

Mrs Michelle Roberts; Ms Lisa Baker; Dr Tony Buti; Mr Roger Cook; Mr David Templeman; Mr Peter Tinley;
Mr Fran Logan; Mr Paul Papalia; Mr Peter Watson; Acting Speaker; Mr Nathan Morton; Mr Dave Kelly; Mr
Chris Tallentire; Ms Simone McGurk; Mrs Liza Harvey

GRAFFITI VANDALISM BILL 2015

Second Reading

Resumed from 15 September.

MRS M.H. ROBERTS (Midland) [4.06 pm]: I rise to speak on the Graffiti Vandalism Bill 2015. Can the minister clarify for me first off, given that I notice the front cover of the second reading speech refers to the Minister for Police; Road Safety; Training and Workforce Development; and Women's Interests, whether she is dealing with this bill as the Minister for Police or in her capacity representing the Attorney General in this house?

Mrs L.M. Harvey: Minister for Police.

Mrs M.H. ROBERTS: I am pleased that we have clarified that, because I will get to the point of why I specifically asked that a little later in my remarks, but I suppose I should begin at the beginning.

This piece of legislation is the Liberal government's response to its commitment made at the last state election to deal with the scourge of graffiti vandalism. It is a disappointing response overall. We can see this from the rather meagre two-page second reading speech given by the minister. Although brevity is to be commended, in this case it highlights that this is really a "nothing much" piece of legislation. There is nothing much terribly new in it. Worse than that, the second reading speech highlights that this government has very little else in its strategy. If there were more to the strategy, we would have seen it spelt out in the minister's second reading speech. I will turn briefly to that speech. At the start, the minister states the blinding obvious —

Graffiti vandalism is a scourge on our buildings, public places and communities.

We knew that. We knew it before the 2008 election, and the problem was not solved by the Barnett government in its first term, so it made further commitments in the 2013 election campaign. Further on in her speech, the minister says —

In 2010, the task force developed the "Tough on Graffiti Strategy 2011–2015", which provided the guiding principles of a new way forward in the delivery of graffiti vandalism reduction initiatives. Since the re-establishment of the task force and its guiding strategy, a targeted approach to catching these criminals has seen a decline in graffiti damage and has gone some way to reducing the problem.

That is merely a claim. If I was having a look at this as some kind of university assignment, I would ask where the proof of that claim was. One cannot write an essay, fill it with a range of comments and generalisations and present it as any kind of argument. The whole speech is very light on actual facts. It is very difficult to disprove the claim made there by the minister. How do we determine whether graffiti damage is increasing or decreasing in the community? It is often said that when we are dealing with crime statistics—let us in the first instance refer to crime statistics on the WA Police website—they are what is known as reported crime statistics. That is the first proviso that WA Police is very keen to point out when anyone is looking at those crime statistics.

We are just dealing with reported crime. I suspect that graffiti is one of the most unreported crimes in Western Australia. I suspect that most graffiti in our suburbs, communities and country towns is not reported. In many instances, I expect people immediately employ, on their own behalf, the recommended strategy of removing it at the earliest opportunity. The general advice through local government and from police themselves is that the biggest deterrent for graffiti is to remove that graffiti as promptly as possible. We know that one of the driving factors for people to commit graffiti offences or to place graffiti on walls, buildings and the like is that they want the notoriety of it. Many graffiti artists, whether we can call them that, have tags or taglines, and they like to see their tags on buildings and objects right throughout the suburbs and the state by placing them on bus shelters, public buildings, people's front fences and Telstra installations—anywhere that a person can fit a tag and in all kinds of places we see the so-called "tags" popping up.

A tag is essentially a little like a signature; it is something that identifies that piece of graffiti or art as belonging to someone or having been done by someone. If members go around, especially in particular areas, they can quite clearly identify that a whole number of pieces of graffiti have been done by the one person because they have the one tag on it. Whilst there might be something else or different depicted in each of the pieces of graffiti, there will still be that tag that identifies the person who did it. Part of the motivation is for the notoriety of having their artwork up in the community. The advice from authorities generally is to remove it quickly and do not let the person who has inflicted the graffiti have the gratification of walking, driving or riding by and seeing their so-called artwork on a daily basis. Let us deal with the issue of people's front fences or perhaps a side wall of a house. When that happens to someone, some people may wish to report it to police. However, if they have to go to the effort of reporting it to police, they are thinking to themselves, "What are the police really going to do about it?" They are also potentially thinking to themselves that the police have got more important issues to deal

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with, or they may think to themselves, “When my kid’s bike was stolen or my house was broken into, or there was an attempted break-in to my vehicle, or something minor was stolen out of my vehicle, the police did not attend, did not take any action and did not catch the offender.” They would be asking themselves why they would bother the police with letting them know about this graffiti episode. Potentially, in the course of less than an hour, they can probably clean up the graffiti themselves by using some product to remove the graffiti, by using the same colour paint over the top, or contemplating a different paint or finish on their fence that is less prone to graffiti. Most people would just rather see the graffiti go away; a lot of graffiti is not reported.

I am always very dubious when claims are made that there is less graffiti in the community. The statistics that are kept about graffiti are unreliable at best. Most people in the community certainly see the vibe of things. As I go around my electorate, I see graffiti. Am I seeing any less now than I saw five or six years ago? No, I am not. I am not seeing less graffiti now than I saw five or six years ago. One of the reasons that the commitment was made by the Liberal Party at the last election to deal with the issue of graffiti is that the Liberal Party was taking up the issue of people’s perceptions. People generally have a perception that the graffiti problem is still bad and that it is no better. Some people would certainly believe that the graffiti problem is getting worse. I do not think that the minister has produced any facts that demonstrate that the graffiti problem is actually getting better.

I had a quick look at the police statistics on it. Of course the police have changed some of their reporting and so forth. I have looked at the statistics for the last couple of months and I noticed that the police put those statistics in italics within their report, because even the police know that these are not necessarily particularly reliable figures in terms of an indication of overall graffiti. In July 2015, there were 166 graffiti offences and in July 2014, 165. In August 2015, there were 163 and in August 2014 there were 151. I do not think there were only 150 or 160-ish graffiti offences that took place in any of those months. I suspect there were probably 10 times those amounts. In some areas of criminal offences, sometimes by doing a better job and being more active on a particular crime or issue, we can solicit more actual reports of graffiti. If the government were to set up a hotline and a system that encouraged members of the community to report the crime of graffiti and it encouraged reporting to the police and the police recorded those reports, the government might then go out and deal with and target the offenders. It might do something very positive to reduce the overall amount of graffiti in the community. As part of that very exercise the so-called crimes stats could look very, very much worse. If the government went out there and had a big multimedia campaign encouraging people to report graffiti crime to police and the police took that crime seriously and noted down all the reports, the government could get thousands of reports of graffiti per month. Police and others could do something very proactive about it and people would turn around and say, “Well, the program is not working because you have had a massive increase in the number of reported graffiti offences.”

I want to preface my remarks there with the comment that it is very difficult at the very least to rely on so-called reported crime stats when we are talking about the graffiti scourge in the community. I have thought about what would be the best scientific way of determining the rate of whether graffiti in the community is on the rise or decreasing. I suspect the only way of really doing that would be to survey an area over a period. It could be the suburb of Midland or a designated area in the City of Perth and we would have to have a team of people go round basically counting the number of pieces of graffiti that they see, month after month, year after year, and we would then have an assessment about whether or not graffiti was on the rise. Otherwise there are other extraneous factors, such as whether people are feeling more inclined to report graffiti now than they were previously and whether people believe that there is any benefit in reporting graffiti crime now, whereas previously they did not, or vice versa.

I put it to the house that the statistics are incredibly unreliable. What is more reliable is what people see with their own eyes happening in their own communities. As I look around my community I still see a lot of graffiti. The issue of graffiti is a long way from being solved. I point out also that the issue of graffiti is connected to a whole range of drivers of that crime, let us call it. It also relates to people’s socioeconomic position, to whether they are engaged in education or employment, to how cohesive a community is and to a range of other factors that no doubt someone could write a dissertation about. In looking at any crime, I think it is important to look at what is driving the crime: why people are doing it, what would deter people from committing it or what would reduce the rate of the crime. It is really easy to say, “Let’s just increase the penalties”, but for most crimes, increased penalties are not necessarily a deterrent.

There is certainly a school of thought—people say so with some validity—that a person contemplating committing a crime is more inclined to give greater consideration to the chances of getting away with it than to the penalty. Many people who commit crimes have no idea of the penalties, but they have some thought about whether they will get away with it. Frankly, if they come to the conclusion that they can get away with it, the penalty does not matter. If they are not caught, they will not incur the penalty. Unfortunately, I think that is the

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way a lot of people undertaking criminal behaviour think. They think they will get away with it, and if they think that way, the penalty does not matter. Sensibly, the government should contemplate what would reduce the amount of graffiti in the community. Not being engaged in employment or education or being bored could lead to graffiti vandalism, none of which are excuses for vandalism of any kind. Sometimes by engaging our young people in some positive and proactive activities, we can drive down very annoying crimes in our local communities such as graffiti and vandalism. If kids are engaged in organised sport of any kind; if they have some meaning or purpose in their life through school or employment; if they have some skin in the game in relation to the local community; if they feel valued and part of things; and if they are proud of their local community and feel an important part of it, I suspect they will be much less likely to want to engage in antisocial behaviour or actions of any kind.

The second major point I will make is that deterring the act of graffiti vandalism requires a much broader approach than just a matter of penalties. Although penalties are part of the equation, I think they are a relatively small part of the equation overall. It is all very well to talk tough on crime by talking tough on penalties; it is much, much harder to deal with those drivers of crime and to put in place measures that help us develop cohesive functioning communities where people care for their neighbours and for other people in the community.

In the first paragraph of her second reading speech the minister goes on to say —

Despite this, the cost of repairing the unwanted damage caused by graffiti vandals in recent years has been estimated to still be around \$8 million a year.

I am guessing that is an underestimate. I suspect it is much more than that because, as I have asserted previously, a lot of graffiti crime is unreported; people fix it at their own expense. Although no doubt some attempt has been made to gauge how much that cost is, I do not think that can be accurately done. The minister says further on in her speech —

With a view to further reduce the incidence of this mindless damage, the Liberal–National government, in the lead-up to the 2013 election, committed to better arm our law enforcement officers and other government bodies to deal with the problems associated with graffiti.

What does the minister mean by “better arm”? From reading through the speech and looking at the Graffiti Vandalism Bill, all I can determine so far is that the minister and her government believe that the way to better arm our police and our government officers is to give them some tougher laws and harsher penalties. If that is the whole rationale, I will get to the point in a little while that that is lacking because there is nothing much new about this bill. The minister states further —

Specifically, this bill creates a new, stand-alone offence of damaging property by graffiti.

Of course, there is already a stand-alone offence for property damage in section 445 of the Criminal Code under the heading “Damaging property”, which is as follows —

A person who unlawfully destroys or damages the property of another person without that other person’s consent is guilty of an offence and is liable to imprisonment for 2 years and a fine of \$24 000.

As it stands, under the heading “Damaging property” at section 445 of the Criminal Code, it provides for a penalty of \$24 000 or two years’ imprisonment. Clause 5(1) of the Graffiti Vandalism Bill states —

A person must not destroy, damage or deface the property of another person by graffiti without that other person’s consent.

Penalty: A fine of \$24 000 and imprisonment for 2 years, but the minimum penalty —

- (a) for an adult offender, is a community based order;
- (b) for a child offender, is a youth community based order.

Subclause (2) states —

Property that is capable of being destroyed, damaged or defaced by graffiti includes vegetation.

The minister might provide me with some explanation of that because I do not think I have seen any graffiti on vegetation. Perhaps she could let us know where she has seen it. Subclause (3) states —

This section operates despite the Young Offenders Act 1994 section 46(5a).

That provision is included to potentially make things slightly tougher on young offenders. Effectively, there is not much change. “Damaging property” is in the Criminal Code and it will remain in the Criminal Code, but this bill will contain the additional offence of “Damaging property by graffiti”. There may be some argument about

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scale. As I understand it, regarding other property damage, if a judge looking on a continuum from the least amount of general property damage to an extreme amount of damage finds someone guilty of an offence, he or she will have to determine where on the continuum that damage fits so he or she can work out what scale of fine or prison sentence will be appropriate. There could be very minor property damage for which a judge might impose a much smaller fine than \$24 000. There could be some extreme damage that might warrant a term of imprisonment, although I have not noted recently any judge impose a term of imprisonment for property damage. However, clause 5 of this Graffiti Vandalism Bill 2015 states —

- (1) A person must not destroy, damage or deface the property of another person by graffiti without that other person's consent.

I think we will see quite a difference there in the level of offence and graffiti offence. Although it could be argued that the minister is now bringing in a penalty just for a damaging property by graffiti offence, as opposed to an overall damaging property offence, presumably a judge who found someone guilty of this offence would, in determining the penalty, look at the scale of the actual damage done. I believe that the words “destroy, damage or deface” take such an offence from the most extreme level of absolutely destroying something, to the medium level of damaging something significantly, and to the lowest level of defacing something with textural paint over the top that does not actually damage the surface, let alone destroy it. I therefore think that if we regard an average graffiti offence as spray painting a surface that generally does not damage the surface, presumably a judge would look at that case and impose a penalty at the lower end of the scale. That is because a judge looking at that case would regard the penalty of two years' imprisonment or \$24 000 as appropriate for the higher-end offence, which is when graffiti has destroyed something. Again, I am unaware of any circumstance in which graffiti has totally destroyed anything, but that is a word that the minister has chosen to put in the bill. Perhaps in her response, therefore, the minister could explain how something gets totally destroyed by graffiti. I appreciate that something can be damaged by graffiti by etching into surfaces and the like. That is the big new offence that is pretty much a replica of an offence that exists already in the Criminal Code for which community-based orders can be imposed.

Some people in this place might think that I am a little cynical about this bill. I think I have reason to be cynical about it. Some people might think that I was inquiring for no good reason about the capacity in which the minister is handling this legislation. I want to draw people back to about five years ago when the then Attorney General and now member of the federal Parliament introduced his graffiti amendment bill, which had a lot of promise. At that stage the government's bill post the 2008 election was handled by the then Attorney General, not by the Minister for Police. In this instance we have the Minister for Police handling the bill—so there is always a choice to be made there. The Attorney General, as part of his panacea, inserted some new provisions to deal with these young offenders and others who were doing graffiti. He inserted section 216 into the Criminal Code, which under the heading “Selling graffiti implement to child” reads —

- (1) In this section —
graffiti implement means any of these —
 - (a) a can of spray paint;
 - (b) a pen, marker pen, or similar implement, that —
 - (i) has a tip over 6 mm wide; and
 - (ii) contains a fluid that is not water soluble and that is capable of marking a surface.
- (2) A person who sells a graffiti implement to a child commits an offence and is liable —
 - (a) for a first offence, to a fine of \$6 000;
 - (b) for a subsequent offence, to a fine of \$12 000.
- (3) It is a defence to a charge of an offence under subsection (2) to prove the accused, or a person acting on behalf of the accused, believed on reasonable grounds that the person to whom the implement was sold had reached 18 years of age.

The member for Girrawheen just got an answer back from the Minister for Police to Legislative Assembly question on notice 4571. On 17 September, the member for Girrawheen had given the minister notice of a question as follows —

I refer to Western Australia's *The Criminal Code*, and ask:

- (a) how many convictions have been recorded under section 216 (2) of *The Criminal Code* since that section came into force; and

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- (b) how many persons charged have successfully deployed the defence under section 216 (3) of *The Criminal Code*?

That was when there was reasonable belief that the person had reached the age of 18. Almost a month later, the Minister for Police gave the following answer —

- (a)–(b) These questions are not within the jurisdiction of Western Australia Police and should be referred to the Attorney General.

The minister is handling this bill. She is the one bringing forward all these amendments. She is the one saying that graffiti is her gig. If graffiti is her gig, she should be able to answer the questions about it. This is the very reason that I am cynical. I am cynical about the claims about whether the number of graffiti offences is going up or down. I am also cynical about whether any legislation that is put in front of us will actually make a difference. I am still waiting to find out whether the amendments that we made last time that were really tough on crime have made a difference. We do not know from this bill whether there has been a single prosecution. We do not know. Can the minister tell me? Does she actually know? Does she know whether anyone at all has been charged?

Mrs L.M. Harvey: I'll answer when I reply.

Mrs M.H. ROBERTS: I take that to mean that the minister does not know, because she should be able to say yes or no about whether someone has or has not been charged.

Mrs L.M. Harvey: I have a whole list of notes here to respond to the member for Midland and I would rather do them in context.

Mrs M.H. ROBERTS: This was the Liberal Party's panacea after the last election. It said, "Support this piece of legislation, put this clause in there and we will deal with the graffiti offenders." I am simply asking the minister whether she has dealt with one. Has this legislation been used or not?

The ACTING SPEAKER (Mr P. Abetz): Member!

Mrs M.H. ROBERTS: I am getting a little angry now, Mr Acting Speaker.

Mrs L.M. Harvey: I will tell the member for Midland why I cannot answer that question. It is because the outcomes of prosecutions are held in a database that the Attorney General is responsible for, not me as Minister for Police. And you should know that.

Mrs M.H. ROBERTS: If the minister is bringing in legislation to deal with graffiti vandalism, should she not know or should she not have inquired from the Attorney General whether the measures currently in the Criminal Code are working?

Mrs L.M. Harvey: Shouldn't you know who to ask about stats? You've been around for longer than I have. I thought you would know that the Attorney General's department keeps those statistics and ask the questions of the right person

Mrs M.H. ROBERTS: I can tell the minister this: as police minister, I would have asked the Attorney General for that information. I would not have come into this place so totally and completely under-prepared that I cannot answer basic questions about prosecutions for graffiti. There are not a lot of sections of the Criminal Code that deal with graffiti; there are not a lot of sections in any act that deal with graffiti. There is a small number of sections in a small number of acts: the Criminal Code, the Local Government Act and now the Public Transport Authority Act. There is not much to look at. There is a very small number of offences there. The minister cannot answer a question about whether there have been any prosecutions under the government's existing legislation. It is as though we should all pack up and go home. The Minister for Police said that I asked the wrong silo and that she could not answer my question. No; the minister brought in the Graffiti Vandalism Bill 2015 and has been talking tough on graffiti. She is the one telling us that graffiti is a scourge on the community and that she will be tough about it. But she cannot even say whether the existing tough-on-graffiti legislation has resulted in a single charge. I am not saying it has not; I am just totally unaware of it. I will tell members what I think. Had it been successful, had dozens of people been charged and had getting tough on graffiti worked, the minister would have been shouting it from the rooftops. She would have come in here and said, "Yes, we have prosecuted 120 people each year and fined them \$3 000 or \$6 000", or whatever it is, "in that section of the act." It takes me back to the point I was making earlier. I know that people want to play politics; they say that penalties are important and they talk them up. They say that it is very complex dealing with the causes of crime and so forth, but there has to be some accountability. The minister cannot keep coming into Parliament talking up tougher penalties and new offences to deal with the issue because the government is tough if she cannot say whether the government has used the laws it has. The minister has come in here totally and completely unprepared to deal with this

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legislation. I again refer to section 216(2) of the Criminal Code, which was introduced by the former Attorney General. It reads —

- (2) A person who sells a graffiti implement to a child commits an offence and is liable —
(a) for a first offence, to a fine of \$6 000;

The minister is on record saying that we should ask the Attorney General, not her, because she does not know the answer. There is a fine of \$12 000 for a subsequent offence. Has anyone ever been fined \$12 000? We do not know. The minister says we should ask the Attorney General. If the minister was prepared and knew anything about this piece of legislation or the issue that she is dealing with, and if she were anything other than an empty vessel talking tough with no substance behind her, she would know the answer. She would know whether anyone has ever been charged and whether they received a first offence fine of \$6 000. We are operating in a vacuum. The minister cannot tell us whether anyone has ever been charged with these offences and, if they have, whether they were found guilty. Was the law good or was it found wanting? This is all being incorporated into the very bill we are dealing with now. This will be the minister's legislation. There we are—the minister has received a memo. Does it have the answer?

Mrs L.M. Harvey: It's not related to anything you're saying, member.

Mrs M.H. ROBERTS: As I referred to earlier, section 216(3) of the Criminal Code states —

It is a defence to a charge of an offence under subsection (2) to prove the accused, or a person acting on behalf of the accused, believed on reasonable grounds that the person to whom the implement was sold had reached 18 years of age.

Has that defence been used? We do not know that either. The minister should have acquainted herself with all these things had she been serious about doing anything here. Arguably, when this bill becomes law, if we ask the minister whether anyone has been charged with any of these offences, she will say that she cannot tell us that because it is a matter for the Attorney General. It is kind of crazy. I think the minister can tell us whether people have been charged. That information is available within the police department. It must know whether it has charged anyone with these offences.

