fault of their own, have committed no offence.

Mr R.F. Johnson: We think it is very unlikely that will happen.

Ms M.M. QUIRK: I hope so, minister. I hope the minister is not in this place having to explain it.

Mr R.F. Johnson: I've said that I will accept responsibility for that.

Ms M.M. QUIRK: I have a couple of final matters to conclude on. I recently visited the United States and looked at a range of technologies. When I was minister we looked at the bracelet technology available at that time. I was not confident it was up to the standard that we could be confident that people could be tracked at all times. But that is now some years ago. I have seen the latest technology in the United States and I am certainly of the view that if there are concerns with some people, the bracelet technology is another thing that the government should be considering, rather than these laws. I am not sure why it has not been doing so.

In terms of the offences created through people abusing the information they secure through this system, I still think that is less than robust. I think in cases such as the Derryn Hinch case, a strong argument can be mounted that there is a public interest, however inappropriate the motivation, for disclosing that information. It occurs to me that that would be very hard to enforce and I suspect that, in some cases, there will not be a lot of enthusiasm on the part of the prosecuting authorities or police to in fact enforce that. In terms of the offence provisions, it would have been better if it was in the context of underpinning privacy legislation, and we do not have that. I am concerned that once it comes to tier 3 offenders, for example, and that information is secured, the mum might be very tempted to go off to *Today Tonight* or what have you. I am concerned that once the genie is out of the bottle it will be very hard to prevent it.

Mindful of the time, and other things that have to occur this afternoon, I want to say that this falls very much short of what the Liberal Party promised in its election campaign. It cannot go out now and beat its chest and say, "We've met that election promise." Secondly, for the very same reason, it applies to a very small number of offenders. It means that people will be lulled into a false sense of security and that in itself may compound problems. I note in that regard that there is an exclusion from civil liability for police in relation to disclosure information, so it is very much a matter of "use information how you want". The vast majority of sex offenders who are familial sex offenders will be certainly outside the scope of this legislation. The whole legislative scheme is predicated on the idea of the handful of strangers who will be eligible to be caught by this scheme. I have to say that I am not sure what the imperative was to act on the existing laws. As we have heard, there are no offenders on the register who are missing. As I said, this legislation would not have prevented the very tragic death of Sofia Rodriguez-Urrutia Shu, the dreadful case that foundered on the issues of prosecutor and police malfeasance.

To conclude, I think this legislation is a huge confidence trick for the reasons I gave earlier. We are prepared to support it on the basis that if it protects one child from these odious crimes, we are duty bound to support it. But as we said, I think a number of issues need to be resolved before it adds positively and constructively to the existing law enforcement arrangements.

MR M. McGOWAN (Rockingham) [4.18 pm]: I do not want to speak for very long and I do not think the other opposition speakers want to speak for very long, but I want to indicate my support and my colleagues' support for the Community Protection (Offender Reporting) Amendment Bill (No.2) 2011. We have considered this matter and support what the government is trying to do to deal with issues concerning child sex offenders. That is our considered position, and that is what we believe.

I must say that it is a small building block, but it builds on some of the reforms that the member for Girrawheen referred to. Members might recall the serious and repeat offender legislation, which was designed to ensure that unreformed people who commit sexual offences could be restrained beyond the end of their sentence if they

evinced an intention, or showed an indication or proclivity, to commit another sexual offence. That law was introduced in Western Australia by the former government, following on from the Queensland example. We introduced the Department for Child Protection with a $500 million injection of funds. That was designed—it is, hopefully, working—to assist in the protection of children in Western Australia. There was also the working with children checks for people who have a role dealing with children in sporting clubs and teaching. People must have a card these days, and their records or charges in relation to children are considered before they can obtain one. There was the Gordon inquiry, which resulted from the shocking events around Susan Taylor and the Swan Valley Nyungah camp, which led to the establishment of multifunction police stations all over Western Australia, particularly in remote communities where there had never before been a policing presence. There was also the closure of the Swan Valley Nyungah camp, which removed that source of trouble for a group of very unfortunate children who suffered in that way. Lastly, there was the introduction of mandatory reporting. Six major initiatives were introduced by the former government in relation to the protection of children. Mandatory reporting was introduced by Premier Carpenter in 2007, and this government has continued it. It is a very specialised form of mandatory reporting; hopefully it has not resulted in the overloading of the system. A wide range of initiatives was implemented by the former government.

This initiative of identifying, or having a register of, child sex offenders was committed to by the now government when in opposition. It does not go as far as the then opposition promised. I recall the now minister, then spokesperson, indicating on television that it would be the publication of photographs of all people who commit child sex offences, and of course the Community Protection (Offender Reporting) Amendment Bill (No.2) 2011 does not do that; only a tiny proportion of child sex offenders will actually have their photographs published. The implication or indication from the then opposition, now government, was that there would be photographs of all sex offenders out there on the internet. I do not think that would have been wise, and I am pleased the government has decided that it is not. The member for Girrawheen set out a number of examples, but if an 18-year-old young man has had a sexual relationship with his 15-year-old girlfriend, he has technically committed a serious sexual offence; obviously, we would not want that person to have their photo on a website where they could potentially be identified forevermore. There is also the example of a child being identified who had been the victim of a sexual offence perpetrated by a family member; of course we would not want those photographs out there, because the victim would be subject to identification because of that photograph. So, I am pleased to see that the government has not taken that course of action, because it would have been very unwise and not in the interests of children and people in Western Australia. From what the minister has said, it is apparent that there will only be a small number of people on the website.

I want to go through the details of the legislation quickly. There is a provision that enables the photographs of people who may be on the loose or on the run to be published to enhance the offender's arrest—of course, who could object to that? Members could not object to that. I suggest to the house that that is a wise move. Another provision provides a mechanism by which, in particular, mothers are able to access details about people who might be involved in some sort of close contact with their children. I do not object to that, although I wonder why the working with children checks were not sufficient in that regard; perhaps the minister could answer that question. As I understand it, the working with children checks not only detail convictions, but also charges laid.

Mr R.F. Johnson: Yes, certainly, I can answer that for you now. You are giving an example of, say, a mother who wants to find out about a footy coach or a tennis coach or something like that.

Mr M. McGOWAN: Yes.

Mr R.F. Johnson: They would have to have a working with children card.

Mr M. McGOWAN: That is right.

Mr R.F. Johnson: But there might be a footy team and you might find that one of the other dads is helping the coach. The coach would be covered because he has a working with children card, but somebody who just helps out occasionally and might be another dad would not need a working with children card because he has a family member there. But she might have suspicions about him, and she might be concerned about her child spending unsupervised time with that person. She could, in that instance, put the case and possibly find out whether that person is a registered sex offender.

Mr M. McGOWAN: Okay.

Mr R.F. Johnson: But the main area is the single mum who takes up with a bloke who has access to the children then and —

Mr M. McGOWAN: She does not understand his background?

Mr R.F. Johnson: Yes.

Mr M. McGOWAN: Okay.

Mr R.F. Johnson: She may have concerns, you know?

Mr M. McGOWAN: I have no objection to that; that is tier 1 and tier 3 disclosure.

I think some questions need to be answered about tier 2, and I would counsel the government to act sparingly in regards to the second category, simply because of the Paul Omodei example, which I remember well. A gentleman moved into a street in, I think, Manjimup—a perfectly innocent man who I think had a job as a delivery driver; he was in employment—but unfortunately for him, in the minds of the people living in that street he bore a resemblance to Gary Narkle. The people in the street went to Mr Omodei, who then went out and identified him as Gary Narkle—a quite infamous sex offender in Western Australia. Of course, that gentleman was then subject to people driving up and down his street and families gathering in the street and so forth, but he was a perfectly innocent person. It was a terrible event in my view—a terrible event—and it showed that people should not use their position in this house without having their facts straight.

Mr R.F. Johnson: I could not agree more.

Mr M. McGOWAN: That gentleman suffered as a consequence of being mistakenly identified, and it was terrible. But for the, I suppose, relatively quick realisation that it was a case of mistaken identity, that gentleman could have suffered very adverse consequences from angry people in that community. The government needs to be very careful about the publication of photographs in that tier 2 category. I am pleased it has a range of protections in place around that, including a review clause in the legislation. The government needs to be absolutely certain that it is in the public interest for those photographs to be published, because we would not like to see a circumstance similar to what happened with that gentleman, who was identified as Gary Narkle by Paul Omodei, occurring again in any shape or form in Western Australia. The review clause is important, and all the checks and balances around that provision are important, so that people are not unfairly accused. The photograph will be published with a locality, and somebody might bear a resemblance to the person whose photograph is published, and it would be very unfair if that happened.