Mrs L.M. Harvey: You didn't ask about charges, you asked about convictions.

Mrs M.H. ROBERTS: Can you give an answer with respect to charges?

Mrs L.M. Harvey: I do have that available.

Mrs M.H. ROBERTS: Have there been any charges?

Mrs L.M. Harvey: There have been —

Mrs M.H. ROBERTS: Under section 216?

Mrs L.M. Harvey: Not under section 216. Section 216 is selling a graffiti implement to a child. Is that what you are talking about?

Mrs M.H. ROBERTS: That is right.

Mrs L.M. Harvey: I believe there have not been any, but certainly a large number of people have been charged with graffiti-related offences.

Mrs M.H. ROBERTS: Perhaps the minister should have done herself a favour and provided that information in answer to the question asked by the member for Girrawheen.

Mrs L.M. Harvey: Perhaps after 17 years in Parliament, you'd ask the right question.

Mrs M.H. ROBERTS: Work it out—A follows B! If the minister knows that no-one has been charged, why would she tell me to ask the Attorney General whether anyone has been convicted? How do people get convicted if they have not been charged?

Mrs L.M. Harvey: I am not responsible for your question.

Mrs M.H. ROBERTS: The minister said that she did not know the answer. She said, "I can't answer that. You will have to ask the Attorney General whether anyone has been convicted." After a convoluted discussion and having received a piece of paper, the minister has now fessed up that no-one has been charged. If no-one has been charged—guess what? No-one has been convicted.

Mr C.J. Barnett: Maybe they have been discouraged from committing the offence, member.

Mrs M.H. ROBERTS: I really have to wonder about this hollow rhetoric.

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Ms M.M. Quirk: No, it's obfuscation.

Mrs M.H. ROBERTS: We will put the minister's obfuscation to one side, because she does that on a daily basis. Let us deal with the matter before us.

We have exposed another example of this kind of pretending to be tough on law and order that does not actually achieve anything. One wonders why the government does this. I think part of the reason is that it sounds good and it can get away with it in the 24-hour media cycle. The other reason is that it costs nothing. It can bring in the legislation at no cost. It does not charge anyone or put anyone before the courts, which also costs nothing. It gets the hit of, "Hey, we're tough on crime", and no wonder! It is like drawing teeth to find out whether any charges have been laid, whether any prosecutions have been successful and whether the defences have been used. It is crazy.

I have dealt with the stand-alone offence. I have also dealt with section 216 of the Criminal Code, which has not been used. Effectively, there is an admission in the seventh paragraph of the minister's second reading speech, which states —

The bill also replicates and expands on the existing criminal provisions relating to graffiti, including offences of possessing things with the intent to apply graffiti, selling graffiti implements to children and recovering the costs of cleaning graffiti. These provisions are to be removed from the Criminal Code and replicated in the bill. This will create a consolidated piece of legislation tackling graffiti vandalism.

It is a Clayton's bill. It is about pretending to do something about graffiti vandalism by cobbling together bits and pieces from other legislation and substantially pulling out a few sections from the Criminal Code and putting them altogether in a new bill in a new little package. It is more of "form and no substance" and it has the appearance of having done something. I call this very much a Clayton's action.

I go back to the point that the minister said that her government committed to better armed law enforcement officers and other government bodies to deal with problems associated with graffiti. Perhaps the minister can outline in her response how many dollars have been allocated, the number of full-time equivalents and what the government is doing other than shuffling around things. Is there anything new in her strategy?

The minister also stated in her second reading speech —

To further tackle the spread of graffiti vandalism, the bill provides for the forfeiture of anything used to store, record or transmit images of the graffiti caused, upon application by the prosecutor and on conviction of the offender for a graffiti offence.

I am sure that questions will be asked about this clause during the consideration in detail stage. In her second reading speech, the minister went on to state the obvious —

Graffiti vandals often photograph their work or video record its creation. These images are then shared among social groups and via the internet, supporting the proliferation of a graffiti culture.

What is really interesting is how effective this clause will be. At what point will "anything used to store, record or transmit images" be seized? The most common device used to do any of those things is a mobile phone. These days most people take photographs and videos via their mobile phone and they are of high quality. It is also the easiest method by which to transmit it to social groups or friends. It can be put directly on Instagram, Facebook, Twitter or whatever social media is being used. I suspect that, in most instances, any recording and transmission of those images will be done via mobile phone. I wonder whether this clause has been set up to succeed or whether it is just another clause that sounds tough but will not achieve anything. It does not appear to me that the phone will be seized at the time of the offence.

The second reading speech states "upon application by the prosecutor and on conviction of the offender for a graffiti offence", so it appears that the offender will keep their phone until such time as they are convicted or there has been some court process. It is not as though there will be any immediate seizure of the phone. Any transmission will have occurred. If any application is made by the prosecutor for the phone to be forfeited, I think we will quickly find that the phone will no longer have a SIM card and that all the pictures will have been downloaded from the phone onto another independent device. If the purpose is to put the photographs out of circulation, the clause will not achieve that purpose. If the purpose is simply for the mobile phones to be forfeited to the state, that will not achieve anything other than a penalty of the cost of the phone. This looks to me like window-dressing. Maybe the cost of a mobile phone can be incorporated and the offender can be charged that cost. I do not for one moment see how the offender will lose all the photographs of their graffiti through the seizure outlined in clause 13 of the bill. No doubt we will refer to that more specifically during the consideration in detail stage. Clause 13, "Forfeiture of property", states —

Extract from Hansard

[ASSEMBLY — Tuesday, 13 October 2015]

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Mrs Michelle Roberts; Ms Lisa Baker; Dr Tony Buti; Mr Roger Cook; Mr David Templeman; Mr Peter Tinley; Mr Fran Logan; Mr Paul Papalia; Mr Peter Watson; Acting Speaker; Mr Nathan Morton; Mr Dave Kelly; Mr Chris Tallentire; Ms Simone McGurk; Mrs Liza Harvey

- (1) *The Criminal Code* section 731 applies where a court convicts a person of an offence under this Act, as if the conviction were a penalty under *The Criminal Code*.
- (2) For the purposes of subsection (1) “any thing that was used in or in connection with the commission of the offence” includes a thing that was intended to be used, and includes —
 - (a) a graffiti implement; and
 - (b) anything used by the offender to record, store or transmit images of the graffiti caused by the offender.
- (3) The order may include provision for the seizure of a thing or other action required to enforce that forfeiture.
- (4) In addition to *The Criminal Code* section 731(2), a court must not make an order for the forfeiture of any thing under subsection (1) unless the prosecutor applies for the order.

This will not happen as a matter of course; it will happen only if the prosecutor applies for the order. That very action will allow someone to have plenty of time to download those images to another phone, their home computer, a laptop, an iPad or any other kind of tablet or device. I cannot see that it will achieve much other than this type of window-dressing whereby the government is pretending that it is doing something and that it will take the phones and cameras from graffiti vandals. If a prosecutor decides to go down that path, they may or may not be successful; and, if they are successful, that will effectively render an additional financial penalty for the individual involved because they will lose the device or technology. They certainly will not lose their photographs, which they will surely download elsewhere.

Towards the conclusion of the minister’s second reading speech, she talked it up as a “one-stop-shop piece of legislation for graffiti”.

A member interjected.

Mrs M.H. ROBERTS: Yes. It would be funny if it were not so sad.

Lastly, there are what the minister describes as important amendments to the Public Transport Authority Act 1995 to expand the existing powers of arrest of Public Transport Authority security officers. I signal that the opposition will have some questions about that area, because what the minister purports this will achieve and what it will actually achieve may well be two different things. In any event, part of my query is about whether the amendment made by this bill will allow a security officer to apprehend a person reasonably suspected of committing the offence, including the new graffiti offence, without the need for the offence to continue or be repeated. Basically, the person will not have to continue with the action or continue to do the graffiti for anyone to form a reasonable opinion that they are going to continue to do it; they can be apprehended by the Public Transport Authority officer. It seems that the words in the explanatory memorandum are somewhat different. They state —

- expand the powers of arrest of Public Transport Authority ... security officers to include apprehending persons suspected of committing, on PTA property, the *Criminal Code* offences of disorderly behaviour, trespass and criminal damage and the proposed new GV Bill offence of damaging property by graffiti; ...

It appears that under the graffiti bill, the powers of the PTA officers will be extended to other offences in the Criminal Code that have nothing to do with graffiti. At the moment, I understand that those trespass and criminal damage offences do not need to be ongoing. They need to be ongoing offences, too. So, the minister has included provisions in the legislation that are nothing to do with graffiti. Perhaps the minister can explain that further or get some further advice on that aspect. It is towards the back of the bill somewhere. Part 5, “*Public Transport Authority Act 2003* amended”, deletes words from section 58(1) and inserts —

a security officer or a member of the Police Force witnesses an offender committing an offence referred to in that subsection, or reasonably suspects that an offence referred to in that subsection has been committed by an offender,

What is meant by “that subsection”? Does that provision deal with trespass and a range of other extraneous offences, as the minister’s explanatory memorandum seems to indicate on the overview page, or is it as reflected in the minister’s second reading speech? We will get to that matter in consideration in detail.

Finally, the bill purports to add a new offence of damaging property by graffiti. That reference is from the minister’s second reading speech and just repeats what she said in the first instance.

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I think that people who expected a comprehensive approach by this government to graffiti based on the commitments it gave prior to the last election would be sorely disappointed by this legislation, because there is no evidence of new money and no evidence of increased public officers of any description spending their time on the offences of graffiti or driving graffiti down. The minister can announce as many reviews or workshops or whatever she likes, but it does not necessarily count for much if there is not the personnel and the support to back it up. I know that my colleague the member for Butler will raise some matters to do with the removal of financial support from people engaged in graffiti removal in his electorate, which I know is a matter of concern to him. The government has delivered very little in this regard. If people had high expectations for some kind of one-stop shop for graffiti and some tough new legislation, this bill certainly is not it. This legislation has grabbed a handful of sections from other acts and put them into one bill, but it has not strengthened them much. As I pointed out in my earlier remarks, the so-called new offence is not much of a new offence; it simply replicates a section of the Criminal Code.

A further concern is that the minister, for whatever reason, does not seem to think that it is her job to be briefed on how the laws are currently working. The minister is responsible for a bill that brings together a range of sections of the Criminal Code dealing with graffiti, yet she can provide us with no information at this stage on how often any of those current laws are used and how many prosecutions are taking place. How many people are police charging with any of these offences that have now been cobbled together into the one bill? That is the kind of information the minister could have provided in her second reading speech. Had there been a good story to tell, I think the minister would have told it in her second reading speech. The minister would have talked about the extra dollars, the extra full-time equivalents and the extra effort going in if it really existed. The minister would have also advised us about the success or otherwise of the various sections of the Criminal Code, some of which were introduced by me and some were introduced by the former Attorney General. She would have outlined whether they have been successful, whether there have been successful prosecutions and whether the police have charged people. Those are the things we need to know when making laws. I am not aware whether there have been prosecutions under section 216 or whether that defence has been used. Those are things I need to know when I look at these existing laws, because if there has been an issue and a section is not being used, I want to know why it is not being used. I want to know whether a defence has been used effectively. Rather than just grab these provisions from other legislation, do we need to amend them in some way to make them more useful for our police to deal with graffiti vandals in our community?

MS L.L. BAKER (Maylands) [5.05 pm]: I rise in response to the Graffiti Vandalism Bill 2015 that the Minister for Police has brought to this house. As the minister has pointed out and I think we have heard, this legislation is making good on a Liberal Party election commitment to tighten things up on this issue. Although I understand the minister's rationale for doing this, it is certainly not the strategy that I would have chosen—but I am not in government; so more power to the minister—go ahead with her bill.

I want to make a few comments about why this is perhaps not the best way to go to tackle graffiti. I want to start by talking specifically about my experience in my electorate. I have not had a huge outcry from the public about graffiti, in the last seven years anyway. I understand that some of my colleagues have reported that graffiti is an issue in their communities, but it has not been a huge point of anger for my constituents. The instances of graffiti that I have come across in my electorate are in the predictable areas, such as around schools, bus and train stations, and in the shopping centre. Even in the retail precincts, there has not been a great deal of graffiti, but I will talk about them specifically in a minute because it relates to a strategy to tackle antisocial behaviour that I think is preferable to just targeting graffiti as a crime.

I start by saying that the crimes around graffiti are not something that I have had people bashing down my door about—that might be a crime in itself, someone bashing down my door, but it is not something that has brought people to the fore asking for assistance. However, I have had some graffiti cleaned off my building. It is usually just tags from kids from the local primary and high schools. They walk past my building, and they like to sign their names. I am glad to say it has not been anything rude; it has just been a bit of tagging and name signing. It has not been a huge problem, and because there is such a good service for members of Parliament and their electorate officers, the graffiti has been removed within 24 hours; it has been fantastic. I also think that maybe the reason there has not been such a lot of reported incidences of graffiti in my electorate is that many people who live in the city are pretty used to this crime now. Although they do not condone graffiti and certainly do not want to see incidences of it expanding, they take precautions. I am well aware from the old days when I lived in Northbridge for a time, that all my front fences and external-facing walls that were vulnerable to graffiti attacks were painted with graffiti-resistant paint, so the graffiti could be removed very easily and very quickly. When I drive through Inglewood, for instance, particularly the areas near my office, I see the same tagging that I get on my office, but again it is gone within 24 hours. Homeowners are really aware of the recommendations for

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managing graffiti and managing it down, and I think they have taken on board 20 or 30 years of advice from police and local governments about how to combat graffiti, which is basically by removing it really quickly.

I turn now to the broad picture around the use of graffiti as an expression by street artists, rather than simply the signature of a young girl or boy on their way home from school. The issue of graffiti as street art is increasingly coming into focus in my electorate. I draw the attention of members to the main street of Maylands, Eighth Avenue, where some graffiti has been commissioned as art, and it is a fabulous addition to the street. Members will also be familiar with the reasons that some people have been moved to use graffiti on their buildings. I found an article from last year about Mount Lawley, the Speaker's electorate, where one resident, John Clark, finding that tagging on his garage was out of control, commissioned a mural from a local artist, and his property has not been tagged since. John said that one tag on his back wall turned into 30 within two years. I think I would be fairly distressed if that was happening. He went on to say that, just looking at his local area, he saw that the council was unable to keep up with removing tags because they were going up faster than they were being removed. This is not my experience; this is something that happened in the Speaker's electorate of Mount Lawley last year. Mr Clark said that he had got to a tipping point and decided that it was time to paint graffiti out, or put a mural on the wall. He decided to give a local artist an inner-city space to paint on. He put a call out on social media and commissioned Perth artist Martin E. Wills, who had carried out street art projects in the city, to put some art on his back wall. Since that time, there has been no tagging on his back wall. Again, this is using effective strategies to design out crime in the neighbourhood. I will speak about this subject in more detail in a moment.

I should speak for a minute about the difference between street art and graffiti. In my opinion, I am very clear that art in public places showing good design, and done with the permission of the owners of the property, tends to be street art. Graffiti is the illegal drawing or painting on surfaces. They are quite different things. I notice that the use of street art that looks like graffiti has been quite a topic of conversation, not least amongst the police. I read about how last year a planned police anti-graffiti operation resulted in a popular street mural painted by a high-profile Perth artist being mistakenly painted over. I certainly do not mean to say anything negative about the police. I will read from this news article —

Internationally recognised artist Stormie Mills painted the mural on the side wall of a building he owns in Northbridge three years ago.

The entire wall was covered in brown paint by City of Vincent council workers, a move that Mayor John Carey described as an “embarrassing stuff up”.

The Mayor of the City of Vincent said that his council is the biggest council sponsor of public street art festivals, and has its own wall mural art program. It has always encouraged residents to get artists to do urban art in their laneways. In this instance, it appears that WA Police was the instigator of all this. The police wanted to set a trap for young people who were painting artwork on the wall and, in doing so, painted out a fantastic piece of art that was on a wall owned by the artist. When I talk about street art and graffiti, it is easy to see why the two are sometimes confused. In the instance that I have just cited, what was considered graffiti was an artistic piece painted by the owner of the wall, which police decided to paint out, so the local council now has a brown wall instead of the mural that the artist had put up.

In the Maylands town centre we have occasional issues around antisocial behaviour and crime. I know that the minister is aware of this, and I have made representations to her in the past on these issues. I have also made a number of representations to the local council, the City of Bayswater, about managing this part of my electorate so that crime is dissuaded rather than encouraged. I want to talk in a bit of detail about the notion of good design and management of the built environment reducing crime and improving safety in neighbourhoods. I give credit to Paul Cozens of Curtin University, who is an internationally recognised expert on CPTED, or crime prevention through environmental design. Paul's writings, research, books and papers have been quite an inspiration to me as I have looked at ways in which I can help, as an opposition member, to strengthen the local neighbourhood response to antisocial behaviour. In this retail precinct there have been a lot of issues around street drinking and drug and alcohol-affected pedestrians causing retailers a significant problem. I am talking to them about the things that Paul Cozens has written about prolifically. The Department of Planning has a statewide strategy around designing out crime and CPTED, or it did have; I am assuming it still has. In Eighth Avenue, we are trying to create interest and colour, and ownership of the street; to encourage a better environment in that street; and to transform the environment and bring in some excitement. The council has done a lot of the infrastructure work by improving the streetscape over the years, but I am seeing a bit of deceleration in the attention to that area, and antisocial behaviour is slowly creeping back.

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The kinds of things I am talking to my retailers and constituents about are how they might move into the area and take more ownership of the street. The Maylands business organisation has made applications, and runs a street festival every two years, closing Eighth Avenue for one day. That is a great initiative, but it is not enough. It is not regularly owning the space, and it is not present every weekend. The area has some really vibrant stores and progressive shop owners. Some great ideas are starting to happen, and there is a real sense of excitement, so it is sad to see that we cannot manage that little built environment more effectively, to keep graffiti and vandalism down and antisocial behaviour under control. The kinds of things that CPTED covers include making sure that retailers can monitor the presence of people who are acting suspiciously, or potential offenders who might make customers and staff feel unsafe, and finding ways to deter potential offenders.

I am talking to my store owners about being part of an Eyes on the Street program and making sure that they have signs up on their front windows to tell customers that they know when someone is coming into their stores and going out of their stores—a kind of system, bell, alarm, buzzer or whatever to tell them when somebody has come into or left their shops. These sound like very simple strategies, but they are very powerful tools for managing crime and antisocial behaviour at a local level.

Another really simple message for retailers is to keep clear lines of sight across the space within their shops because any hanging racks are barricades that effectively block their vision to parts of the store. This encourages people who perhaps have devious things in mind to go into a corner to pop something in their bag or their pocket, or do something that retailers do not want them to do. Closed-circuit television cameras on the street and good streetlighting are the kinds of things that dissuade graffiti artists. Thanks to the City of Bayswater's application to the federal government for funding, CCTV cameras are just being installed on Eighth Avenue, which will be a great improvement. I pay tribute to the City of Bayswater for having the forethought to apply for that funding when it was available from the federal government, and for its good streetlighting. Regular and visible security patrols are an area in which we could do better. The City of Bayswater has a security watch service, but it is not as regularly present as shop owners would perhaps like it to be. There is a bit more of an opportunity for people to get up to mischief because they simply do not see enforcement officers. The good news for me is that local policing teams have been really quick to come forward and help me deal with some of these issues. In fact, they have been really happy to come out and talk to residents, and walk up and down outside the stores to make their presence felt. I am also very lucky because Eighth Avenue happens to be around the corner and it is a great coffee spot for both the mounted division and the dog division of the police force, which are now together. Quite a few uniformed officers pop out either to buy coffee for everyone, to socialise the dogs, or to take their mounts up and down the street to socialise their horses as part of their training. That all adds to the presence that dissuades crime in that neck of the woods. That is laudable and I am very happy to have them there.

[Member's time extended.]

Ms L.L. BAKER: We could do far better with landscaping in the area, the maintenance of footpaths and the cleanliness of the area, and I will continue to encourage the City of Bayswater to do more in these areas. Shop owners should not be expected to put up with crumbling and dirty footpaths, and dirty streets. They need to be clean as part of having colour and interest in a transformed environment that people feel they need to care for, rather than abuse. I also make sure that I tell my retailers to remove any debris near their premises that might be associated with alcohol or drugs. Sometimes people drop bottles and they certainly drop needles and the like outside shops overnight. If shop owners see anything, I ask them to make sure that they safely pick up that debris. I know, technically, it is not their job because it is not on their premises, but it adds to the sense of ownership if their shop fronts are clean and tidy.

Again, the issue with graffiti is that should shop owners have graffiti anywhere on their buildings, they should contact people to get it removed as quickly as possible to keep the front facade of their business well maintained. They need to make sure that any required repairs are done quickly. This discourages illegal graffiti and the antisocial behaviour that might otherwise be experienced.