Mr R.F. Johnson: But it's only accessible by the person who seeks some access to that. It is not as though it is put on a shopfront window or something that everybody can see, or in a newspaper. It is a very limited access, and you have to give a reason for access and you have to give identification—a driver's licence. So, under tier 2, not anybody can simply go in and see which paedophiles live in their area without giving proper accreditation as to who they are.

Mr M. McGOWAN: Okay; that is good. But as we know, there can be further publication, even though that might be an offence.

Mr R.F. Johnson: That's an offence.

Mr M. McGOWAN: Yes, it might be an offence, but somebody might download the photograph and then wander down to the school and say, "Has anyone seen this fellow around?" That sort of thing might take place, and there might be confusion about the individual. Therefore, all I am saying to the minister is that I do not object to it, provided that there are the strictest guidelines in place around it and the strictest supervision. If there is evidence that it causes problems, perhaps in the future we should think very carefully about putting those photographs up.

Mr R.F. Johnson: Obviously, I would address any problems that arise, if there were any. I would address them in a very quick manner, if they happened under my watch.

Mr M. McGOWAN: I do not want to speak for long. I support the legislation. I discussed it with a local mother in my electorate who has three young children and whose advice I respect—my wife! She was supportive of these initiatives. Although we might get criticised sometimes for taking advice from family members, I think it is wise to consult people with experience in looking after young children day in, day out. I consulted her and I thought her advice was good. That is one of the reasons I think this legislation is worthwhile. However, I think it should be monitored carefully. It is a small building block—that is all it is—on all those initiatives that have taken place over the last 10 years or so, but if it assists in some sort of protection, particularly for the third category of offence, in relation to, as the minister said, the new boyfriend of a single mother, that category is worthwhile. It is a small building block on those other initiatives and we will support this legislation.

DR A.D. BUTI (Armadale) [4.31 pm]: As the members for Rockingham and Girrawheen have stated, the Labor Party supports the Community Protection (Offender Reporting) Amendment Bill (No. 2) 2011. I just have a few comments to make. As we all know, this legislation has overseas origins, with Megan's law in America being, I think, the first piece of legislation in regard to this issue. I have just one general comment to make before I look at some specific parts of the legislation; it is just a general constitutional legal issue. Although in the state Constitution there is no paramount or absolute need to have a separation of judicial and executive powers, it is a

general policy that we have that separation, and it can be argued that this legislation, whereby the Commissioner of Police and/or the Minister for Police can decide whether a person's name goes on the register, is a use of judicial power. We are not prevented from doing that, it is just a general policy provision, or a general tradition, that there is a separation of judicial and executive powers.

Mr R.F. Johnson: I think that is to try to have a bit of a safeguard, actually, on behalf of the individual who is on the sex offender register anyway.

Dr A.D. BUTI: Proposed sections 85F and 85G deal with reportable offenders and also tier 2 offences; they specifically exclude children, so child sex offenders; and that is fine. As we know, under section 35 of the Children's Court of Western Australia Act, the name of the subject of a criminal proceeding in the Children's Court cannot be published. I am not sure what happens under this bill when a child sex offender turns 18 years of age and does not commit another offence, but is considered to be a reportable offender. After they turn 18, can their name be put onto the register if they do not comply with their reporting obligations, even though the offence occurred when they were a minor? Generally in criminal law, once an offender becomes an adult, their name still cannot be published if the offence occurred while they were a minor. I think this legislation is silent on that point and it is something that the minister might need to consider. If a relevant matter went to court there may be an issue. Because the legislation is silent on that situation, I would imagine that the Children's Court of Western Australia Act would be considered to be the law, unless it was specifically excluded in the legislation being debated here.

Mr R.F. Johnson: You are talking about an 18-year-old or a 19-year-old having sex with a 15-year-old.

Dr A.D. BUTI: I am talking about a 16-year-old—a minor.

Mr R.F. Johnson: Sorry, yes you are talking about a 16-year-old. It is known as young love—a 16-year-old having sex with a 15-year-old. They have, of course, broken the law and committed a sexual offence. There was a legal case recently, which Johnson Kitto was quite famous for, of a similar situation. That young person goes on the sex offender register and is predominantly there permanently. For the lesser offence there is eight years' reporting for an adult and four years for a juvenile. For the more serious schedule 1 offences it is double that—14 years and seven years' reporting. They are the reporting obligations. The chances of that person's details actually ever being published are probably a million to one, unless they committed another offence.