Making sure that seating and lighting are appropriate, attractive, and encouraging—particularly for older people who might want to use Eighth Avenue or the Bayswater precinct for their shopping or having a coffee—are other areas we need to do more in. We need to make sure that there are good places for them to sit and feel safe on a clean streetscape. "Designing Out Crime" mentions many things, particularly those that Paul Cozens would raise, about activating open spaces with day and night-time activities; making sure retail is mixed use with eating spaces at ground level; and making sure that ATMs and phone boxes are placed in high activity areas, not hidden away. For shop owners, it mentions putting locks on windows and doors, putting in a security system or security screens, having electronic alerts for entering and leaving premises, and marking or labelling the property. These are very simple things that can be done, but they have a clear and positive impact in designing out crime.

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That was about the Maylands area, but before my time is up, I want to speak briefly on the Bayswater precinct as well. Bayswater is an area that members have heard me speak about recently in this house on the development of the airport rail link. I want to raise Bayswater in the context of graffiti and this bill, and also while I am talking about designing out crime because the Bayswater business community has been trying hard to activate Bayswater for a long period. It has been trying very hard to bring some colour, interest and excitement back to the area. Part of that has been to make sure that things are clean and tidy, and graffiti is removed as quickly as possible.

I should say that I am so pleased that several community groups have become very active in this area over the last few months. Baysie Rollers—I had to explain what that meant to my staff who are significantly younger than me. They had no idea why “Baysie Rollers” would be an appropriate catchcry for a community group. I showed them very offensive pictures of men in tartan skirts singing very trashy boy band songs from about 30 years ago. Now they realise, I do not think they have forgiven the Baysie Rollers yet for the naming of their group. Anyway, it is very catchy and they are a very hardworking new community group that is very keen to activate Bayswater. I spent Saturday two weekends ago tidying up a block right in the middle of the Baysie shopping precinct that is set for redevelopment, but it had fallen into disrepair and disuse. It was covered in weeds, rubbish and junk—a perfect place for graffiti artists to take root. Surprisingly enough, the graffiti artists had not done so; therefore, we thought we should strike before they did and get in and tidy up. About 10 to 15 of the Baysie Rollers and I grabbed axes, chainsaws, rakes, shovels, picks, wheelbarrows and each other and dug out all the weeds and the mess in the area in the hope of having some pop-up shops at the back and a street festival to bring some colour and interest back into the area. These people dearly love this area and they are very committed to its development. Again, this is why I have spoken in this house about the need for the Ministers for Planning and Transport to get together and have some vision for Bayswater as a priority redevelopment area for the future. We need to make sure we do not miss out on the opportunities for what I call the Bayswater rail link—I think others call it the airport rail link. I apologise to the Acting Speaker the member for Forrestfield, who I can see looking at me. I think we really need to take this opportunity and make the most out of it. If we do not do what is required to bring the Bayswater precinct along and redevelop the area in a positive way, we will miss a golden opportunity that will never be repeated—the Bayswater rail link. It is now the time to do the work on the Bayswater precinct, and that will design out crime and bring on the area in a colourful and vibrant way and enhance what the community is telling me it wants to see happen in the Bayswater area.

A friend of mine in Maylands has just had her shop decorated by two graffiti or street artists. They call themselves both. I have heard them called street artists or graffiti artists. One is Tankateo, otherwise known as Steph Mateo, a French visual artist, who spent the first part of her thirties in Perth, Australia. She is a fantastic artist and has decorated the entrance of Blackcurrent Clothing in Maylands, run by Catherine Ehrhardt. Catherine has also taken the opportunity to have the whole side of her building, which has suffered from graffiti, decorated in the most brilliant fashion by street artist Robert Jenkins, who has done an outstanding job with a very interesting artwork. One cannot miss it; it lifts the whole area. If there is ever a demonstration of what good graffiti or good street art can do to lift an area and bring colour and a sense of ownership, this is it. I acknowledge and applaud Catherine for bringing in both these artists and decorating the side of her store. Her store is quite close to the Maylands train station, which also has had its share of problems with antisocial behaviour. Her store is also right next to the site of a proposed 1 200 square metre Dan Murphy’s—in a residential area. That will have a horrific impact on my community if it goes ahead. My community has been lobbying very hard against that so let us hope that in a week or two I can come to this house and tell members that that application to the Gaming and Wagering Commission WA for a licence to extend Dan Murphy’s into the residential area in Maylands has been denied. I hope that happens.

I look forward to the consideration in detail stage of this Graffiti Vandalism Bill when no doubt I will find out more about how the new provisions will work. I am particularly interested in the Public Transport Authority components of the bill. Given the Morley bus terminal at Galleria is in my electorate, and the train line runs through my electorate, I am very keen to do anything I can to see disorderly behaviour, criminal damage or any property damage minimised and to improve the safety of people who seek to use buses and trains in my electorate, and in Western Australia in general. I will be very grateful to see anything this bill can provide towards achieving that and helping the valued security officers whose job is to patrol the trains and buses. I look forward to debating that with the minister during consideration in detail.

DR A.D. BUTI (Armadale) [5.30 pm]: I was listening to the member for Maylands talk about the Bay City Rollers. I have a very tolerant view of people’s music tastes, but one has standards! It gave me a flashback of, I think, the second date with my current—my wife. This was many years ago.

Several members interjected.

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Dr A.D. BUTI: It was my only wife. I remember being on Shepperton Road about to approach the intersection of Welshpool Road, Albany Highway and Shepperton Road and she mentioned that she really liked the Bay City Rollers. That really did test my attraction to my wife but I must have overcome that because she also said she enjoyed the Beatles, which I think is a much superior band.

In my contribution to the debate on this Graffiti Vandalism Bill, I want to discuss four main topics. The first is the reasons behind bringing this bill to the house. The second is graffiti issues in Armadale and the third is why young people engage in graffiti damage and what are some of the ways we can try to decrease the behaviour that leads to graffiti. If I have time, I would like to talk about a constitutional issue that may come up in this bill.

In the minister's second reading speech she mentions that this is part of the government's 2008 election commitment to re-establish the State Graffiti Taskforce and look at the whole issue of graffiti. The minister also indicated that the cost of repairing unwanted damage caused by graffiti vandals in recent years has been estimated at around \$8 million a year. In the exchanges she had with the member for Midland, she stated that in some instances of graffiti damage no charges have been laid under the Criminal Code. One wonders why this bill has been brought on now when there are probably more pressing issues in the crime area. I have to say that I have become increasingly disappointed with the minister's administration of this portfolio, particularly in the area of family violence. I think in response to a question from the member for Fremantle a couple of weeks ago she said that domestic violence is not in her portfolio. I find it very strange that the police minister does not see domestic and family violence as part of her portfolio. She has mentioned previously that she takes the issue of family violence very seriously and she is working towards doing what she can as a police minister, but she has not done so.

Mrs L.M. Harvey: Member, that was in the provision-of-service contracts to service providers to victims of domestic violence.

Ms S.F. McGurk: It was in the 20-point plan.

Mrs L.M. Harvey: And the strategy that sits above that, authored by my colleague in the other place Hon Helen Morton. My area of responsibility around domestic violence is around police response, provision of police services and training to ensure we have the right response mechanism to domestic violence. We work in partnership around the service delivery to ensure police place victims with the agencies that can assist them. I do not have the whole responsibility for it but I have the enforcement responsibility for it.

The ACTING SPEAKER (Mr N.W. Morton): Member, we are debating graffiti.

Dr A.D. BUTI: I was going to address that because I saw an exchange with the Clerk, although I think I am allowed to discuss the reason that this bill has been given priority over something else. I will not spend too long on this. In the document the minister referred to, "Freedom from Fear: Working towards the Elimination of Family and Domestic Violence in Western Australia", she mentioned that Western Australia has the second highest rate of reportable physical and sexual violence perpetrated against women in Australia. That document mentions that it is costing the economy \$13.6 billion a year. Domestic violence is costing \$13.6 billion a year and graffiti is costing \$8 million a year and WA has the second highest rate of domestic violence, but the minister considers it more important to bring the Graffiti Vandalism Bill to this house prior to bringing in legislation for GPS tracking she promised at the last election and the promised amendments to the violence restraining order legislation. I am concerned about the minister's motivation for bringing this bill before the house. I think the member for Midland is correct. It is easy to bring this bill before the house because all the minister is doing in the main is consolidating what is in the Criminal Code in a new bill and then she can go to the public and say, "We're getting tough on graffiti", because there is no doubt that people are concerned about graffiti.

Mr P. Papalia interjected.

Dr A.D. BUTI: That is exactly right. The point is that although the general population is concerned about graffiti, it is not a life and death matter. It is a shame the minister is not putting more energy into and giving more urgency to what she can do to tackle family violence. As I have always said, it is not only the minister's responsibility, but as the police minister she has substantial responsibility in that area.

Of course, the Acting Speaker (Mr N.W. Morton), in his previous profession as an educationist in the Armadale region would have come across examples of graffiti in Armadale. We have had problems with graffiti, but we have also had some very community-minded people who have tried to address this issue in Armadale. One particular person I want to mention is Steve Aldersea, who started cleaning graffiti about 10 years ago off his own bat. He is actually a painter—a trade painter, not an artistic painter. He used his own materials and went out and started cleaning graffiti from buildings in Armadale, which was absolutely fantastic. Then the City of Armadale came on board and provided a truck and materials for Steve and other volunteers, such as Don Win-Stanley, Graeme Hart and Gordon and Lyn Caruthers, and they still go out and clean graffiti. Although

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graffiti is an issue in Armadale, and has been for a long period, often we do not see it for very long because Steve and his team go out and clean the graffiti, particularly on the weekend. At times it is actually done in various dangerous situations on road bridges. Because Steve and his team would normally have to close the road and put out witches hats et cetera, which would cost \$1 000, they overcome the danger by getting up very early on the weekend and go out and clean the graffiti. It is outstanding work by Steve Aldersea and his team. The more community-minded people like Steve Aldersea around the place, the more we may not need to be concerned with legislation. By the sounds of it, the Criminal Code, which has the ability to deal with graffiti, has not been utilised to any great extent. Again, why in this state is it necessary to bring this bill before the house? I think the member for Midland was on the money when she said that it just allows the government once again to come before this house and go out to the public and say, “We are tough on crime.” I can tell members that although graffiti is an issue and we all hate graffiti, it ain’t the number one law and order issue; people’s lives are not at stake. It is about time that the police minister and others involved started to look at crime and law and order issues that revolve around people’s safety.

Why do people engage in graffiti? It is not only young people, obviously, but a lot of people involved in graffiti are in a younger rather than an older age bracket. There is an interesting report by the Youth Affairs Council of Victoria on consultation with young people who engage in graffiti in regard to a bill that was before the Victorian Parliament. The authors of the report, published in 2007, went out and interviewed a lot of young people who engage in the practice of graffiti. They asked about the motivations for young people to engage in graffiti, and the two key reasons were, first, that it was part of the lifestyle or culture that they were part of; and, secondly, they had a passionate interest in graphic art. They also said that they were concerned about the provisions in the proposed legislation in Victoria, which I am not sure was ever passed—I presume it was passed. They were concerned with the provisions that dealt with an offence for carrying graffiti implements. Some said, “We are artists. We’re not actually graffiti offenders”, or whatever we want to call them. Some were travelling to studios and legal graffiti walls to engage in art projects. In Victoria that was quite common, and I presume is still quite common. Interestingly, they were asked whether making graffiti illegal and the prospect of criminal sanction would influence their decision to engage in graffiti. All of them said that it would not prevent them from engaging in graffiti. One of them said that if it was a criminal offence to carry an implement construed as necessary for graffiti, it would probably stop them travelling on public transport. But, interestingly, none of them said that they would stop or that it would prevent or discourage them from engaging in graffiti. It would be interesting to know whether the minister has any relevant Western Australian feedback on this issue. Also of interest is that they said that tougher penalties might result in more ugly graffiti, such as tags and throw-ups—whatever it is; I do not know what a throw-up is in graffiti terms—rather than artistic graffiti pieces. I want to quote one of the respondents from the report —

‘I don’t think the bill is going to deter anyone from doing anything, I think it’s going to make people really angry and it’s going to make people really...yeah, it’s going to go totally the opposite way. If anything you’re going to end up with more people doing graffiti and your going to end up with more people doing graff that’s not pieces, because the laws—when the laws get harder, people do stuff that’s quicker and so you end up with more stuff that’s tags and throw ups and scratchies and all that sort of stuff so what you’re doing is you’re taking away the stuff that the public likes to see and you’re giving them the stuff that they don’t like to see.’

There is no doubt that there is public art that is attractive. On Albany Highway in Armadale, before the intersection of Albany Highway, Armadale Road and South West Highway, on the left there is a quite large retaining wall. Many years ago the City of Armadale commissioned a fantastic mural that depicts a lot of Indigenous wildlife and flora and fauna, which is quite impressive. That of course is not considered to be graffiti because it was commissioned by the City of Armadale. The point is that some stuff has not been commissioned that is actually attractive, although I know that a lot of graffiti is not attractive and damages people’s personal property and public property. I in no way condone that. I think it is terrible and that people who engage in it are very selfish and inconsiderate.

[Member’s time extended.]

Dr A.D. BUTI: Interestingly, this focus group in Victoria was asked what solutions would help to reduce graffiti. They suggested that solutions to reduce graffiti should reflect a consideration of this progression of people moving from rough art through ugly graffiti to something that is more creative and more pleasing to the eye. The report continues —

They suggested that by fostering ... artistic talent, young people may be less likely to go through the phases of illegal tagging and producing ‘throw-ups.’

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They suggested that an effective method would be for more Local Governments to offer legal walls ... sponsoring artistic graffiti 'jam sessions' once a month. This would encourage young people to work on more artistic pieces for exhibition. Monthly sessions would mean that the artwork was regularly changing and higher numbers of young people would engage in the process. The pieces wouldn't need to be kept, as the transient nature of graffiti is part of how it is enjoyed.

The group agreed that not all people who graffiti would utilise legal walls, however they believed that it would reduce the incidence of illegal graffiti.

I think that is important. We will never stop graffiti; we wish to decrease it. Whether this bill before the house will do that remains to be seen, but I think it is important to provide a space for young people to engage in public art. The group mentioned two reasons for going down this path. The first, as stated in the report, is —

People who graffiti typically enjoy the challenge involved in producing a piece and as such would be attracted by opportunities to engage in local sponsored graffiti competitions ...

The second reason is that —

The presence of legal graffiti projects facilitates positive communication between projects workers and local young people who graffiti. This in turn can facilitate relationships of respect in which local young people who graffiti will cease to graffiti certain problem areas if requested by project staff in order to ensure continuous support for the program.

In the survey, one respondent said —

'In terms of speaking to young people or older people who do graffiti and the way they respect our area, that's a positive outcome because that conversation exists now, and if, say for example an area gets tagged and it's prolific you can find out who that guy is and tell him to stop, because you can say 'I work on this project and if you keep doing this then this projects going to get pulled and I'm not going to be happy about it because I'm an artists and I want to paint there. So, those conversations exist.'

It will be interesting to learn whether the government has a complementary policy for the Graffiti Vandalism Bill, because if it has only this piece of legislation, which in the main is only a consolidation of what exists in the Criminal Code, I am not sure that it will be successful in reducing the volume of graffiti. The government needs a complementary policy to engage with the youth who undertake graffiti to try to make it a more positive dialogue and outcome. It should work with local governments to provide avenues in which people can engage in something that is considered public art and artistic and creative rather than something that is considered antisocial, which most people do not want to see.

I turn to clause 13, which is entitled "Forfeiture of property". It reads —

- (1) *The Criminal Code* section 731 applies where a court convicts a person of an offence under this Act, as if the conviction were a penalty under *The Criminal Code*.
- (2) For the purposes of subsection (1) "any thing that was used in or in connection with the commission of the offence" includes a thing that was intended to be used, and includes —
 - (a) a graffiti implement; and
 - (b) anything used by the offender to record, store or transmit images of the graffiti caused by the offender.

In her second reading speech, the minister states —

To further tackle the spread of graffiti vandalism, the bill provides for the forfeiture of anything used to store, record or transmit images of the graffiti caused, upon application by the prosecutor and on conviction of the offender for a graffiti offence. Graffiti vandals often photograph their work or video record its creation. These images are then shared among social groups and via the internet, supporting the proliferation of a graffiti culture. By hindering offenders in the distribution of their work, it is anticipated the incentive to commit graffiti vandalism is reduced.

Some graffiti has a political bent to it—I will be interested to hear what the minister's advisers have to say about this when we explore it in consideration in detail—and can communicate a political message. In Australia there is implied constitutional freedom of speech for political matters. In two 1992 cases—one involving Nationwide News and the other Australian Capital Television—the High Court held that there is implied freedom of political communication. Upon an initial look at those decisions, one might think that the Australian

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implied right to freedom of political communication covers only speech that is pertinent to election campaigns or the conduct of government. One might think that unless it happens during an election period it would not matter, but perhaps that is not the case. In the 2004 High Court case *Coleman v Power*, 220 CLR 1, the High Court quashed a conviction of a demonstrator who had been prosecuted under Queensland legislation for using threatening, abusive or insulting words to any person in or near a public place. Patrick Coleman, a well-known political activist, had a history of complaints against police and had been arrested while distributing pamphlets in a shopping mall in northern Queensland. The pamphlets contained allegations of corruption against several local police officers. When approached by one of these officers, Coleman pushed him and shouted, “This is Constable Brendan Power, a corrupt police officer.” He was prosecuted under the relevant Queensland legislation. He challenged that law as being inconsistent with the constitutional right of freedom of political communication. The court’s decision confirms the survival of freedom of political communication because after the 1992 decisions and the *Lange* case, there was a clawing back of the ambit or breadth of implied freedom of political communication. But the *Coleman* case would seem to increase the possibility of it being utilised. It is interesting how the judges came to their decision. The argument was that implied freedom of political communication does not mean it has to be civil political communication. We all know that communication inside this chamber is not always civil, but that is a different issue. That case argued that in a public debate of a political nature, one cannot necessarily be protected from insult and it does not necessarily have to be of a civil form. I am not saying this is the case, but I am interested in the minister’s response because, of course, she would want to ensure that this bill is safe from possible constitutional challenge.

Mrs L.M. Harvey: I think that’s drawing a long bow.

Dr A.D. BUTI: Why would the minister say that?

Mrs L.M. Harvey: Because of the circumstances around *Coleman*. It was actually a person distributing a flyer in a shopping centre who was confronted by a police officer who, in response to the insulting words he used, requested that he desist spreading the flyers with the insulting words that stated that the Queensland police were corrupt. He did not write those insulting words on a wall and the court found that the words were not insulting and that he had the freedom to express himself politically, but in the act of distributing the flyer, he did not damage any property.

Dr A.D. BUTI: I do not see how damaging property would have any relevance to the constitutionality of the freedom of political speech. As the minister would also note from that case, the High Court quashed his challenge to the conviction for assault. He was convicted for assault, but he was not convicted for the distribution of the pamphlet, which was political communication. Graffiti can be political communication. Some of the great political communication around Australia and the world is in the form of public art and graffiti. It is irrelevant whether it damages the property. I am not arguing that a graffiti artist could not be charged for damaging property. In clause 13, the government is seeking to reduce the ability to communicate political speech. I know that not all graffiti is of a political nature, but it could be, and there may be a constitutional issue. I do not think it is drawing a long bow, necessarily. The long bow is that the government is removing the person’s property. That is the different issue. The government will remove the computer, internet or iPhone and will prevent that person from communicating the graffiti. That will arguably impinge on their implied right for political communication.

Mrs L.M. Harvey: This legislation is about the damaging action of defacing a wall with whatever slogan it is; not about what was written.

Dr A.D. BUTI: Yes.

Sitting suspended from 6.00 to 7.00 pm

Dr A.D. BUTI: I will just clarify what I was saying before the dinner break. I am not saying that the fact that one is prohibiting graffiti itself, even if it had a political message, would be unconstitutional. If the graffiti is on a public wall or even a private wall, that can still be unlawful. What I am referring to is that this bill seeks to prohibit someone from transmitting images of graffiti of a political nature by using an iPhone. Under clause 13(2) for instance, one can seek the forfeiture of the mobile phone. My argument is that there is possibly—I am not saying that there is—an argument that in preventing the transfer of a message of a political communication nature, that could itself be unconstitutional. I am not referring to the actual graffiti offence, which I think the High Court would not see as being unconstitutional in itself, but if we were to take the next step and prevent a person from communicating that image to a wider audience by taking away the equipment they use to communicate it—their computer, iPhone or mobile phone—then that is the issue. In some respects, it has an analogy to the *Coleman* case in the sense that the actual assault of the police officer remained an offence, but the prevention of the distribution of the pamphlet, or the offence under the legislation, was considered to be

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unconstitutional because it prevented the implied freedom of political communication that was considered to be part of the Constitution. Therefore, this state legislation would be consistent to that extent. The question is whether clause 13 and particularly subclause (2) may be unconstitutional if it meant that the means by which a person could communicate their political message were prohibited or severely impacted by the forfeiture of the property that allows them to transmit that political message, even if it is of graffiti. The actual graffiti would be unlawful, but it is difficult to see how it is necessary for the protection of property to prevent the transmission of that graffiti image. I know the motive behind it is to discourage people from distributing images of their graffiti, but the High Court might see that as too high a price to pay as it might be considered unconstitutional.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [7.03 pm]: I must have a word to the Whip. It would seem that with monotonous regularity I am scheduled to speak after the member for Armadale and/or the member for Maylands. Every time these members get up in this place they make these incredibly well considered, detailed and technical contributions to the debate, which severely undermine my capacity to bring some value to this process. As usual, both have done a terrific effort.

Mr P.C. Tinley: I thought you were bitching because the red wine is on out there!

The ACTING SPEAKER (Ms L.L. Baker): Are you taking an interjection, member for Kwinana?

Mr R.H. COOK: I am always happy to take an interjection, Madam Acting Speaker. I see that the member for Willagee is in fine voice tonight. I assume that he, like the saxophonist out there who is competing with us at the moment, has been enjoying himself this evening at the function in the courtyard!

I rise to give my support to the Graffiti Vandalism Bill 2015. It is a bill on which I am sure the government has a good deal of support from not only all of us in this chamber, but also members of the community, because I, like other members of the community, absolutely abhor graffiti in our suburbs. One of the most important aspects of creating sustainable communities is for people to have the opportunity to have pride in their community and to feel really good about the people they live with and the communities in which they live. One of the most abhorrent things about graffiti is that in a small way it undermines that pride bit by bit. It undermines people's sense of safety in the community because they see tags that constantly remind them that there are those who wish to act in a way that is contrary to the law. It devalues the community in which they live because, by its very nature, graffiti on buildings and on community facilities and assets does have the impact of continuing to undermine—at its most trite, to cheapen—the assets in that community. Graffiti devalues the community as a whole because people see that there are those who are taking matters into their own hands contrary to the common good of the community in which they live. Of course, graffiti in our community attacks the efforts of those who seek to build and maintain these facilities. I speak obviously of things such as heritage cottages, sporting pavilions and sporting facilities. Such great community effort goes into putting these things in place and in maintaining, cleaning and painting them, only for those efforts to be undermined by the single stupid act of a tagger—someone who, with complete disrespect to those efforts and the efforts of the community, and I think in disrespect to themselves, goes about devaluing the work of others in the community and of things that people value in the community. From that point of view, I think it is a pernicious crime. It is not of high value. Often it is a high-volume, low-value crime, but it is crime that impacts on us. Someone might be out in the streets in the evening and see some antisocial behaviour taking place, but we all see the impact of graffiti crime; we do not have to be out on the dark streets of Perth to see the impact of graffiti crime in the community because we see it the next day and on subsequent days. Because of that, it is a very effective crime for those people who wish to perpetrate it. I welcome the efforts of everyone in the community to try to stamp it out.

As I said, one of the damaging impacts it has is on people's sense of pride in their community. A recent letter in the *Subiaco Post* states —

I notice a big increase in the number of graffiti tags around Subiaco, further denigrating an already depressed suburb.

This is an example of how graffitiists and taggers in particular act in a manner that impacts on the mood of the whole community. It is important that we as a society as a whole seek to find ways that we can further reduce the activities of graffitiists in our community so that we can get on top of these issues and maintain pride, value and mutual respect in the communities in which we live.

I should say that I do not see all graffiti in the same perspective in that it all devalues our community. I think some street art is positively inspiring. From that point of view, I may differ from some members in this chamber when I say that if a public wall is not being used for the good of the community and is simply an eyesore and another empty space staring blankly out into the community, the local government authority or community leaders in that area have only themselves to blame if people take those sorts of spaces into their own hands. When they do, we often have this almost magical and spontaneous artistic response to these negative spaces.

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I think those particular pieces of graffiti add value to the community. Of course, we are not in a position to constantly adjudicate on whether one person's graffiti is another person's art. We are simply in a position to maintain the cohesive, constructive and inclusive spirit in our community.

I note some papers written by Dr Myra Taylor from Edith Cowan University. In the interviews that she has had with marginalised youth in our community, she has found that about five per cent of young people have a high interaction with the justice system. We are not talking about an army of vandals; we are talking about a small group of highly motivated and isolated people who for some reason decide that they have to express themselves in a way that we find so repugnant. She says in her papers that the one thing that young people ask for in the context of what they regard as street art, but others may regard as graffiti, is public space in order to express themselves. It seems to me that social inclusion then becomes front and centre of this debate; that is, we need community councils and community leaders who are prepared to engage young people in their communities so that those young people feel part of that community and take similar pride in being part of it and see where they fit in and see the opportunities for them as they grow. Then we can get on top of a lot of these antisocial behaviours.

I commend the government for its community policing model, because I have seen firsthand how effective it is in breaching the gap between the justice system and the people responsible for policing in our community and those young people who might otherwise find themselves engaged in antisocial behaviour. It is through that model of policing and community leadership that we see effective strategies to reduce antisocial behaviour, whether that be graffiti in this case or rock throwing, as we often have in my area of Kwinana, or just general antisocial activities. In Kwinana, we have seen the efforts of the City of Kwinana combined with the efforts of the community policing members in that area. I think they have had a significant impact on the amount of graffiti and crime in our area. Quite frankly, if I were to take only the example of Kwinana, I would say that there is no graffiti problem, because we are experiencing a great period in which young people are engaged and have the opportunity to get involved in activities in the community. From that point of view, we have had a reduction in the opportunities that those young people might have to get involved in antisocial behaviour.

Of course, the other important aspect of this is not only giving young people a say in how their community is governed, but also engaging everyone in the act of being the eyes and ears of police to make sure that they spot the antisocial behaviour before it happens. My attention was drawn to an article in my local paper a few months ago in which the Kwinana police made a public statement to that effect and called on the community to assist them. Constable Jason Webber, who does some great work in preventive crime measures and community awareness around criminal behaviour, called on the people in the community to get involved in reporting crime. Constable Webber states in this article —

“With the change in the policing model, Graffiti Taskforce is trying to introduce the use of the graffiti database more widely with all the local policing teams so that we have intimate knowledge of our local people and hotspots for graffiti,” ...

“A lot of stuff that gets reported to us is on Government or council property, Main Roads, and Water Corporation ... but it also appears on private property and it often goes unreported.

“We are hoping to get some more people who are out on their daily walk reporting.”

This is an important aspect of what we do to reduce this antisocial behaviour, because it engages the community and strengthens the resolve and the resilience of the community, rather than continuing to undermine it tag by tag by tag and to niggle away at the community's confidence.

I also want to commend the member for Girrawheen and opposition spokesperson for citizenship and multicultural interests, Hon Margaret Quirk, who brought into this place legislation that specifically addresses the issue of people who deface religious monuments. It is in the context of religious vilification that we see graffiti take on its most dangerous and evil components in undermining people's sense of safety in the community. We as a Parliament can take up an even stronger viewpoint of graffiti generally, but particularly in the context of graffiti of religious monuments—temples and churches and so on—because in that case we know that the graffiti is sending out messages of threat to people who are partaking in a religious activity, which is, quite frankly, unacceptable in our society. As the member for Girrawheen said in her commentary on this, the legislation is about sending a strong message to people who attempt to create disharmony in our community, and no Western Australian should feel intimidated when practising their religion or celebrating their culture. I think that is a very important contribution to the debate. If the government were true to its intent and word with this legislation, obviously it would join us in supporting the member for Girrawheen's private member's bill.

Bringing into this place a bill that will simply consolidate into a single piece of legislation a range of unlawful activities currently covered by a range of statutes and provide the government with an opportunity to go out into the community and say that it is tough on crime is the political equivalent of the proverbial shooting fish in

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a barrel. It is low-rent politics, and although I accept that the government is meeting an election commitment in bringing this legislation to this place, I might add that it has completely ignored other much larger election commitments that it made prior to the last election, particularly around public transport and its commitment not to force council amalgamations and things of that nature, and this is one of those rare moments in which the government has met its election promise. We are doing ourselves a disservice if we accept the rhetoric of the government. The minister has been reported in the newspaper as saying that this legislation will make graffiti vandalism WA's most pointless pastime. However, we know that perpetrators of these crimes are not sitting on the street corner undertaking some sort of rational weighing of the level of sentencing or the strictness of the penalties under this legislation; they are responding to a very basic aspect of their lives, which is a lack of self-respect and a failure to be included in our community and therefore they behave in a way that we all feel to be completely bizarre and unreal and ask why they would do these things. For them, it is simply a response to their social circumstances and not a response to them sitting down making some sort of rational calculation that the activity is worth the penalty involved under the law.

[Member's time extended.]

Mr R.H. COOK: They do not make that decision. If anything, the opportunity to break the law is almost, of itself, the incentive for people to perpetrate this activity. They respond to some base emotional need around rebelling against the system and flailing about, lashing out against the system in which they feel they have no role. This sort of legislation has come to this place before. I remember the Prohibited Behaviour Orders Bill 2010. At that time, the government claimed that legislation would reduce the amount of antisocial behaviour and would go like an arrow through the heart of antisocial behaviour and was the key to driving down this high-level, low-value crime, but we know that not one single prohibited behaviour order was issued. This so-called name-and-shame legislation, which the government said was going to stop antisocial behaviour, was ultimately not used. An article in *The Sunday Times* of 30 August 2015 reads —

WA Police Assistant Commissioner Kellie Properjohn said police had trialled a “decentralised” model which led to less PBO applications, but that model had now been scrapped, with more PBO applications likely.

She said the PBO laws were “very worthwhile in managing the conduct of certain individuals in the community”.

But, as the shadow Attorney General pointed out at the time: how can it be worthwhile if there has not been a single application in 2015? We know that simplistic tough-on-crime, mandatory sentencing sorts of legislation are simply empty rhetoric unless they have those other components about them that address the underlying cause of that criminal activity in the first place. That is what it comes down to: these are complicated social issues which require multifaceted complicated social responses. The government can introduce mandatory sentencing and consolidate a whole range of already outlawed behaviour under a single statute, but it is kidding itself that that will somehow address the issues that drive this criminal behaviour in the first place. From what I can gather—I am very happy to be corrected by the minister—the only new aspect around the law enforcement capability associated with this bill is that which provides to the security officers of the Public Transport Authority the opportunity to apprehend someone prior to their committing the graffiti. Rather than having to wait for the graffiti to be done and believing that that would be repeated, they will now have the opportunity to apprehend a person if they have reasonable suspicion to believe that the graffiti will take place or that the person has a graffiti implement on them. That is an extension of the powers of the security officers in the Public Transport Authority, but by and large this bill is simply a consolidation of what already exists in other acts.

Mrs L.M. Harvey: That is exactly what we said it was; we did not say it was anything other than a consolidation.

Mr R.H. COOK: That is right, and I do not understand how the minister can do what is essentially an exercise in drafting and then somehow out the other side comes a law that makes “vandalism WA's most pointless pastime”, because essentially it does not do anything new. That is what the minister is saying.

Mrs L.M. Harvey: It does do some new things, and I will get to that in my summing up.

Mr R.H. COOK: Thank you, minister. As I said, what drives this criminal and antisocial behaviour is a range of complicated social issues and that the way we address that is not a continued ramp-up of tough-on-crime rhetoric and political hubris, but getting down into the community and making sure our community leaders have a program and agenda for including young people into the fabric of our society, so they do not feel the need to undertake this behaviour.

I was pleasantly drawn to a piece in *The Weekend West* of 18 July in which Acting Inspector Michael Dalla-Costa said that the police had decided to focus its next operation on preventing graffiti by

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targeting children who were commonly the offenders and helping owners of public buildings avoid being hit. He said —

“It’s all very well to lock people up after the fact but that still leaves someone with a clean-up role, someone is still out of pocket and potentially —

This is the most important aspect of the article —

the young person is facing a criminal record that may have lasting ramifications for their life,” ...

He goes on to say that research shows a big proportion of graffiti vandals go on to commit more serious crimes, including drug use and armed robberies. I share Acting Inspector Dalla-Costa’s concerns that we should be talking about how to get to these young people first. It is not how tough we can be on these kids once they have undertaken a criminal activity, but how we can undertake social inclusion policies to ensure that they are not attracted to that antisocial and criminal activity in the first place. As Dr Taylor said, we already know that this represents a very small proportion of young people, and that only about five per cent of young people in that cohort are likely to offend and get involved in these criminal and antisocial activities. It is up to us as community leaders to lead that charge and reach out to young people to make sure that we are involving them. We must make sure that we are providing strength and resilience to our communities so that they feel empowered to work with the police and other public officers, to keep their eyes and ears open, to be awake to this activity so that we can nip it in the bud. We must ensure that people maintain pride in their communities and do not have their sense of safety undermined by what must be one of the most thoughtless and pointless pieces of criminal activity we see in our community. It is for that reason that we should regard the tagging of our community by graffitiists as a positive opportunity to intervene in the lives of people who are obviously going in the wrong direction. Rather than regarding it as an opportunity for us to beat our chests and engage in simplistic rhetoric around being tough on crime, we should be tough on the causes of the crime.

MR D.A. TEMPLEMAN (Mandurah) [7.31 pm]: I want to ask members what the following names—Dixie Marshall, the late Matt Price, Kieran Murphy, Geoff Parry, Liam Bartlett, Jessica Strutt, Rick Ardon, even a former Premier of this place, and many others—have in common?

Mrs L.M. Harvey: They’ve all etched their names in the —

Mr D.A. TEMPLEMAN: They have all graffitied Parliament.

Mr R.H. Cook: Is that what you were doing up there?

Mr D.A. TEMPLEMAN: That is what I was doing up there; I was doing some research.

They have all graffitied Parliament. What an outrageous thing to do! This institution—this Parliament of Western Australia—has been graffitied by eminent journalists; some, unfortunately, are no longer with us, but all of them eminent in their field. If members go to the upper house, they will see numerous other graffiti etchings inscribed in the desktop that overlooks that chamber, as in this chamber. I must say, if members go to the other chamber, they should read some of them because, although I know we are not allowed to reflect on the other place, the comments of some of the journalists who have frequented the upper house highlight how bored some of them became while being entombed there to report on the goings-on of the Legislative Council. In fact, some very witty pieces of graffiti—witticisms—have been etched in the wooden tabletops by our journalists. This coming Sunday is one of the Perth Heritage Days, and this Parliament is hosting a number of events and will be open to the general public so that they can come through and see interpretive events looking at the history of the building. There will be a re-enactment in this chamber based on one of our former female members of this place, Edith Cowan; in fact, this morning, before we sat, there was even a rehearsal. But all those journalists, and many more—members can see them there; they are etched in history—have that in common. I have named them. I hope their etchings forever remain part of the history of this place. We need to make sure that those etchings are never removed because they now comprise part of the cultural history of this place. I have not gone into great detail and looked at how far back they go in the press galleries of this and the other place, but there are etchings from as far back as the 1960s that were made during times when now-defunct newspapers such as *The Western Mail* and *Daily News* were avidly read by Western Australians.

One might ask why I named those people and raised that. I raised it because it actually folds neatly into the member for Kwinana’s comments about the perception of graffiti and what it means to most people. I think if we were to ask most people, they would say they abhor graffiti. Most people see it as a senseless, vandalistic attempt to degrade public and/or private property. But, as the member for Kwinana quite rightly highlighted, graffiti can have an artistic aspect to it. One example is the laneway just up from Flinders Street station and Federation Square in Melbourne. I think it is under what used to be known as the gasworks, which has now been turned into an apartment building. If people go off the main road into the laneway, there is an area that has been

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turned into almost an outdoor art gallery; it is quite striking. Indeed, very interestingly, it has now become almost a tourism spot or icon and people who visit Melbourne go and have a look at what some would still consider to be graffiti. Some would call it graffiti art, and others would call it art. But I think that exemplifies the comments of the member for Kwinana about aspects of graffiti needing to be seen in context. The other thing, of course, is that graffiti, particularly the writings, goes back thousands of years in many respects in terms of the recording of moments in time. So, the context in which graffiti is looked at is an important consideration.

I am interested to hear the minister's second reading response—this component was particularly highlighted in the minister's second reading speech—with regard to the amendments to the Public Transport Authority Act 2003. Several amendments will be made to that act, the first of which will expand the existing powers of arrest of Public Transport Authority officers. That includes extending the process of apprehending persons. In other words, this bill seeks to expand the existing powers of Public Transport Authority officers or security officers when they reasonably suspect certain offences are being carried out. The second reading speech states that currently a Public Transport Authority security officer may only apprehend a person committing an offence on PTA property if it appears to the officer that the offence is likely to continue or be repeated. I seek some clarification of that. My reading of that is that if a Public Transport Authority officer sees a person taking part in a graffiti offence—in other words, scribbling on a seat on a train or PTA property—currently the officer cannot apprehend the person unless they believe that the offence is likely to continue or be repeated. I want some clarification of that. I assume that the existing power would usually mean, on reasonable doubt, that if an officer catches someone doing it, they can simply believe they will continue to do it and then apprehend them. I want a bit of clarity of exactly what that means. The second reading speech goes on to state —

The amendment made by this bill will allow a security officer to apprehend a person reasonably suspected of committing the offence, including the new graffiti offence, without the need for the offence to continue or be repeated.

I may be misreading that or not getting it, but I would like the minister in her response to the second reading debate or, indeed, when we get to consideration in detail, to give a bit of background to that aspect. There is no doubt that within the public transport arena we have recently seen some very stark examples of wanton vandalism of public transport assets, be they trains or buses. Quite often the perpetrators are caught on closed-circuit television cameras within the buses or trains themselves. There is no doubt that that sort of wanton vandalism is not seen as respectable. I would like some clarification of that particular aspect.

The last paragraph of the second reading speech states —

Additionally, the bill adds the new damaging property by graffiti and the existing Criminal Code offence of damaging property to the list of prescribed offences for which, if committed on Public Transport Authority property, the chief executive officer of the Public Transport Authority may seek to prohibit a person from using Public Transport Authority services for a finite period of time.

I understand that this additional power allows the PTA to effectively ban somebody from using public transport for a period of time. I must admit that I have not read the clause but I am interested in what time spans people might be banned or prohibited from using public transport. If the minister could clarify that for us, that would be appreciated.

It is also important to look at the involvement of local government in the battle against graffiti. I think there are some very good examples in local government, both in the metropolitan area and regional WA, in which local governments have and are working in partnership with the police to address the issues associated with graffiti in communities. We all know that one of the key issues with graffiti, particularly responding to a graffiti strike, is the timeliness of cleaning or getting rid of the offending graffiti. A number of councils have good policies and practices in place. I commend my own council, the City of Mandurah, for its approach to addressing the issues associated with graffiti. It has a multipronged attack to graffiti vandalism in Mandurah. The city has a very strong policy. I am not exactly sure what time it takes to remove graffiti. Some councils have a commitment to remove graffiti within 24 hours of it being reported. I am not sure whether the City of Mandurah has that commitment. It does not appear in its policy documents or on its website.

Mrs G.J. Godfrey: Belmont has that.

Mr D.A. TEMPLEMAN: Some councils have a policy. If there is a report of graffiti on council property, some councils will remove it within 24 hours. The City of Mandurah has a commitment to remove graffiti from any council building and infrastructure that it owns, manages or has responsibility for. By and large, from my understanding, that removal seems to be quite rapid. If a council-owned or managed building is graffitied, there is a response. The second part is private residential commercial properties. The City of Mandurah will not

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remove graffiti from residential or commercial properties. It deems that that remains the responsibility of the property owner. However, it does have a resource that it makes available to private residential and commercial properties to respond to graffiti—that is, a do-it-yourself graffiti removal kit. Understandably, some places seem to be more prone to graffiti attack than others. Certainly places that have access to heavy volume or busy public spaces often attract graffiti.

The City of Mandurah has a policy that if a private property bounds a public reserve, a public access way or a public road, it will remove graffiti from that boundary. I know there are a lot of access ways in numerous suburbs within Mandurah that unfortunately attract unsocial and criminal behaviour, break-ins et cetera, and are also targets for graffiti. In that case, if it abuts a residential area or resident's property, the City of Mandurah will respond to remove that graffiti. The City of Mandurah also has a protocol to report graffiti on assets owned by other agencies, particularly state government agencies or within state government jurisdictions. It has a protocol with Main Roads, the Department of Education et cetera. One of the interesting things about that, of course, is the timeliness of state government agencies to respond to reports of graffiti on its assets. Being a former teacher, I was always opposed philosophically to the trend, which started in the late 1990s, of fencing off schools, whether they were high schools or primary schools. I understand that nearly every primary school and high school in the state now has security fencing. Even though I am philosophically opposed to that, I think the evidence shows there has been a dramatic reduction in break-ins at schools, and in vandalism and graffiti.