Dr A.D. BUTI: That is true. I think the minister is right about the situation he talks about, but say a 16-year-old committed a quite heinous sex crime against a 10-year-old, arguably they are quite a dangerous offender, but under this legislation their name cannot be published —

Mr R.F. Johnson: Not while they are a juvenile.

Dr A.D. BUTI: — but the legislation remains silent about what happens when that offender turns 18. Under relevant statute law, if a person commits an offence as a minor, their name, apart from some exceptions, can still not be published once they become an adult.

Mr R.F. Johnson: You are referring to a schedule 1 offence. If they committed schedule 1 offence, I think they could be liable once they become an adult; they would be on the register anyway. If the Commissioner of Police felt that that person was still a danger to the safety or sexual safety of a child, that person would be included, but I will clarify that. As you know, I do not have as much legal expertise as you. I think that is the case, but I'll check on it.

Dr A.D. BUTI: I suppose the minister could also look at the third tier on the issue of a person having unsupervised contact with a child. What happens in the example of the 16-year-old having consensual sex with a 14-year-old? Would they be included on the register for a tier 3 offence?

Mr R.F. Johnson: They would be on the register anyway because they would have been convicted for that offence. But when they reach adulthood, if they were 20 years old and they took up with a single mum and the single mum had questions about that particular person, I would suggest she would be able to find out that that person is on the register. It is only a question of whether that person is on the sex offender register—yes or no—or the commissioner could decide not to give an answer. But if a 15 or 16-year-old committed a heinous crime against a 10-year-old, I would suggest that a single mum would want to know whether they were that type of person.

Dr A.D. BUTI: Yes, of course, which brings me to my next point. As the minister said, the answer is "yes" or "no". Maybe what should happen is that if a parent rings up to find out whether a person is on the register or has committed a sexual offence, maybe more detail than just "yes" or "no" needs to be provided. Because, it was like the 16-year-old and the —

Mr R.F. Johnson: It is. People cannot just ring up and ask. Basically, they have to do it predominantly through the internet. I mean they could go to a police station and fill out lots of forms, but most people would do it on the internet. They have to give their details; they have to give the details of the person they are inquiring about; and they have to give the reasons for asking and how much unsupervised access that person has to the children. If that person is on the sex offender register, the mum, in this instance, gets a visit from the sex offender management squad to discuss the matter.

Dr A.D. BUTI: So they will find out more details about the event.

Mr R.F. Johnson: Absolutely, it will not just be a tick of a box and then it comes back; absolutely not.

Dr A.D. BUTI: That is fine. In regards to the first-tier offences, which are reportable, if the person does not report, they are not complying with reportable obligations. I am sure the minister's intention behind that was to basically pick up on anyone seeking to go underground, and that is fine.

Mr R.F. Johnson: They are already underground.

Dr A.D. BUTI: Yes, and that is understandable. But there is the possible case in which a reportable Aboriginal offender moves from community to community and they are not deliberately trying to go underground; it is just that they do not understand the obligations. I just wonder whether there needs to be some policy put in —

Mr R.F. Johnson: The commissioner has the discretion, of course, in much of this legislation, as he does in nearly all legislation in relation to the police. I think you'll find that in those situations that would be the case.

Dr A.D. BUTI: As stated, we support the legislation and it is good that the minister has included a review of the legislation in three years under the last provision, because I think it is important to realise that this is only part of the measures that need to be taken. The major problem in this area is that there is not enough reporting, probably because most child sex offences are committed by family members. Associate Professor Guy Hall at Murdoch University has been critical of the legislation and makes the argument that if a family member's name is to be made public, there may be less chance that the child will report the offence because they will feel under pressure. They will be under pressure anyway because the offender is a family member, but I wonder whether the government needs to look at possible programs to improve reporting rates. I do not have the answer, minister, but we need to look at how we can improve the reporting rate. Unless we improve the reporting rate, this legislation will have minimal effect. We need to try to provide comfort to child victims of sexual offences so that they know that they will be supported by the state, and to put in place proper processes to assist them and not split families. The family will probably split; that is the problem. Once a child claims to have been sexually assaulted by a family member, the family members take sides. There is nothing that we can do about that, but we need to look at how we can somehow support that child. We really need to try to improve the reporting rate because otherwise any legislation will have minimal effect.