Mr C.J. Barnett: There was a spate of fires at the time; that is what triggered it.

Mr D.A. TEMPLEMAN: It was in the late 1990s, was it not?

Mr C.J. Barnett: Every weekend a school was being burnt down.

Mr D.A. TEMPLEMAN: It is sad, because one of the things that we always hope about public assets, particularly things such as schools, of course, is that they remain open spaces and places for communities, but the reality lies in the reason behind it, as the Premier stated in his interjection.

[Member's time extended.]

Mr D.A. TEMPLEMAN: Madam Acting Speaker, thank you for your lenience.

Mr C.J. Barnett: We are already regretting it!

Mr D.A. TEMPLEMAN: And I have 10 minutes, too! I was slow off the mark, and I am not normally like that.

I think that move was a sad one, but the evidence has shown that fencing schools has had a dramatic effect and has decreased costs. We all know that whether it is an appalling outcome such as a fire or whether it is a window that gets broken every second night or a break-in, all of that expense adds up and in the end the taxpayer foots the bill for the ongoing repair costs, so I can understand why that has happened.

The second reading speech highlights the penalties provided for in this bill, particularly the creation of a stand-alone offence of damaging property by graffiti. It then states —

This offence has a maximum penalty of a \$24 000 fine and two years' imprisonment. Illustrating the government's commitment to getting tough on graffiti vandals ...

I think the members for Maylands and Kwinana queried the number of people who have been charged with graffiti offences so far. I understand that the answer is none, but is it true that no-one has been convicted of that offence under the current regime?

Mrs L.M. Harvey: Under section 216 of the Criminal Code, where it is an offence to sell a graffiti implement to a child—that is a newly created offence—but no-one has been charged with that offence. However, at the time of the creation of that offence, police went around and informed all the people who were selling spray cans—a lot of the big suppliers of graffiti implements such as spray cans and other graffiti marking implements, or implements that could be used for graffiti marking—that the law was going to be changed and the implements would be required to be stored behind locked doors. Then the police went and spoke to a lot of the smaller suppliers who were selling these cans from under the counter and that sort of thing, and they determined they would not bother to reorder them. As a result of that offence being created, there is a big disincentive for the retailers to sell the implements because they would rather not be charged with the offence. We have basically limited the supply of the implements to juveniles and as a result there have not been any charges of people selling those implements to juveniles.

Mr D.A. TEMPLEMAN: During the consideration in detail stage I may ask some specific questions about the new stand-alone offence.

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Another thing I am interested in the minister commenting on is the Goodbye Graffiti program, and whether that is the same program as the Juvenile Clean-up program, or whether they are separate programs.

Mrs L.M. Harvey: They're separate.

Mr D.A. TEMPLEMAN: The City of Mandurah is currently involved in the Juvenile Clean-up program, which is based on the restorative justice model. Would the minister in her second reading reply provide an update on the Juvenile Clean-up program, because it has been operating for a few years now? I would be interested to know how many councils have signed up and how many participants have been involved in the Juvenile Clean-up program because from memory when that program was announced the idea was that juveniles involved in the justice system would be required as part of that program to be involved in the clean-up. Has that been effective? What are some of the partners in that program saying about its effectiveness? I think they are important questions given the bill we are debating today, especially given the new stand-alone offence I mentioned earlier and the maximum penalty of \$24 000 and two years' imprisonment. Obviously that is the big-stick approach, but I would like to know how programs such as the Juvenile Clean-up program is faring and whether or not there has been a recent evaluation of it. I have not yet had a chance to ask the chief executive officer of the City of Mandurah about what the city thinks of that program, given that it has been involved in that program.

The final comment I want to make is about the issue associated with how we continue to try to design out crime in our communities, including graffiti. I think many councils, and even some of the planning documents that have been promoted and released through the Minister for Planning's portfolio, refer to the use of materials, streetscapes and the sorts of materials used, even for some of our public buildings, which can and do have an effect on the prevalence or otherwise of a graffiti attack.

I understand that the City of Mandurah gives advice to people about materials they can use that contain properties that make them not as attractive or conducive to graffiti attack. Certainly for public buildings and for transport infrastructure or otherwise, these are important considerations, so I will be interested to hear the minister's response to my contribution.

I started my contribution by outing some journalists who are now etched in history in this building, and although I am the newly appointed shadow Minister for Heritage, I would not like to see those heritage items removed from the Parliament, because they are an example of historic graffiti by some very eminent journalists in Western Australia.

MR P.C. TINLEY (Willagee) [7.59 pm]: It is my pleasure to make a contribution to the Graffiti Vandalism Bill 2015. Graffiti is an issue that reaches out to every electorate in some form at some time. Some electorates on the western side of the city do better when it comes to graffiti removal than do other electorates. Certainly the members for Mandurah, Kwinana and Armadale have got their fair share of graffiti—in fact, the lion's share of it.

The costs associated with cleaning up graffiti are astonishing. I cite an article in *The West Australian* of 8 January this year by Kate Emery, which is about the cost implications of removing graffiti. At the time this article was written, the cost of cleaning up graffiti had exceeded \$2.5 million. That is a significant impost on councils, which are already stretched in a range of different ways and need to ensure that they make effective use of ratepayers' contributions for the efficient running of their local government area. It is insightful to look at the costs for the 17 Perth metropolitan councils that were surveyed by *The West Australian*, because that gives us an idea of the scale of the problem. A total of 21 885 pieces of graffiti had to be removed by those 17 councils from streets and buildings in the period 2013–14. The City of Perth topped the list, with a spend of \$520 000 for that period. That represents 3 231 pieces of graffiti removed, although I presume there would have been other pieces of graffiti that were missed or that were removed in a different way. That cost is probably not surprising, given the nature of the environment in the CBD. That is a direct cost to the city. Therefore, in the view of many members in this place, it is very important that we do something about the graffiti problem. However, when it comes to the methodology by which we might go about this, probably the devil is in the detail. It is interesting to note that in 2012–13, when the same 17 councils were surveyed, they cleaned up 24 500 pieces of graffiti. In 2013–14, even though fewer graffiti items needed to be removed, the cost went up. That might reflect a range of things. Some graffiti removal services are not directly employed by councils but are outsourced. Graffiti removal businesses are springing up everywhere. In my area, there is a house painter who provides a graffiti removal service, and of course he has the skills to either over-paint the graffiti or remove it.

The next council on the list was the City of Gosnells, with a spend of \$336 000 to remove 1 744 pieces of graffiti. If we round that up to 1 800, the City of Gosnells paid \$336 000 to remove 1 800 pieces of graffiti, and the City of Perth paid \$500 000 to remove twice the amount of graffiti. Something does not add up—either the City of Gosnells is being ripped off, or the City of Perth is getting an outstanding deal for graffiti removal. The City of Rockingham was third in the order of magnitude, with a spend of \$248 000, the City of Swan had

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a spend of \$243 000, which is close behind, and the City of Kwinana had a spend of \$227 000. The best part of a quarter-of-a-million dollars a year is being spent on the removal of graffiti in those five suburbs. It would not surprise members to know that the suburbs that had the smallest bills for graffiti removal were the City of Cambridge, with a spend of only \$51 000, the City of South Perth, with a spend of \$38 000, and the City of Nedlands, with a spend of \$18 000—I think the member for Nedlands needs to get on and fix that. Of course the residents of Mosman Park had to endure only 33 pieces of graffiti—a scourge in Mosman Park—at a cost of \$5 391. I wonder how much of that was on “The Taj” down there.

Mr P. Papalia: It was probably all on the one building!

Mr P.C. TINLEY: Yes, all on the one building. I am sure they did not have to raise a special levy on the residents of Mosman Park to cover the impost of removing that graffiti, and I wish them well as they attend to the scourge in the western suburbs of graffiti, notwithstanding, of course, the graffiti that might go right past them vis-a-vis the trains and other public transport.

I have cited these figures to underscore the fact that there is an economic cost to the visual pollution of graffiti. As other members have said in their contribution, this comes down to a matter of opinion in some cases. There would be no debate by anyone in this place that the egocentric habit of tagging anything and everything—not unlike a dog marking its territory, I suspect, in the way people go about that—makes absolutely no contribution to the social and visual amenity, or any other aspect of community life, in the suburbs. To come back to the idea of graffiti and art, I can remember growing up in the Fremantle district in the 1970s when some of this stuff started to come out, certainly emulating or copying the issues that were happening in a big way in New York in relation to visual arts and street art. In those days, it was a very rudimentary undertaking. Until the arrival of broad-tipped felt pens, all we had was paintbrushes, or the odd spray can if we were lucky enough to get one out of dad’s shed. I am not suggesting for one moment that I participated in any of that, but I was an observer of it as I went to and from John Curtin High School on the bus.

That raises the question of what constitutes art. Street art and social amenity affects everyone. How we attend to our public spaces and allow our public spaces to be used is fundamentally important as a statement about who we are as a people and as a community, and what we intend for ourselves. That is because graffiti exists in our public spaces, our communities and our streets. When we consider the topic of graffiti, there are fundamentally two parts to the issue, quite simply, with a very bold distinction between them—street art and vandalism. We have all agreed that tagging is, in itself, nothing but akin to the marking of a territory or some egocentric exercise that in itself is worthy of some analysis by criminologists and/or psychologists to understand the motivations behind it, which would create opportunities to look at understanding and changing those behaviours, and I will make a comment about that in a minute. What is really important here is the difference of intention. Regardless of whether we agree or disagree on the particular aesthetic merits of a piece of street art, we need to recognise the difference in the intentions behind these activities. If it is just straight tagging, that clearly sits at one end of the spectrum, but if it is a reasonable attempt at art, we need to understand that that moves further along the spectrum from just being some egocentric self-gratification and risk-taking behaviour in relation to tagging. Intention is fundamental to understanding the issues involved. The ownership of a space that is ingrained in vandalism is not present in street art; in fact, street art has a way of opening up spaces as public.

As I travel around, I see where some of the vandalism end of the spectrum turns up, and it gives us an insight as to the nature of the motivations or intentions of a particular perpetrator. I have seen some of the highest and most inaccessible spaces, such as the tops of buildings or empty signage three or four storeys up, and somebody, somehow—some kid, although I use the term loosely—has managed to get up there and tag it, and often in not just a simple line fashion, but with elaborate use of spray can colours; it is still a tag, nevertheless. It seems to me that there is some sort of motivation around this egocentric behaviour, if you like, that really needs to be understood. I make the bold assumption that the perpetrators of this sort of vandalism are young men; that seems to be the case. Are they looking for an outlet to express themselves in a form of status by accessing these very inaccessible spots, which becomes a badge of honour amongst their particular fraternity—that they have managed to get to this space and tag it? It tells me that they have far too much time on their hands and not enough to occupy their time. But it is risky behaviour and it is the idea of young men needing to prove and express themselves in the world by undertaking this risky behaviour. There is a good place for them, and it is called the army! They can undertake all sorts of risky and physical status-oriented behaviours, and hopefully not get killed, although that is an occupational hazard.

The underlying motivation tells me that we need to get hold of these young people and offer them a diversion that allows them to express themselves and their individuality, and allows them to build their self-esteem and to undertake more gratifying and character-building activities. To my mind, there is no better spot in our community to undertake a range of such activities than the police and community youth centres. The humble old

Extract from Hansard

[ASSEMBLY — Tuesday, 13 October 2015]

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PCYC, in my view, operates at many levels in our community and offers many opportunities for young men and women to express themselves physically and artistically. To take the example of the one in my electorate, the Fremantle Police and Community Youth Centre is an outstanding facility, serviced and staffed by a broad range of community-minded people. Occasionally—in comparison with previous times—there will be a positive interaction with a uniformed police officer. That is now less and less likely to happen in our PCYCs as we transition away from dedicated sworn officers servicing specific PCYCs, and I think that is a great shame. Although this point is straying away from the Graffiti Vandalism Bill 2015, I think PCYCs are very important as diversionary mechanisms. What do we do when we find somebody doing this sort of vandalism? What are the opportunities for them to actually achieve a better personal outcome for themselves?

It is important to understand the underlying motivations in relation to tagging and other graffiti at the vandalism end of the spectrum, but it is also important to understand the expressive and hopefully more aesthetically pleasing end of what we now term “street art”. As I said, street art is an emerging form that really has taken off only in the last 10 to 20 years, and there are now street art festivals around the world where this sort of expression is celebrated greatly. It is about public ownership of our spaces; just because a space is privately owned does not mean it does not have a public effect. A privately owned property, which is obviously well defined in this bill, is also publicly visible and therefore has an impact on all of us. How we occupy such public spaces is really instructive and really important. We are quite happy—or perhaps not quite so happy—to have a growing array of billboards, for example, offering us all manner of products and inducements to spend our cash; quite often cash we might not have for products that we do not want. To put it in quite strident terms, they visually assault us every day. In fact, we have debated in this very chamber about the potential safety of the flashing signs on the Leach Highway overpass on the Kwinana Freeway.

This bill needs to be seen as part of a continuum of how we occupy public spaces. Public space advertising, from which someone earns money from legal advertising such as billboards, signs, hoardings, seat ads or bin ads, also falls within this spectrum. We need to understand that this is about how we view our public spaces, the aesthetics of our public spaces and the implications they have for our identity. For me, ads and graffiti actually work on a similar continuum.

[Member’s time extended.]

Mr P.C. TINLEY: As our ideas about graffiti and street art have evolved, some good examples have emerged of our local government authorities embracing street art, to varying degrees, throughout the metropolitan area. In my electorate of Willagee, a local community action group called Willagee Alive decided that it wanted to grab some of these young people and offer them a positive outlet for their artistic bent, if you like. The group offered them the opportunity to come into a program in a voluntary way to graffiti, street art, paint or adorn bus shelters and bollards around the central village of Willagee. I have to say that I have not seen too many initiatives that have engaged so many young people with such a positive outcome and caused so much debate in the local area—and I love it. I do a street corner meeting down at the local IGA; I throw the shingle out, put the card table up and, sure as eggs, before long people will come along and talk about how they hate the bus stop or love the bus stop, but not one of them would disagree with the positive ambition of involving youth to express themselves in the built form and physical infrastructure of the community and of providing a key component into giving us some insight as to why graffiti artists—not the vandalism end, but moving towards the street art end—want to express themselves. It is about public ownership. The youth of Western Australia, the people who undertake this sort of risky behaviour and illegal, unlawful activity, actually want to own a piece of our community.

It is up to us to consider how we might let them do that. As I said, various local governments have embraced it or resisted it, and there are some contrasting examples in approach in the three areas that the seat of Willagee sits over—Melville, Cockburn and Fremantle. The City of Fremantle is particularly active in this whole space. I did not print it off but I thought I would highlight for the benefit of members the variations. Many of the cities on their websites have that normal reporting and indication on how long it takes to remove it. The City of Fremantle removes graffiti within two working days of being reported, and that is accepted as being something it needs to do. It also had a revised graffiti policy that outlines the idea of how tags are removed and the sort of things that it would do. It also outlined the fact that if a person sees a vacant piece of wall, they can simply apply for what the City of Fremantle call a mural application to have a go and submit it. Of course it becomes a subjective issue. I note in the Graffiti Vandalism Bill 2015 some of the subjectivity about what is considered on this spectrum as street art and/or illegal graffiti. It is particularly important. Although the City of Fremantle sticks very closely to the law when it describes this, it has a more open policy for the potential use of some of the public spaces for use by approved street artists. Many young street artists have been able to undertake some street art there, and it is seen as quite a badge of honour at the higher end to be accepted and have a preserved mural within the City of Fremantle. The City of Cockburn website has a very simple point on its website that states expressly the

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number to dial, it takes three days to get rid of it, with particularly offensive graffiti having the priority, but it provides no leeway or opportunity for people to undertake what we might call sponsored street art or murals that would help the community express itself. Willagee has its own approach to it as a local community, and the City of Fremantle has its approach to it. It is really important.

I will direct my attention in my remaining time on the bill to the definition of graffiti. Although it is fairly general and probably self-explanatory—maybe we will get it to in consideration in detail—is “defacing” also using things such as art posters that we see flying around promoting a particular play? We see such things on lampposts. Is that considered defacing or is that under the normal Criminal Code? Is that included in this bill? The member for Armadale talked extensively about the idea of political statements and tolerance for them. In the City of Fremantle there is always the opportunity for a political statement over the top of a particular poster and/or billboard. It is a routine thing, but it will be more of a commercial activity to get that changed. My recently turned 18-year-old son, who himself likes a bit of street art now, talks about this idea of reverse graffiti. Street artists go into a subway, under bridges and different places that are fairly grimy, and use water and a rag to do this reverse graffiti—there is no other way to describe it—by removal of the grime. It is very, very ingenious in my view. They remove the grime in certain parts to create an image, not unlike the ink blot stuff. It is clever and inoffensive—unless it is explicitly offensive. I had a look at some of this stuff and was just amazed at the ingenuity of these young people to do this. By my assessment, and I would love the minister’s view on this in due course, it is still graffiti. It is still defacing. This idea of defacing is an interesting point unto itself. Without splitting hairs, I think there is something around the permanency of it. It would wash off in due course I am sure, or degrade over time, but the same could be said about watercolours. A lot of these kids now use very environmentally responsible water-based paints that wash off over time. They are very happy in that culture that their art is impermanent. These are the people who move beyond vandalistic tagging; those who want to have expression in a public forum for their particular view on art. Some really interesting things are happening out there. Legislation needs to strike somewhere in the centre so that it does not have too many unintended consequences. I do not imagine a piece of legislation has gone through this place that did not, at some point, have an unintended consequence in due course.

I refer to a couple of other more specific issues in relation to this legislation. Clause 5(1) states —

Damaging property by graffiti

- (1) A person must not destroy, damage or deface the property of another person by graffiti without that other person’s consent.

That is no problem, but again, the minister could explain a bit more. We see in vacant lots, particularly in the city, a wall that is open to the vacant lot but belongs to the building of the owner. If the vacant lot owner gave consent for the graffiti to be put on the wall, is that sufficient consent or does it have to be the building owner? The visual aspect is the open block, but the bricks and mortar ownership on which the graffiti or street art is placed has not given its consent. Where does consent lie? Where is the demarcation of consent in relation to property ownership, and is it the visual property of the community? I also note clause 7, “Selling graffiti implement to a child”. I completely understand that measure. All of us have been to Bunnings and various hardware stores and seen all the spray cans behind cages and locked doors. It is not the case anymore. I understand that hence they have turned to implements. They now use backpack weed sprayers and they make up paints, fill them up and use these wider sprayers to make a bigger impact. People can get that from any stockfeed place or any other similar location. I am sure I am missing it here at some point, but the clause 7(1) states —

A person must not sell a graffiti implement to a child.

Why is that the case? Why is there a distinction for a child, and why is it not just an offence to sell a graffiti implement, full stop, child or adult? I could tell members why. The minister might say, yes, that if a person goes to Bunnings and buys a spray can as an adult, there is no reasonable doubt that they would be using it for the purpose that it was intended. A person can go to specialist shops, particularly next to skateboard shops, funnily enough, where graffiti implements can be bought—spray cans and a whole range of things—and adults are routinely seen buying them. I am keen to understand why that is restricted to a juvenile description rather than just a general description of a citizen.

I also note in clause 12, “Immunity for owners of property when individuals enter property to remove graffiti.” It is a very costly exercise to remove some graffiti, which no doubt would involve gantry cranes and/or those scissor lift-type things. I want that to be very clear because there are some significant delegations here; in other words, a chief executive officer can delegate it to another officer with the powers under this bill. Who is responsible for running the risk matrix? We have indemnified the owner or we have provided immunity for

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owners of the property when individuals enter property to remove graffiti, but there is no indication where the onus of risk management. Although gross negligence is always identified, as far as I can read, the act of that gross negligence is not conferred onto the delegated authority.

I also note in part 3, clause 16, that council guidelines are not required in the delegation of the local government. The clause states —

- (1) The local government may delegate to its CEO the exercise of any of its powers or the discharge of any of its duties under another provision of this Part.

Clause 17, “Delegation by CEO of local government”, outlines that a CEO of a local government can delegate it to another officer. But there is no reference in here to the requirement for the local government to have guidelines on by definition what is graffiti and is vandalism, and what the responsible actions are, particularly going back again to the idea of risk identification and the removal process.