As stated by the two previous speakers on this side of the house, we support the legislation.

MR J.R. QUIGLEY (Mindarie) [4.41 pm]: I would like to say a few things on the Community Protection Offender Reporting Amendment Bill (No. 2) 2011, but I shall not take long. I support the legislation, but to my mind the way it was presented and talked up represents the worst of politics and the worst of public settings for politics. Before the election, the claim that it would establish a public register for sex offenders was definitely an election winner for the Liberal Party. In the debate here this afternoon we have heard the honourable minister clarify that about 40 people will be in tier 2 and about a half-dozen may be in tier 1; they are the absconders. By my reckoning, on the minister's word, that comes to about 46 people of about 2 500 offenders; that represents about two per cent. The truth would have been for the government to go out to the public of Western Australia and say that it would identify about two per cent of all sex offenders who need some recognition on a public register—but even with safeguards. The difference between the parties would have been nothing, because the Australian Labor Party supports this bill as an incremental development of the law for the protection of children. For the government, the then opposition, to go out to the public and say that it proposed to implement laws to publicly identify two per cent of all sex offenders under only the strictest circumstances, would not have been a vote-changer.

I support the law, but I do not support the way this whole thing has been presented. I support what the Attorney General said in answer to the member for Girrawheen's matter of public importance debate last week; that is, in law and order in politics we can talk up propositions to scare the public, but at the end of the day we will reap a sorry harvest—for example, the figures that have come out on mandatory sentencing for assaults on public officers. About 36 charges of assault of public officer have been preferred from the figures that I have seen. When those 36 matters got to court, 24 were amended or dropped to downgrade the offence so that the accused would not be subject to mandatory sentencing, and 12 were sentenced. Once again, we are in the realm of talking up public expectations, which is detrimental in the long term. When the minister debates this bill in the cold

sober light of this chamber, he stresses the safeguards and the limits of this register. The proportion of sex offenders whose details can be put on a public register is limited to two per cent of sex offenders, and even then with safeguards. I support the minister.

Mr R.F. Johnson: That is not true. You have simply said that two per cent are the 40 plus 6. I believe a huge number will come into that category who are not part of the 40 or 6, in tier 3, and that is not available at the moment. For anybody to find out whether somebody who has —

Mr J.R. QUIGLEY: In case Hansard did not pick that up, the honourable minister makes the point that it is not limited to two per cent because under tier 3, an inquiry can be made by someone who has close contact.

Mr R.F. Johnson: That you cannot have at the moment.

Mr J.R. QUIGLEY: But that is not a public register as such. As the minister has said, the person making the inquiry will have to give full identification and details of how much contact they have with the child concerned. Therefore, there can be a balancing act. We support all that, minister. I am the father of five children, including, luckily, happily, two infant children, as the minister knows, and I may like to know about these things if I entrust my two young daughters into the care of someone else and suspicion is raised. Quite frankly, I go along to places such as Jellybeans Childcare Centre and check in the kids, but I do that on the basis that Jellybeans has done its own —

Mr R.F. Johnson: They would have working with children checks; they have to.

Mr J.R. QUIGLEY: That is right. But if someone's babysitter is the daughter of a neighbour, they take their chances, I suppose, because they know the background of the family of the girl who is coming to babysit their children. Certainly, there would be cases in which I might want to know. Not that it has ever happened, but I can imagine that in the increasingly busy life of my wife and I, with the growing need to get babysitters more often, that situation may arise. On the register—as opposed to the record for those who are seeking background information—will be two per cent of sex offenders. That is what worries me about these sorts of debates.

In response to the matter of public interest raised by the member for Girrawheen concerning crime figures, the honourable Attorney General was candid enough to say that over the last five to eight years there has been a steady decline in the crime figures under both Labor and Liberal governments. The honourable Attorney General went on to say—I only echo what he said—that we can become so alarmist and we can talk up both public fear and public expectation to such an extent that wrong policy settings are arrived at. In this case, public expectations were increased, but I do not take issue with what the minister is delivering.