I am also very interested in the appeal for any of the decisions requiring a notice for the removal of graffiti, but I might leave that for the consideration in detail stage. As always with these things, people might have a once-over-lightly thought of graffiti, but for me it is about how we occupy the public spaces of our city and our built-form areas, and how we allow our youth, typically, to express themselves both individualistically and artistically. There is no question about supporting the anti-vandalism intent of the bill, but I also think it gives rise to an opportunity to understand better the requirements to address the causes of it.

MR F.M. LOGAN (Cockburn) [8.30 pm]: I too wish to rise and contribute a bit to the debate on this Graffiti Vandalism Bill 2015, along the same lines of the issues raised by the member for Willagee. On the basis of it, the bill is clear in its intent to stamp out graffiti and support local government in the process of doing that, but there is nothing in the bill at all to recognise any part of graffiti as modern art or street art whatsoever—none; there is no reference to it whatsoever. I am sure that is because of the minister’s view about graffiti and street art. I am sure that is exactly what is reflected: a very narrow and conservative view about art generally.

In terms of supporting the bill, I have no problems at all with the intention of attacking damage and vandalism by graffiti to particularly public transport facilities, whether it be trains, buses or whatever—absolutely none whatsoever. The damage done to taxpayer-owned infrastructure is just abhorrent and should not be tolerated. All of those vehicles, whether they be buses, ferries or trains, belong to the people of Western Australia. They have paid good taxpayers’ money for that infrastructure, and it should be left in a clean and appropriate manner for the use of the people of Western Australia. It should not be attacked by people who claim to be graffiti artists or simply vandals. As we have seen over the years, more and more technology has been applied to those public transport vehicles to try to deter vandalism—we cannot really call it graffiti—and vandals have moved to other forms of damage to the vehicles by way of scratching into the windows, carving into the backs of seats or scratching the paint out on buses and trains. I put it on the record that I have certainly no truck with any of that form of vandalism.

I would also like to put on the record the good work of the City of Cockburn, which the member for Willagee just referred to, in its dealing with unwanted graffiti on people’s private property. I think the City of Cockburn has done a great job. We just heard the member for Willagee say that a property owner can contact the City of Cockburn and within three days somebody will be out at the property to remove the unwanted graffiti. It is a terrific service and I think it is reflected when someone drives around Cockburn and sees very little graffiti. This service has been in place for quite a number of years and the proof of the pudding—of how well it works—is in the eating and the fact that there is definitely less graffiti in the City of Cockburn. I might add, however, that the work of certain community groups with young people, particularly some of the notorious graffiti vandals, in some cases—they probably see themselves as artists—who are mainly young men, has turned them away from using paint and textas as damaging tools and they have moved on to other aspects of their lives. That in itself has also contributed, along with the removal processes put in place by the City of Cockburn.

I want to come back to the point that the member for Willagee talked about of looking at graffiti also as street art, because we cannot put our heads in the sand and suggest that all graffiti is intolerable and unacceptable, and that it should be removed. There are situations in which property owners not only accept graffiti by certain artists on their property, but in fact encourage graffiti artists to put their art on their property. I will give a few examples. The best known example in the world is Banksy. We do not know who Banksy is, but we know he is an English graffiti artist. His works are now in the Tate Modern museum in London and the New York Metropolitan Museum of Art. Some of his pieces go for over \$1 million. If it was left up to this minister, she would probably have had them sprayed off the walls and destroyed.

Mrs L.M. Harvey: I wouldn’t do that at all.

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Mr F.M. LOGAN: Yes, the minister would.

Mrs L.M. Harvey: I love street art, but I don't like it being done illegally.

Mr F.M. LOGAN: Yes, the minister would; if it was up there illegally, she would have had it removed.

Mr S.K. L'Estrange: Of course you would. If it is up there illegally, of course you'd have to.

Mr F.M. LOGAN: Of course the minister would and so would the member for Churchlands.

The DEPUTY SPEAKER: Order, members! Order, member for Cockburn.

Mr S.K. L'Estrange interjected.

Mr F.M. LOGAN: It is worth more than the building it gets put on, and the member for Churchlands would have it removed, because that is a sort of bloke he is—a head-in-the-sand conservative.

The DEPUTY SPEAKER: Member for Cockburn, direct yourself to the bill and to me, please.

Mr S.K. L'Estrange interjected.

The DEPUTY SPEAKER: Member for Churchlands!

Mr P. Papalia interjected.

The DEPUTY SPEAKER: Member for Warnbro, the member for Cockburn has the floor.

Mr F.M. LOGAN: I have to give the house a story about Banksy. He put a piece of artwork on a house in the Gaza Strip, prior to the Israel intervention in the Gaza Strip, which resulted in a significant bombing of the towns and suburbs of the Gaza Strip resulting significant damage and, of course, a number of lives lost. The owner of the building, who wanted to renovate the building following the Israeli bombing of his house, had a piece of art by Banksy around the doorframe of his house. He did not know about Banksy. He liked the art and he did not bother having it removed. He thought it was a nice piece of graffiti, but given that he wanted to renovate his house, he was going to knock the whole thing down until, I think, a young neighbour came by and said that if he did not want it, he would take it off his hands. The neighbour took away the whole doorway and sold it for over \$100 000 online. The owner of the house then went ballistic because he realised that he had had a significant piece of artwork on his door and he had been encouraged to give it away to somebody who knew what it was all about. That is a great example of graffiti art.

Another example is a chap known only as Invader. Invader is a French street artist and his symbol is Space Invaders.

Ms S.F. McGurk: One of those was removed from a building in Fremantle; it had been placed on a synagogue in Fremantle.

Mr F.M. LOGAN: Yes, there was one there.

The person known as Invader uses stencils and mosaic tiles to put up images of Space Invaders around the world. He started off with 35 cities in France and has since stretched out to 60 cities in 30 countries around the world. As the member for Fremantle said, Fremantle had one of his pieces, which was removed, and there are others in Perth. I am not going to disclose where they are because they are worth a lot of money and they are gradually increasing in price, and we do not want local governments or the state government removing them because, ultimately, they could end up on the heritage list—or somebody will steal them!

Mr C.J. Barnett: Did you make an offer to buy one?

Mr F.M. LOGAN: I would not mind buying one! The artist known as Invader has such a cult following around the world that his pieces of art have gained not only notoriety, but also value, which increases every year. Already his pieces are selling for tens of thousands of dollars. Apparently he has been in jail for a total of 22 days in various places around the world as part of his objective of pushing the envelope of his art, but his real concern is about people stealing his art, and not just removing his art.

Those are examples of two very well known graffiti artists—the person known as Invader, and Banksy, who are extremely well known internationally. Their works are internationally coveted, but are graffiti. We have already heard from people in the chamber today who, if they had their way, would remove them.

Let us look at what has happened in Melbourne. I was over there for the Australian Labor Party's national conference; my wife was with me, and my daughter came down from Sydney. While I was at the conference,

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they went off on a graffiti tour organised by the City of Melbourne. The tour was fantastic. I wish I had gone myself!

Mr C.J. Barnett: It would have been better than an ALP conference, if they are anything like Liberal Party conferences!

Mr F.M. LOGAN: I was not going to make that point, but I acknowledge what the Premier is saying. It was a fascinating tour because they pointed out to my family members not only the locations of these pieces of art—people would never know where they were unless they looked for them because they are hidden, and deliberately hidden—but also the meaning of the artwork and its relationship to everything else in society. For example, the way in which advertising has picked up a lot of the themes in street art, graffiti art, and incorporated that in the advertising medium. We would probably not consciously understand that, but it is the case, and that is the effect that street art has had on our general day-to-day life. We cannot dismiss graffiti as being all bad and irrelevant and damage to property, because other people see it as art and would pay for that artwork. The definition of graffiti is set out in clause 3 of the bill, and it may not deal with the type of work that I have just referred to, particularly the type of work by the artist known as Invader. The minister can explain whether it does or does not. Clause 3 of the bill states —

In this Act —

graffiti means any drawing, writing, painting, symbol or mark applied to or marked on property by —

- (a) spraying, writing, drawing, marking or otherwise applying paint or another marking substance;
or
- (b) scratching or etching;

Does that cover the work of the artist known as Invader, who uses tiled mosaics? I do not think it does. Although it could be deemed as graffiti, it is not covered under this bill. There is no point in looking at me like that, minister; it is not covered by this bill and, therefore, happily we can define it as street art, because clearly it does not come within the meaning in this bill. If paint were applied by a stencil, it would be covered under this bill, but mosaics, sculptures, posters and pictures are not. Sometime we see sculptures that are flat and they are stuck on the wall. Some people might see that as graffiti, but other people might deem it as art. I do not know about that, but I do know it is not covered by this bill. This bill talks about the act of marking by a substance, or by scratching or etching. Interestingly, the bill does not cover some of the types of artwork that are deemed as street artwork or street graffiti by some of the more famous artists to which I have just referred.

The other issue I wish to raise is the relationship between clause 5 “Damaging property by graffiti” and clause 18 “Notice requiring removal of graffiti”, which includes the penalty for failure to comply with a notice to remove. The question I put to the minister is: what happens in a dispute between the owner of a property who wants to keep the graffiti/artwork on their property and a local council that sees it as nothing more than damage, graffiti, and would like to have it removed? This is obviously an artistic dispute between the owner of the property, who simply says, “I don’t care. I think it’s great and I want to leave it there”, and the local government, which says that it is an eyesore that is not contributing in any way to the community benefit, and it wants it removed. What do we do there?

Mr S.K. L’Estrange interjected.

Mr F.M. LOGAN: I am asking the minister, member for Churchlands, because believe it or not she is in charge and we are dealing with a bill that deals with that specific thing. I am not talking about the Local Government Act. From what I can see, this bill does not deal with that type of dispute, which will arise and probably already has arisen, but given this bill will be in place as an act of Parliament what do we do once that dispute arises?

Finally, I refer to political graffiti, which was raised by the member for Willagee. One of the best pieces of political graffiti that I can remember was on a bridge in Redfern in Sydney. I lived in Sydney in the lead-up to the 1981 election, when Malcolm Fraser was the Prime Minister. In huge letters right across the bridge was written “Vote Mal Eat Pal”, which I thought was perfect and summed it all up for the left in Sydney. That graffiti was up there for years, so obviously people really enjoyed the humour in that.

Mr C.J. Barnett: There was allegedly a famous one in Melbourne, when a poster was put up by a church group stating, “What would happen if Jesus Christ came to Hawthorn?”, and someone had written, “He’d play Peter Hudson at centre half forward.”

Mr F.M. LOGAN: That is a classic example of graffiti to make people laugh. It might not have made the church group laugh, but it certainly made everyone else in Melbourne laugh! Those issues have to be taken into

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consideration and dealt with in a rational manner. I have no problem with the legislation dealing with graffiti that damages property and the vandalism of graffiti, and local governments' actions to remove it, but there has to be some level of tolerance for artwork, political commentary and tolerance about humour, because it all adds to the benefit of our community and the fun of living in our cities.

MR P. PAPALIA (Warnbro) [8.49 pm]: I want to make a small contribution to the second reading debate on the Graffiti Vandalism Bill 2015. I will take up where the member for Cockburn ended with his observations about political graffiti and how this legislation, whether or not that is the intent, will impact on people's ability to engage in that practice. I think the member for Armadale also made some observations about political graffiti during his contribution. I heard only part of his speech, but I think he said that although political graffiti is an unlikely event, it could happen. Member for Cockburn, there was a far more recent example of political graffiti here in Western Australia that I would like to bring to people's minds. It was incredibly insightful, it captured the imagination of the people of Western Australia, and one could argue that it actually contributed to a specific political outcome in this state. The member may recall the widely distributed stencils of a very effective cartoon caricature of the former member for Vasse that illustrated very concisely criticism of the government for not acting on his behaviour. He was depicted wearing outsize clown shoes, holding a bottle and leaning against the wall, I think. It was distributed right around the city, it drew the attention of many, many people, it was artistic, it was done well, it was insightful, and it was clearly a political observation. I do not know who did it.

Mrs L.M. Harvey: Making fun of a person with a mental health issue.

Mr P. PAPALIA: Oh, go away!

It drew attention to the government's inaction about something that a lot of people were critical of at the time, to the extent that it eventually got coverage in the state's newspaper and the wider media. The consequence may have been that the government took action on something it should have taken earlier action on. That was not the only one in that series of caricatures. There was also one of a character called, I think, "King Col"; clearly the artists were poking fun at the Premier in a political fashion. I do not know, as I say, who did it. The caricatures were artistic and were definitely political in nature, but I am not sure that they could be deemed graffiti in the terms that this legislation deems anything that is painted on a wall without permission as being graffiti. I think the observation made by a number of members of Parliament on this side is that street art is different from graffiti and does have its place, and that street art can often be political in nature. Most of the work of the renowned artist Banksy is political; in fact, his most renowned work was done without the authority of the owners of the land and in direct contradiction to the dictates of a powerful entity or state. For instance, he famously did paintings on the West Bank barrier in Israel that showed a door and the view through the wall as a way of criticising the Israelis for constructing the wall on the West Bank. Those sorts of political statements—undoubtedly works of art—would be deemed unlawful under this legislation and could attract up to a \$24 000 fine and two years' imprisonment.

We look forward to the consideration in detail stage, because I think it is worth discussing how the government views that particular behaviour and whether that will be lumped in with the obviously destructive and negative graffiti that I think the government is mainly focusing on. The intent of the legislation is to focus on that damaging, offensive often, and undoubtedly costly scribble that consists of tags or other less artistic contributions that impose incredible costs on a lot of local governments. I am interested to hear what the minister says about that.

Mr P.B. Watson: Have you finished?

Mr P. PAPALIA: No, I have not. I am trying to find my phone to refer to the Liberal Party's statement on graffiti prior to the last election. I want to move on from the observations I just made. I look forward to the consideration in detail stage, when the minister will be able to explain whether if Banksy comes and paints a political statement critical of the Barnett government on the wall in the City of Perth, somewhere in the metropolitan area or somewhere around the state, that will be subject to the consequences of being deemed graffiti as dictated by the legislation. It will be interesting to hear the minister's observations in that regard.

I draw the attention of the house to the duplicitous nature and intent of this legislation. This is not the only thing that has gone on in recent weeks. There has been a flurry of activity by ministers who have snoozed through the last seven years and done next to nothing in their portfolios. Fortunately, in some cases that has been better than when they have taken action and created damage! But the vast majority of ministers of this government have done next to nothing for seven long years, and suddenly we get a flurry of activity—predominantly spin in nature—intended to demonstrate to the public of Western Australia that the government is actually doing something. It is like the government just arrived. It is like an unidentified flying object arrived in Western Australia, landed in West Perth, and suddenly the government stepped out and the cabinet discovered it

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has a role—to be seen to be doing something. That is exactly what this legislation is. This legislation was promised at the last election, which was in March 2013! We are a long way from that! How complex is this legislation? How difficult was it to draft this legislation? The minister has all the resources of government! The minister has had them sitting at her behest for seven years. The minister has had the capacity for seven years to get off her backside and draft this bill, not that this bill is necessarily going to do anything. Let us look back a little. Let us look at the promise made in 2013 and exactly what was said. I am referring to the 2013 document on community safety or something; it was a grab bag of a few policies that we did not really hear much about. But the Liberal Party put out documents, so we can read that it lauded the success of the action in 2008. In 2008 the Liberal party's entire focus on graffiti was to reintroduce the Graffiti Taskforce. What a perfectly pointless activity!

Mrs L.M. Harvey: I can't wait to respond to this!

Mr P. PAPALIA: That was the claim in 2013. The Graffiti Taskforce does nothing, minister?

Mrs L.M. Harvey: Oh, you've been living under a rock, member!

Mr P. PAPALIA: The Liberal Party's only contribution was to re-establish the Graffiti Taskforce so that it could say, "Tick: we've established the Graffiti Taskforce."

Several members interjected.

The DEPUTY SPEAKER: Order, members!

Mr P. PAPALIA: What was the evidence that the now minister then proffered at the 2013 election for the success of re-establishing the Graffiti Taskforce? It was because the amount of reports of graffiti went down! Is the minister really seriously claiming, as she did in 2013, that the number of graffiti offences reported declined by 73 per cent from 2008? Is the minister claiming that graffiti reduced by 73 per cent? Is that the minister's claim? Is the minister saying it was a success because the number of reports went down by 73 per cent? I would ask: what was the reporting method? It changed, because the whole structure changed. Is it very likely not that there is just as much graffiti but that in fact there is more graffiti? If the minister asks anyone in Western Australia whether graffiti has reduced by 73 per cent in the last seven years, let alone the four years from 2008 to 2013, they will laugh at her. How does the minister quantify that?

Mrs L.M. Harvey interjected.

Mr P. PAPALIA: The number of reports of graffiti was rising. Maybe more resources were allocated to taking reports. Is the minister seriously claiming that the amount of graffiti in Western Australia reduced by 73 per cent in the first four years of her government and subsequently more? Is she telling the people of Western Australia that there is less graffiti now?

Mrs L.M. Harvey: Yes.

Mr P. PAPALIA: What planet is the minister on? She cannot quantify the amount of graffiti and say that it has gone down. She is only saying that the number of reports has gone down. That just means that the government's reporting system might be broken. She cannot ask people whether they think the incidence of graffiti has lessened. She has come into this chamber with this legislation because the government concedes that people believe that graffiti has worsened. It is laughable. It is a joke.

Several members interjected.

The DEPUTY SPEAKER: Order, members! Member for Warnbro!

Mr P. PAPALIA: This is how the Barnett government works.

The DEPUTY SPEAKER: Member for Warnbro, when I call you, will you please listen and stop.

Mr P. PAPALIA: I could not hear over the minister. She was yelling.

The DEPUTY SPEAKER: When the Chair is speaking, I would like everyone to stop. Will you direct your remarks through the Chair. Minister, will you stop interjecting.

Mr P. PAPALIA: It is a joke and laughable for any claim to be made that there is less graffiti now than there was last year let alone seven years ago. Seriously, we now have 2.2 million people in Perth. Just by weight of numbers, there will be more graffiti.

Mrs L.M. Harvey: You're wrong.

Mr P. PAPALIA: Has the minister gone around and measured the graffiti? She has counted the number of reports that she has received through the system. That does not prove anything. I could just as easily say that the

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whole system is broken. She has undermined the reporting system to the extent that the number of reports being recorded has evaporated.

Mr S.K. L'Estrange interjected.

Point of Order

Mr P.B. WATSON: Mr Acting Speaker, the member over here is continuing to interject. If he wants to say something, he should get up and say something.

Mr S.K. L'Estrange interjected.

Mr P.B. WATSON: He is continuing to interject and not making any sense.

The ACTING SPEAKER (Mr I.M. Britza): Member for Churchlands, I call you for the second time. There is no interruption when a point of order is being made.

Debate Resumed

Mr P. PAPALIA: It is just a joke. It is laughable to take a statistic on the number of reports that has diminished over the life of this government and claim that the reduction in the number of reports of graffiti demonstrates that there has been a reduction in graffiti. That is not true. It is not proof. All it proves is that the number of reports has gone down. It does not prove anything about graffiti. It is laughable for the minister to suggest that that is a success.

I will get back to why it has taken the minister so long—the better part of three years—to introduce this pretty reasonably flimsy bill. Why did it take her so long? The government committed to it in 2013 as part of its election commitment. Why did it take so long, with all the resources of government at the minister's disposal, to draft what is pretty much a fairly simple bit of legislation? There is not much complexity here. The government has not even included something like differentiation between graffiti and street art. That aside, the content of the legislation is not that challenging. I would like an explanation, when the minister gets to it, of why it has taken so long. I think what has happened, like so many other things, is that it is unrelated to how long the legislation took to prepare; it is more to do with the increasingly imminent approach of the next election. It is like some of these fairly flimsy and superficial announcements that have been made by a gaggle of ministers in recent times without any real background and without any substance to them in an effort to be seen to be doing something. This fits the bill. The minister has been grasping around to look as though she is doing something. The language employed in the second reading speech was quite frankly embarrassing. It said that graffiti vandalism is a scourge. I think graffiti is bad but methylamphetamine is a scourge. The massive increase in crime under the minister's watch in the last 12 months is a scourge. The massive growth in offences against individuals over the last 12 months is a scourge. There are many scourges in this state as a direct consequence of the minister's oversight and the government that she is part of. The number of Aboriginal people in prison is a scourge. The increasing number of Aboriginal people in prison for minor offences over the last 12 months since the tragic death of Ms Dhu is a scourge. If the minister wants to see a scourge, she should look a little more deeply rather than at simplistic things and employing language that is completely inappropriate for the legislation that she has introduced.