The only matter that I take issue with in the debate in this chamber is, quite frankly, the statement—I will not attribute it to anyone, but everyone has heard it—that those people with children understand best the issues in these cases. I do not think that is necessarily so. People do not have to be parents to understand the vulnerability of children. I know a lot of gay people who are very switched on to the vulnerability of children. Gay judges these days are on the benches of our local courts in Western Australia right through to the High Court. Judges in their sentencing practices, and gay police officers in their protection of children, are all the same; it is to do with empathy and sensitivity and an appreciation of some of the most vulnerable, if not the most vulnerable, people in our community—children with their beautiful, innocent, sweet, little, uncomplicated minds who are yet to have the darkened spaces agitated with danger they could be exposed to in situations they would never dream of. I think that single people, parents, gay people and heterosexual people, if they are thinking people, are equally capable of being aware of the vulnerabilities of our beautiful children in the community and are concerned for their protection. For those reasons, I am a member of the caucus that supports this legislation.

When I took on the job of shadow Attorney General, I said that I would not enter into a public law and order debate. That is probably to our detriment, to a degree. However, I am starting to hear from the Attorney General that over the past eight years under both Labor and Liberal there has been a slow drop, thankfully, in the crime figures. There would have been a decrease in this area, too, for the reasons that the member for Rockingham pointed out. The previous government implemented law reform in this area and this is a further incremental step in that law reform. I would not be surprised if future generations applying the wit and intelligence that they will bring to bear on the problem do not develop the law further long after we have left the chamber. These legal things should be developed soberly and should be the product of sober debate rather than alarmist, popular debate. We support the legislation that the minister has brought before the chamber.

MR R.F. JOHNSON (Hillarys — Minister for Police) [4.51 pm] — in reply: I thank members opposite for their contributions to the debate and their support for the Community Protection (Offender Reporting) Amendment Bill (No. 2) 2011. The Liberal–National government and I believe that it is very important and will assist in the protection, safety and sexual safety of Western Australian children. I will answer a couple of questions that were raised. The member for Armadale was concerned about a reduction in reporting sexual

abuse. I assure him that the Commissioner of Police cannot publish details that would identify a child victim. That is contained within the bill. Also, the commissioner may take into consideration the views of victims when deciding whether to publish. This provision was intended to protect child victims and ensure that there are no negative consequences from reporting abuse. I think that will satisfy the member for Armadale. He was also concerned about whether the details of a young sex offender who turns 18 years old can be published. The commissioner would take their age into consideration when making a decision about whether to publish that information.

There was a recent case—I think I can mention his name—involving Harley Preevy. The young person would have needed to have committed repeat sex offences or be a dangerous sex offender to be eligible. Also, there is no such thing as consensual sex with a 14-year-old. I think the member for Armadale said there was consensual sex between a 16-year-old and a 14-year-old. He should know, because he is a lawyer, that there is no consensual sex in law between a 16-year-old and a 14-year-old. It is important to remember that the court has found the person guilty, meaning that there was a victim, who was a child. That was that the scenario the member for Armadale put up. I think the member for Girrawheen talked about GPSs.

Ms M.M. Quirk: I mentioned the bracelets.

Mr R.F. JOHNSON: I can tell the member that WA Police is looking into electronic monitoring. The Attorney General has made public statements indicating that he is supportive of electronic monitoring for various categories of offenders, including sex offenders. The Attorney General is looking at that and is trying some out. I think the former government tried them out, too.

Ms M.M. Quirk: And they didn't work when someone got on a train.

Mr R.F. JOHNSON: That is right. I think I covered by interjection most of the questions the member for Girrawheen asked. Some of the member for Girrawheen's comments were an attack on the Liberal Party and our election promise, which is fair game. However, the legislation itself is fairly simple. It has only 14 clauses and I am confident that members, particularly the member for Girrawheen, who is a lawyer herself, understands the legislation perfectly. I hope that I have answered members' questions either as we have gone along or now. Does the member have any other questions she would like me to answer?

Ms M.M. Quirk: No.

Mr R.F. JOHNSON: Is the member happy with that?

Ms M.M. Quirk: Yes.

Mr R.F. JOHNSON: Time is getting on. It is great to receive the cooperation that we have received today from the opposition and I appreciate it very much indeed. I think the public will see this as a great achievement for the Legislative Assembly in general and for both the Labor and Liberal Parties to be supportive of legislation that is designed to protect the safety and sexual safety of children. Once again, I am grateful for the prompt action of the opposition and I hope that we can get this bill through to the upper house before its members go home for the evening.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Mr R.F. Johnson (Minister for Police)**, and transmitted to the Council.