It is offensive, it is costly, often it is a crime and it is wrong, but on the scale of challenges confronting people in Western Australia at the moment graffiti is not the top one. The scourge of vehicle deaths, of people dying in car crashes around the state, particularly in the regions, which the minister has acknowledged, is a scourge. The number of people not wearing seatbelts who die in vehicle accidents in the wheatbelt is a scourge. All manner of negative consequences are being impacted on people in Western Australia that demand the attention of ministers in this government and they are being ignored. I am not saying that graffiti is not bad; it is bad. It is a terrible thing, it is offensive and costly and, yes, the government should take action, but it should have done a little more about this legislation more than seven years into government.

That aside, the way that the minister has introduced this bill in advance of perhaps some action on some of those other things that I referred to raises questions. What are the government's priorities? What is the greatest threat to Western Australians? There are a whole lot of threats and a whole lot of dangers to Western Australians. Is this legislation a priority? Could it have been introduced much earlier, because it is pretty simple? It is not as though we will be giving the government too hard a time about it, apart from criticising some of the language that is being employed, the nature of its introduction and the delay in introducing it.

Mrs L.M. Harvey: Are you saying I should have prioritised this earlier or it took me too long to bring it forward, because you're sort of saying both and I'm a bit confused now?

Mr P. PAPALIA: Can the minister explain why it took her almost three years to introduce this legislation? Why is it so complex that it took so long? In light of that, why have all these other things that are demanding action and attention, particularly in the minister's own portfolio, not been undertaken? When was the last time we heard

Extract from Hansard

[ASSEMBLY — Tuesday, 13 October 2015]

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Mrs Michelle Roberts; Ms Lisa Baker; Dr Tony Buti; Mr Roger Cook; Mr David Templeman; Mr Peter Tinley; Mr Fran Logan; Mr Paul Papalia; Mr Peter Watson; Acting Speaker; Mr Nathan Morton; Mr Dave Kelly; Mr Chris Tallentire; Ms Simone McGurk; Mrs Liza Harvey

anything about gang laws or bikie gangs? When was the last time we heard anything about prostitution in this state? That seemed to be one of the highest priorities before the last election. It has gone—disappeared without a trace. They have all gone. A series of ministers have been responsible for cracking down on bikie gangs. We were told that they were the greatest threat. They were an imminent and obvious clear threat to society. The government was going to deal with it. That has gone. It is not as though there are no really serious problems. The ice challenge is very real at the moment. We cannot go anywhere in Western Australia without someone raising it with us. We were in Kalamunda yesterday. People in community forums will raise the ice epidemic with us now, yet there does not appear to be any concerted effort or strategic response to that challenge. The whole government has sat quietly, almost as an observer, whilst this catastrophe has unfolded. The prisons are filling with drug-addicted individuals and people are committing crimes as a consequence of using this terribly addictive drug. Increasingly, we are seeing violent crimes against the individual and crazy behaviour that can almost invariably be attributed to that drug, yet the response has been almost non-existent. The government has been commenting on it as though it is something that it is willing to watch and observe and wring its hands over.

The government has watched it happen. That is why I question the government's priorities. I am not saying that graffiti is not important, but it should have happened ages ago. The government promised this legislation almost three years ago and now it has been finally introduced, and that is great.

[Member's time extended.]

Mr P. PAPALIA: Why would the government introduce this bill when it has not acted properly to deal with the explosion in the use of methylamphetamine in Western Australia and the impending tragedy associated with that? I do not know why the government would focus its efforts on doing this three years late when it has not initiated a constructive response to the ice epidemic. It would be nice to hear an explanation of that.

With respect to the legislation, my major criticism is the nature of the introduction of it being late. The government has an almost natural inclination to present some sort of spin that it is tougher in its response on any offence. It does not matter what it is. The first thing the government does is look at the offence, sees what the current fine is and then it will increase it by a degree. The bigger the impact the government wants, the greater the increase in the fine. What we see in the bill is a provision that will create a new stand-alone offence for damaging property by graffiti. This offence will have a maximum penalty of a \$24 000 fine and two years' imprisonment. That is interesting, because that is obviously the maximum, and the minimum penalty will be much less than that. However, what does a \$24 000 fine bring to mind, relate to and mean in Western Australian society at the moment? Thousands of people are going to prison at the moment as a way of cutting out fines.

This government is being soft on fine defaulters to the extent that it is letting many people—over seven years it has been thousands of people—commit offences, rack up fines, easily within the range of \$24 000, and then go into prison on a Friday and come out on a Monday with a clean record, and make no commitment at all to restitution to society. There are no work orders, no contributions and no positive learning experiences. They just go in on a Friday and come out on a Monday and the fines are erased. That is going on all the time. That fine is kind of meaningless. It would be good. I imagine there could be an occasion in which someone would receive that sort of penalty, but I suggest that the vast majority of penalties are much less than that. However, it again raises the questions that I posed earlier about the nature of the language—that is, the scourge of graffiti—as opposed to the number of people who are getting away with committing offences, not paying fines, and going to prison and having them wiped them out, or the number of people beyond that who far exceed the debt to society of those people who go to prison, but are the people who do not do community work orders and do not pay fines. Those people well exceed the debt they owe to Western Australian society; they well exceed the debt owed by fine defaulters and they do not go to prison. We have to question the priorities yet again. Where are they? What is motivating this particular legislation being introduced at this particular time, other than it is late and the government is scratching around looking as though it is doing something? In an effort to be able to present something, to demonstrate some activity and to be seen to be doing something, the government chooses this bit of legislation.

I do not believe that this bill will have a tremendous impact on reducing graffiti. I believe that the provision of immunity for action in tort is long overdue. I do not know why that did not happen a lot earlier. The suggestion that people clean off graffiti was raised with me when I was first elected in 2007 in a by-election. There were two key things that people cared about, that they were harassed and irritated by: hooning and graffiti. What did Andrew Hastie say in the Canning by-election? What were the key things people were concerned about? They were hooning, graffiti and ice. Ice was not raised as a subject when I doorknocked in 2007, but it certainly is now. However, those two other matters were the key matters that people were concerned about.

Mr R.F. Johnson: We dealt with hooning.

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Mr P. PAPALIA: The member for Hillarys did a lot about hooning.

Mr R.F. Johnson: Some of the things contained in this bill are basically covered in other legislation. It's pulling it together. That's all.

Mr P. PAPALIA: The point I made about the provision of immunity for people who clean graffiti off walls in the context of allowing a council or others to go onto a property where the owner has not necessarily given them permission to clean it was raised with me way back then. That is probably a good thing. But I have to ask why that was not done earlier.

Mrs L.M. Harvey: What was that, sorry?

Mr P. PAPALIA: The provision of immunity from action in tort with regard to cleaning of graffiti was raised with me eight years ago. That is something that people have been concerned about for some time because they were not necessarily able to access property to clean off graffiti in a short span. It has been long known that the time frame from the execution of the graffiti to the cleaning of the graffiti has a direct correlation to the likelihood of it being repeated. We know that if it can be cleaned off quickly and if it can continue to be cleaned off, the extent of graffiti will diminish, or is likely to reduce, in that area. Being able to access property and having immunity from action is a good thing. As I say, it is not something new, and I would have thought that the government would have been advised way before now that that particular provision should have been undertaken. It is good to see it.

I do not know that the other provisions of the bill will make an extraordinary difference. I hope it helps local governments in particular and other authorities to deal with graffiti. I am concerned that potentially the language and the nature of the discussion across the chamber would suggest that there has not been any differentiation between street art and graffiti. I think that is probably an oversight that could be perhaps corrected through discussion in consideration in detail or even in the minister's reply to the second reading debate.

Beyond that, I do not think the opposition has any particular problem with the bill. It certainly raises a lot of questions about the language employed by the government, the nature of the legislation that it introduces and, probably more pointedly than anything else, the nature of the legislation that the government does not introduce and the actions that the government does not undertake and the failure it exhibits in response to serious threats to public order and safety in the state, such as continuing to release from jail more dangerous sex offenders than any government in history because the government changed the rules to enable the judiciary to give consideration to GPS tracking. As a consequence, despite the warnings of the opposition, the numbers of released dangerous sex offenders has gone through the roof.

Mrs L.M. Harvey: That is not accurate.

Mr P. PAPALIA: That is something that the government should be dealing with. What has happened to the urgent three-month inquiry initiated by the Attorney General in March 2014, the report of which he received at the end of June 2014? What happened to that report? What were the recommendations? Why have they not been implemented? Why are dangerous sex offenders still being released despite the government and a number of ministers saying that it is outrageous that those guys are being allowed onto the streets? It is all down to those GPS trackers being considered by the judiciary prior to release. It would take only a little amendment to fix that. Why has that not been dealt with? The government should go and wake up the Attorney General. The guy is asleep. He has been asleep for seven years—although he was not the Attorney General for the first part, he has been asleep since he became Attorney General. We do not know whether he was asleep before, but he has certainly been asleep since he became Attorney General. That guy has more inquiries underway without there being any action on them than any other minister in the government. There has been so little action. His response is to automatically initiate an urgent inquiry and then they disappear in the distance.

Mrs L.M. Harvey: He is a very thorough person.

Mr P. PAPALIA: Why has he not done anything about that particular inquiry into the Dangerous Sexual Offenders Act?

Mrs L.M. Harvey: Ask him! I can't answer for him.

Mr P. PAPALIA: That is a rhetorical question, then. I am making the observation that this bill looks as though it has just been thrown out there so that the minister can be seen to be doing something and there is some appearance of action on the part of this government. The time of reckoning is coming—it is getting closer—and the government is starting to sense the danger. That is why we are starting to see this flurry of spin and supposed activity. However, there is some serious inactivity and lack of action that the government should be held to

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account for. The more the government does this sort of thing, the more it draws attention to the government's failings and lack of action, because it raises the question of priorities.

MR N.W. MORTON (Forrestfield) [9.19 pm]: I rise to make some brief comments on the Graffiti Vandalism Bill 2015. I am pleased that the Liberal–National government is continuing its reform to tackle graffiti in our community and has brought this bill into the house. I want to go through some of the points that are dealt with in this bill.

Mr D.J. Kelly interjected.

MR N.W. MORTON: I will get to the record of members opposite on graffiti. Just let me finish. Under this bill, a stand-alone offence will carry a maximum penalty of a fine of \$24 000 and imprisonment for two years. The bill includes mandatory clean-up orders for offenders, as well as the ability to confiscate property —

Mr D.J. Kelly interjected.

The ACTING SPEAKER (Mr I.M. Britza): Member for Bassendean, you will have the opportunity shortly and you can do whatever you like, but if you interfere again, I will call you.

MR N.W. MORTON: I appreciate your protection, Mr Acting Speaker. I will go back over the last point I was making. The bill includes mandatory clean-up orders for offenders, as well as the ability to confiscate from offenders property used to record, store or transmit images of graffiti. Anyone who knows anything about graffiti and those who undertake this activity would know that a big part of it is the recognition of their tags or their work by a broader audience. Therefore, the capacity to mitigate that is a key part of this Graffiti Vandalism Bill. The bill also gives greater powers to the Public Transport Authority to ban serial offenders from buses, trains and stations, as well as to pursue offenders beyond PTA property. I do not know about you, Mr Acting Speaker, but I have travelled on the trains recently, and I have seen the etchings on the windows in particular. I find that offensive, not as a member of Parliament necessarily, but as a member of the community. It annoys me and I know it annoys a lot of people. We would rather travel on public transport that is clean and that represents the state and the community well. That is part of the whole impact of graffiti on the community. The bill also empowers local governments to enter private land to remove graffiti. That is an important undertaking in this bill. The bill also makes it an offence to be in possession of a graffiti implement, and a fine is associated with that as well.

I am the representative of the Minister for Police on the State Graffiti Taskforce. That is a fantastic task force, and I enjoy going to the meetings whenever I can.

Mr D.J. Kelly interjected,

MR N.W. MORTON: It is interesting; I sat here and listened to the bewildering contribution from the member for Warnbro, who dismissed the State Graffiti Taskforce as basically a waste of time.

Mr D.J. Kelly interjected.

The ACTING SPEAKER: Member for Bassendean! You will have your opportunity.

MR N.W. MORTON: The member for Warnbro dismisses the State Graffiti Taskforce. I can understand why, and I will get to that in a second. He said that in 2007, people were complaining about graffiti and hoons. Is that so? If we go back in time just a bit, it was the Richard Court government that instituted the State Graffiti Taskforce. We then come to the Labor government. I understand now why the member for Warnbro is so dismissive of the State Graffiti Taskforce. It is because it was members opposite who disbanded that task force. What did we see happen when that task force was disbanded? To quote the member for Warnbro, in 2007, we saw community outrage, because there was graffiti everywhere. The reason there was graffiti everywhere is that these guys opposite walked away and abandoned our tough stance on tackling graffiti in the community.

Ms S.F. McGurk interjected.

The ACTING SPEAKER: Member for Fremantle!

MR N.W. MORTON: I think I may have been in the Chair when the member for Maylands made her contribution. I do like the member for Maylands. She made the point that graffiti is not an issue in her community. She said it is not something that people knock down her door for—she then said in a joking manner that it might be an offence if someone were to do that! When she said that, I thought it is less of an issue in the community now because when we came into government we reinstated the State Graffiti Taskforce. Since the reinstatement of the State Graffiti Taskforce in 2008 the number of verified graffiti offences has declined by 88 per cent. That is why the member for Maylands said that no-one in her community tells her about graffiti. It is

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because we got on and tackled the issue, and we are continuing to tackle the issue, and that is why we have introduced this Graffiti Vandalism Bill.

Several members interjected.

Mr N.W. MORTON: They continue to squeal! Maybe members opposite support graffiti in the community! I do not know. Their actions when they were in government suggest that they do. We do not support graffiti in the community and we will continue to take a strong stance against graffiti in the community. I fully support the State Graffiti Taskforce, and I want to go into a bit more detail about what it does. At the first meeting I went to —

Mr D.A. Templeman interjected.

The ACTING SPEAKER: Member for Mandurah, thank you!

Mr N.W. MORTON: At the first meeting I went to, I was not sure of the mechanisms of the task force and how it was able to bring about real results on the ground. However, having now been to several meetings, I can see the stakeholder engagement from the different government agencies, be it the Public Transport Authority, the Water Corporation, education or local government. They help to form and develop best practice for tackling graffiti in the community, and they help develop things such as the Goodbye Graffiti website. They provide intel for Operation Eraser, which WA Police operates from time to time. I will give one little example. At the last meeting I was at, which was a couple of weeks ago, the gentleman from the Water Corporation said that in years gone by, when a particular football team won the premierships—I will not name the team—it had a propensity for making that well known on one of the Water Corporation's assets. The Water Corporation fed that back to WA Police, and WA Police, in consultation with that community, was able to negotiate an outcome that ensured that when that footy team won the premierships, that Water Corporation asset did not get the graffiti that it had got in years gone by. That may be a very simplistic example, but it is a small demonstration of the good work that is done by the State Graffiti Taskforce.

I will finish with that. Actually, I will not finish with that. I am going to continue to talk for several more minutes about how wonderful the State Graffiti Taskforce is.

Mr D.J. Kelly: Take an interjection, then. Tell us how many meetings you have been to.

Mr N.W. MORTON: I cannot tell the member.

Mr D.J. Kelly: Two?

Mr N.W. MORTON: There are four meetings a year, and I have been on the taskforce for two or two-and-a-half years. I am sure the member can do simple maths such as that.

Mr D.J. Kelly: Did you go to all four meetings?

Mr N.W. MORTON: I go to as many as I can, member.

Mr D.J. Kelly: How many did you go to in 2014?

Mr N.W. MORTON: Is the member for real? I cannot tell the member. I do not have my diary in front of me, but I would say at least two to three, off the top of my head.

Mr P. Papalia: You're exposed!

The ACTING SPEAKER: Thank you, member for Warnbro!

Mr N.W. MORTON: The member for Warnbro says I am exposed. He is the one who is exposed, with the deluded contribution that he made a few minutes ago when he said that in 2007, when he was doorknocking, the community was outraged. He said that in 2007 people were complaining about graffiti and hoons. Graffiti and hoons, member for Warnbro! Now he is not listening, because he does not like what I am about to say. In 2007, his government when it was in power disbanded the State Graffiti Taskforce. It walked away from tackling graffiti in our community. It was this Liberal–National government that reinstated this task force, and it works and gets results, as backed up by the evidence and the data. I think I can sit down now, Mr Acting Speaker.

MR D.J. KELLY (Bassendean) [9.29 pm]: What a pleasure it is to follow on from the member for Forrestfield, who gave what one might say was a robust speech in favour of the Graffiti Vandalism Bill 2015. Like the legislation itself, we found that his speech was more spin than substance. Much of his speech was about the importance of the State Graffiti Taskforce and the important role it played —

Mr N.W. Morton interjected.

The ACTING SPEAKER (Mr I.M. Britza): Member for Forrestfield!

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Mr N.W. Morton interjected.

The ACTING SPEAKER: Member for Forrestfield!

Mr N.W. Morton interjected.

The ACTING SPEAKER: Member for Forrestfield, I am on my feet! You be silent.

Mr P.B. Watson interjected.

The ACTING SPEAKER: Do not tell me my job, member for Albany; do not tell me my job!

Mr P.B. Watson: Don't point at me like that, either.

The ACTING SPEAKER: You are on two calls. It will be very easy for me to —

Mr P.B. Watson: Don't point at me like that!

The ACTING SPEAKER: You keep your fingers to yourself. Do not disrespect the Chair.

Mr P.B. Watson: I'm not.

The ACTING SPEAKER: You are. Member for Bassendean, thank you very much.

Mr D.J. KELLY: As I was saying, the member for Forrestfield's speech was bluster and spin rather than substance, much the same as this legislation. For much of his speech he went on about the importance of the State Graffiti Taskforce, how proud he was to be a member of that task force, and what an important job it had done, but it took only one or two interjections for it to become apparent that the member did not know how many meetings he had been to. He told us that there might have been four meetings a year and that he may have attended two, possibly three, of them, but he could not remember because he did not have his diary with him! So important and so worthwhile was this task force that, at best, he got to three meetings, and possibly only two.

Mr N.W. Morton interjected.

Mr D.J. KELLY: It just illustrates that the member for Forrestfield came into this place and—I was going to say something else beginning with “B”—blustered his way through his speech and spoke passionately about the issue of graffiti, but it was really just spin, much the same as this legislation. I had a look at the grievance the member for Forrestfield raised about the loss of financial counselling services in Forrestfield, and it was one of the most polite grievances one could ever possibly imagine. On a serious issue such as cuts to financial counselling, he came in here like a meek little poodle to politely ask for some more money, but when it comes to an issue such as graffiti and his role on the State Graffiti Taskforce, he is willing to put in a performance that will hopefully get him a ministerial role at some point. He came in here, puffed up his chest, and spoke as though he were a great supporter of government policy! If he had come into this place to actually represent his constituents on an issue such as financial counselling, we might have had a bit more respect for him.

But I digress. This bill —

Mr N.W. Morton interjected.

The ACTING SPEAKER: Member for Forrestfield, you cannot keep interrupting. I call you for the first time.

Mr N.W. Morton interjected.

The ACTING SPEAKER: I did not hear that! I have called you for the first time. Do not interrupt the member on his feet; I want him to be heard in silence. Thank you, member for Bassendean.

Mr D.J. KELLY: As I said, I digress a little.

I know the member for Warnbro has touched on this already, but when the minister gave her second reading speech and got to the part describing graffiti as a “scourge”, I have to say that there were audible chuckles in the house. Quite frankly, to describe graffiti as a scourge in the context of everything else that is going on in our community at the moment is really a bit of a joke. The minister's second reading speech did nothing to justify the description of the graffiti issue in WA as a scourge. As has been quite rightly pointed out, the minister could have described in this place lots of other things as a scourge on which she was going to take urgent action, but we have seen nothing of that. Domestic violence is an issue that the minister could come into this place and describe as a scourge in WA; that is something that we would support. The methamphetamine crisis is out of control —

Mrs L.M. Harvey: Are you supporting the legislation or not?

Mr D.J. KELLY: We on this side of the house are supporting the legislation, minister. I am just saying that we do not choose what the minister brings into this house; all we get to do is comment on what she does, and one of

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the things that really worries us about her priorities is that she misses the big issues and comes in with legislation such as this and tries to pump it up so that, come election time, she can say that she has actually done something.

One evening only a couple of weeks ago I was at a meeting of residents in my electorate. I went to a house in Beechboro and a dozen residents were there, all concerned about the constant burglaries they are experiencing in that suburb, largely—but not exclusively, I would suggest—because of the methamphetamine crisis in WA. That is a scourge, and the general increase in crime in Western Australia is a scourge, but the minister and her government—with the full backing of the member for Forrestfield—are trying to pump this bill up into something it is not. It is not legislation that will tackle one of the great scourges here in Western Australia; it is just so that the minister can say that she has done something about an issue in the Western Australian community.

Mr S.K. L'Estrange: Member, are you supporting the bill?

Mr D.J. KELLY: Yes, we are supporting the bill, not because it is outstanding legislation, but because there is really not a lot to it. If the member for Churchlands had read it, he would know that most of it is already there. What do we call it? It is a legislative one-stop shop. I can just see the people who are carrying out graffiti vandalism in the suburbs quaking in their boots at the fact that the government has combined some provisions from other legislation that deal with graffiti into one particular bill and called it the Graffiti Vandalism Bill 2015. That is really not going to have much of an impact, I would suggest, on whether or not people engage in graffiti vandalism.

The general increase in crime in Western Australia is a scourge. If the minister came in here using that sort of language about that issue and came up with a decent plan to deal with it, she might get credit from this side of the house, but all she did was grab a few provisions from other legislation and come in here and give a second reading speech that was nothing more than a bit of hyperbole, and she is going to try to pass it off as action on a serious issue facing the Western Australian community.

Earlier in her second reading speech, the minister touched on the fact that it is an election commitment made by the government in 2013, and obviously the government feels obliged —

Dr A.D. Buti: It was 2008.

Mr D.J. KELLY: I think it was 2013; it might have been 2008 initially, but the government made the same commitment in the 2013 election campaign, and that is why it felt obliged to do something about it. I suppose my only comment on that is that I wish the government felt as committed to some of its other election commitments that it has walked away from since the last election. I wish the government felt as committed to those election commitments as it obviously is to this one. It has walked away from the Metro Area Express light rail project. Keeping electricity prices at or around the rate of inflation was an election commitment in 2013; the government also committed to not sell the Fremantle port in the 2013 election, but it has walked away from all those commitments.

Nevertheless, despite the hyperbole of the second reading speech, the bill addresses in some ways the issue of graffiti in our community. Graffiti is a problem. It is annoying, it is costly and it causes some people a lot of grief. When a person has painted their new front fence or had some work done on a business and they come in the next morning and find someone has tagged or put an offensive bit of graffiti on it, it is absolutely annoying and quite deflating. I think it is an issue that needs to be addressed. I know there is the issue of street art and what is art and what is graffiti. I know that is an issue we can debate. One person's graffiti is another person's art and another person's art is just a bit of hopeless scribbles. There are those sorts of issues and the merits of any individual bit of graffiti can be debated, but notwithstanding that some graffiti might be of some artistic merit, in general, unauthorised graffiti on people's property, whether it be public or private, is a problem. That is why on this side of the house we support any measures that will have the sensible and positive aspect of reducing the amount of graffiti. I might say at this point that I would like to commend local governments in Western Australia. A lot of the graffiti removal in Western Australia falls to local governments and their officers, so I would like to commend them for the work they do. Some local governments have quite sophisticated policies on the issue of graffiti and they try to deal with graffiti in all sorts of ways, and I would like to commend them for their work they do.

Then we get to this bill. Again, the superficial nature of the bill is really what concerns me. What does it do? It creates a new stand-alone offence of damaging property via graffiti. This offence will have a maximum penalty of a \$24 000 fine and two years' imprisonment. My understanding is that this just mimics offences of damaging already in the Criminal Code. All the minister has done is pull out the existing offence and penalty that could be applied to someone who commits a graffiti offence. The minister has pulled it out of one bit of legislation and put it into this legislation, called it a specific graffiti offence and claimed that it will somehow make a difference.

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I really cannot see it, minister. It is the same offence with the same penalty but under a different name. I struggle to see how it will reduce the amount of graffiti in the community. I would be really interested if the minister could provide in her response any evidence to show that this new offence, if all it is is the renaming of an old offence with the same penalty, will make a difference. How will it actually make a difference?

In regards to the second part of this bill, the minister's second reading speech states —

The bill also replicates and expands on the existing criminal provisions relating to graffiti, including offences of possessing things with the intent to apply graffiti, selling graffiti implements to children and recovering the costs of cleaning graffiti. These provisions are to be removed from the Criminal Code and replicated in the bill. This will create a consolidated piece of legislation tackling graffiti vandalism.

Again, this is just taking bits out of other legislation, consolidating them into this bill and renaming them. I would really like to know how the minister thinks that will reduce the amount of graffiti vandalism, as the bill calls it. What evidence is there that that will reduce the amount of graffiti in the community? The minister's obligation is to bring initiatives to this house that will actually address problems in the community. It is not the minister's job just to go through her election platform, find a commitment and then wonder what can be done so the government can say it has done something about it.

Mrs L.M. Harvey: The community told me what is important and I react to what they voice.

Mr D.J. KELLY: If the minister had listened on this issue, because I do not think she has listened on the methamphetamine crisis, domestic violence —

Mrs L.M. Harvey: I don't think you have been listening.

Mr D.J. KELLY: I have not been listening! All right; okay.

What the community will say to the minister on the issue of graffiti, and what it wants her to do, is things that make a difference. The community does not want the minister to come into Parliament and just put up old legislation that is rehashed and renamed so that she can say she has done something. What the community hates more than politicians who do nothing is politicians who do nothing but say they have done something, and that is the suspicion with this bill. I know the minister will go out there and say what a great job she has done in passing the Graffiti Vandalism Bill 2015 and that it will make a big difference. All I am asking about the provisions I have just referred the minister to is: what evidence there is that they will actually reduce the amount of graffiti vandalism the community? It is a fair question, minister. The minister has put a considerable amount of resources towards this bill, including parliamentary drafting, and time taken up by her department and in this place to pass this legislation. All we are asking is what evidence there is that the legislation will make a difference.

[Member's time extended.]

Mr D.J. KELLY: The minister's second reading speech does not provide any evidence of that at all. Since I have been in this place, I have been surprised that second reading speeches provide so little detail about why legislation has been brought in, but it would be good if the minister could provide some evidence to satisfy us that this legislation is not just bluster and a tick-the-box-type exercise.

The third thing this legislation does is provide for the forfeiture of anything used to store, record or transmit images of graffiti used upon application by the prosecutor or on conviction of the offender for a graffiti offence. The minister's second reading speech states —

Graffiti vandals often photograph their work or video record its creation. These images are then shared among social groups and via the internet, supporting the proliferation of a graffiti culture. By hindering offenders in the distribution of their work, it is anticipated the incentive to commit graffiti vandalism is reduced.

These days, when a photo is taken on a digital device, the image is stored not just on the device but in the cloud and can be accessed from any number of devices; if the iPhone, tablet or whatever is confiscated, I wonder how the image is confiscated when that image is long beyond the realms of that individual device. I could understand what the minister was trying to do if we lived in an age in which people took a photo of their graffiti and that photo was stored on a roll of film. All members will remember those rolls of film that sat in the camera. If the camera with the roll of film was confiscated, that would also confiscate the image, but in an era in which that is no longer the case, all the minister would be doing would be confiscating the digital device itself. The minister does not say in her second reading speech say that confiscating the electronic device is meant to be the deterrent. The second reading speech seems to indicate that the minister is hoping that confiscating the device will stop the perpetrator of the graffiti from spreading the image through the internet. I am not sure how the minister will do

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that. The minister may have an answer for that, and I am certainly interested in hearing what it is in the minister's reply.

What else is in the bill that I want to comment on? The bill contains amendments to the Public Transport Authority Act 2003. The minister's second reading speech states —

The first amendment expands the existing powers of arrest of Public Transport Authority security officers to include apprehending persons reasonably suspected of committing certain offences on Public Transport Authority property. Currently, a Public Transport Authority security officer may only apprehend a person committing an offence on Public Transport Authority property if it appears to the officer that the offence is likely to continue or be repeated. The amendment made by this bill will allow a security officer to apprehend a person reasonably suspected of committing the offence, including the new graffiti offence, without the need for the offence to continue or be repeated.

I agree that the graffiti that annoys me most is graffiti on buses and trains. Members on this side of the house like trains and buses, and seeing those sorts of public assets damaged in any way is very unfortunate. I have a couple of questions about who exactly the bill extends the power of arrest to. I am happy for the minister to tell me now. My knowledge of the people who work as security guards on public trains in particular is that they comprise a mixture of people employed by the Public Transport Authority and security guards employed by private contractors. I wonder whether this legislation will extend the powers of arrest only to PTA guards employed by the PTA or will it also extend it to employees of private contractors engaged to do that work? I am not sure whether the minister is in a position to tell me that.

Mrs L.M. Harvey: It extends the power to PTA officers who are security officers.

Mr D.J. KELLY: Will it not apply to private contractors?

Mrs L.M. Harvey: It applies only to PTA security officers. It will extend the power of arrest. Under the existing regime, if somebody is found —

Mr D.J. KELLY: If they are caught in the act, yes.

Mrs L.M. Harvey: — to be committing a graffiti offence, the security officer can tell them to stop; and, if they stop, that's where it ends.

Mr D.J. KELLY: I understand the intent. I think the minister has answered my question.

Mrs L.M. Harvey: It is only security officers. It is not about Serco either; it is just PTA officers.

Mr D.J. KELLY: I know that a lot of the security work on the trains is done by staff who are not employees of the PTA—security guards or revenue protection officers—but are employed by some of the private security companies. I hope the minister will give some consideration to the position of private security guards. One concern that is sometimes expressed is that more of the security people trains are employed by private security companies than are employed by the PTA. If the minister's intention is to give the people who secure our trains new powers, she may not be achieving that because so much of that work is done by people who are not employed by the PTA but are employed by private security companies. The minister might want to give consideration to that, because one of the messages that the PTA has tried to send to patrons on the trains is that anyone who is on a train and wearing a uniform has the same powers as special constables and the like. I do not know whether the minister catches trains, but the PTA uses a split screen showing on one side an officer wearing a PTA uniform and on the other side the same officer wearing the uniform of a private security company, and the message is that they have the same powers. I raise that issue so that the minister will look at this aspect of the legislation, because under this government so much of the work that is done on our trains is done by people who are not PTA employees.

The other question I would like to raise about the amendments contained in part 5 of the bill is that if the minister is extending the powers of PTA staff, especially an important power such as the power to arrest, has there been any consultation with the Rail, Tram and Bus Union, which represents those staff, or United Voice, which represents the private security guards who do the work? If the minister is giving additional powers of arrest to those staff on trains, I would think it appropriate there be some consultation with those staff, because the power of arrest is a very serious power being given to those people; and if the minister is extending that power, it raises issues of training, duty of care and appropriate remuneration. The minister can tell me if I am wrong, but I would be pleasantly surprised if she had done any consultation with the staff about this amendment. I suspect that the minister has not, which would be a mistake. It has been more than two years since the government made this election commitment, and the minister comes into the house with legislation that extends the powers of arrest to some staff within the public sector who are not well paid. I do not know if the minister knows what they

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are paid, but they are certainly not well paid. The minister, as part of the government, waltzes in here wanting to pass legislation that will affect their working life and does not talk to them about it beforehand. I am happy to stop and move off this point if the minister wants to interject and say that she has consulted with them, but I suspect from the minister's silence that she has not consulted.

Mrs L.M. Harvey: You have only two minutes left, so I will be responding shortly.

Mr D.J. KELLY: That is fantastic. I am disappointed, minister —

Mrs L.M. Harvey: I will make it really clear.

Mr D.J. KELLY: No, minister; I will finish my response. Look, minister, it is more about spin and bluster, unfortunately. The minister should be dealing with some very important issues that could properly be described as a scourge. Unfortunately, yet again, this government appears on this issue, like so many others, to be about spin and not substance.

MR C.J. TALLENTIRE (Gosnells) [10:00 pm]: I rise to speak to the Graffiti Vandalism Bill 2015. I begin by saying that, yes, I support the legislation. I am a little perplexed as to why this would be such a priority for the government. It is a serious issue, but is it a priority issue when we look at other issues facing the state and other legislation we are desperate to see come through this place? I wonder how important it is when we consider that so much of the legislation we are dealing with here exists already in the Criminal Code and elsewhere. We are, in fact, really dealing with a consolidation. There may be some very good administrative reasons for it being useful to consolidate various pieces of graffiti-connected legislation into the Graffiti Vandalism Bill 2015, but I think the essential thing to note is that the bulk of the work required to tackle graffiti can be done under existing legislative arrangements.

I think my first recollection of graffiti was when I was going to school and saw a sign on a bus shelter that read "Bill Posters Will Be Prosecuted", and somebody had written underneath "But he's innocent"! That was one of the first tastes I ever had of graffiti. As a young schoolboy it took me a little while to work out who "Bill Posters" was and what was really going on! But that shows that there has been a history of humour that I think we have lost when it comes to graffiti. That has gone, and now we have this mindless tagging that is irritating and annoying and damages public and private property. That is a great shame, and I will come to that in more detail. I would like us to think about the change that we have seen in our society. We have gone from graffiti sometimes being a tool for humour to it no longer being so. I do not recall the last time I saw a particularly funny piece of graffiti; it has more been just the offensive, mindless graffiti that I have seen. I will talk a little, though, about things like attractive murals because I think that is another category altogether.

I put to the house that I think the public space by which people communicate those sorts of jokes that they might have made previously via graffiti has transferred itself to social media. We now see these memes and what have you on Facebook, whereby people post a photograph and an amusing caption. That has perhaps taken the pressure off. In fact, I think it is reasonable to say that we could attribute some of the reduction in graffiti to that transfer of the place where people commit their offensive graffitiing; they have gone from the public wall to the electronic wall. That has, in fact, made the government's job much easier; the pressure has been taken off. The residual is that terrible tagging and other acts of minor criminality that are annoying and offensive and damaging to public property. For many people it also gives rise to a sense of insecurity, which is of particular concern. A rise in the sense of insecurity in our community has come about from a whole host of things, but graffiti would be right up there as one that causes that sense of insecurity.

Other members have touched on the idea that graffiti is a form of political expression, and that perhaps relates to the point of the humour in graffiti. I think that is on the wane, perhaps, again, because of the rise and domination of social media, but we did see for a long time in our history that graffiti was an avenue for some form of political expression or political criticism. The underpass in Sutherland Street in West Perth, not very far from here, has a big billboard that is owned by a well-known donor to the Liberal Party—Mr Jackson. He made his fortune out of the Kreepy Krauly—a remarkable invention, an amazing thing; it is a great device for cleaning swimming pools. I believe Mr Jackson owns that billboard, and members of this place have from time to time been fortunate enough to have an advertising hoarding with their face on it, promoting what they are offering to the community. I recall that during, I think, the 2001 federal election that John Howard was contesting, the Sutherland Street underpass billboard had a big Liberal sign. Mr Jackson is a firm supporter of the Liberal Party; he certainly would not be open to having a Labor poster on that particular hoarding, but someone's graffiti action —

Several members interjected.

Mr C.J. TALLENTIRE: Sorry, member?

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Mr S.K. L'Estrange: I said, "Why would he?"

Mr C.J. TALLENTIRE: Perhaps in the interests of good public policy debate, he would allow equal billing for candidates on his billboard!

Anyway, the point I was going to make is that somebody had scrawled under the picture of John Howard in 2001, when he was contesting the election—this is not particularly flattering to either party—"Don't Vote Liberal". The view of the person who put that piece of graffiti there was that Liberal and Labor were the same in the 2001 election. It was most unfair, I would say. At other times I have seen "Liberal" defaced to say "Lieberal". We have had that history of politically oriented, perhaps not particularly amusing—a little predictable in fact—graffiti. But, again, I think that kind of communication, to give it some sort of generic term, has transferred itself away from the actual physical public wall to the electronic wall. I think the government needs to acknowledge that some of the contributors to the problem have chosen a medium that they find to be a far more successful and better way of communicating their message to a greater number of people when it claims credit for some statistical change it believes it has observed in the prevalence of graffiti. I think of the lead-up to the invasion of Iraq in 2003, when peace activists scaled Sydney Opera House to write on it in very bold red writing "No War". I think that scale of activism could still occur and that people in organisations such as Greenpeace and others have the climbing ability to get up onto Sydney Opera House. That skill base is probably still there. But, again, I would say that the communication of that message is probably much more effectively delivered by electronic social media nowadays than it is by defacing a building as significant as Sydney Opera House. There has been a transfer in the load from the physical to the electronic. That is something I think we need to recognise when looking at any statistics.

I have said already that I think the problem of tagging is still as prevalent as ever. It is still a major problem. Only recently the clubrooms of Gosnells Croquet Club, which it shares with the Australian Arab Association—they have a common building—was tagged. The process there, of filling out an online notification form and communicating with the City of Gosnells, was very effective, and the offending tags were removed in no time at all. That is something that we have now got down to a fine art, and we recognise that we must act with real haste to get rid of graffiti, because if we take it away, we will quench the thirst for recognition that a perpetrator of graffiti might have. That was a good reaction.

In the City of Gosnells, in my electorate and surrounding areas, we have had sad and distasteful episodes of racially motivated, racial vilification graffiti. That has occurred at the Masjid Ibrahim on a number of occasions, and the Masjid has had to improve its security with closed-circuit television, extra fencing and other measures. The Australian Islamic College is a building that the Minister for Police knows well, because I think she went to school there when it was Sacred Heart College. That building was the subject of a nasty graffiti attack, which was in fact religious vilification. Again, the authorities were quickly onto it. It was important to the parents of children who go to that school that the graffiti be removed. I think the event occurred in the early hours of a Sunday morning, and the graffiti was gone long before the children arrived on Monday morning. We have the ability to deal with these problems, but the underlying issue of racial and religious vilification graffiti is really serious. That is the sort of thing we should be tackling at the heart, rather than worrying about the tags. Religious vilification graffiti is a much more serious issue. That is why I say that, as much as I support this legislation, I question the government's decisions about the prioritisation of this legislation ahead of other very important pieces of legislation.

Another issue I want to touch on is the general community attitude towards the public space. I acknowledge that quite often graffiti attacks and tagging are carried out on walls and other structures that are actually privately owned but are in the public space. When graffiti occurs on trains and buses, it is very clear that we are talking about property that is owned by all of us. I am wondering whether there has been an erosion of the respect that the community should have towards publicly owned assets. I often hear rhetoric from those opposite about the need to privatise, and venerating the privately owned assets, while at the same time there is a suggestion that publicly owned assets are not as good, and that there is something to be disparaged about the publicly owned assets. If that is the message that is getting out in the community, it might explain why some sick minds might see it as almost reasonable that they attack and deface publicly owned assets such as buses and trains.

It is a problem. If we talk so much about the importance of private assets, it leads to a view that publicly owned assets are not as good and people feel that their attacks on publicly owned assets are somehow justified. They think their attack does not really matter because it is just a publicly owned bus whereas they might not have the same view of a privately owned bus or motor vehicle. It is a worry that we have somehow corrupted thinking in society to the point that people do not respect publicly owned assets. If that is the case, it comes from the attitude of those opposite who venerate and adore proceeding towards privatisation. We have eroded the respect that we should have for publicly owned assets. That is a real concern that I have, and I am very curious to know how much of a role that

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is playing in those people's minds. I am not trying to give these people more credit than they are due—I do not think they are thinking minds at all—but often these things are questions of atmospherics. If the atmospherics are such that people do not feel the need to respect public assets, this erosion of respect takes place.

On the issue of upholding private assets, when I listen to commercial radio these days, there is often talk of people moving to gated communities where they will be safe. There is a mentality that a gated community is a sanctuary and an oasis where people can find peace and leave the dangers of the world outside. I think the mentality that the only place in which people can be safe is a gated community is very dangerous. Where does that lead us? What is the logical conclusion to that line of thought? I think the conclusion is that we become cut off from the outside world and increasingly isolated. I find people who are bunkering down at five o'clock in the evening. Although I try to discourage them, unfortunately some seniors in my electorate are that fearful of what goes on in the outside world that they bunker down as soon as the sun gets a little lower.

[Member's time extended.]

Mr C.J. TALLENTIRE: The public asset becomes even more vulnerable to graffiti attacks when there is an idea that the world outside is dangerous and the lack of respect for public assets leaves it all open. It is a terrible downward spiral. People have the idea that the only time that they can go outside their gated communities is when they are in a Hummer or some sort of military transport that guarantees their security. That is a major concern that I have.

I see some benefit in the way that the community has responded to the problem of graffiti by people coming together to remove graffiti. That is commendable, but I think we could do so much more by using that process of graffiti removal to gather more statistics on where the attacks occur. I have already said how important it is and how successful we have been to get the message out in the community that graffiti has to be removed as soon as possible. We can work out where the areas of high criminality are—not only graffiti criminality, but also attacks on people and other more serious offences. I see exactly that in an area that I have spoken about a lot in this place, in Lissiman Street, where there is a very degraded strip of old, decrepit buildings. An improvement plan is about to rejuvenate the area. I believe that if a statistical approach had been used to look at where graffiti was increasing, perhaps we would have identified that area for rejuvenation a long time ago. We would also have been able to realise earlier the risks to people who might wander through that area in the evening. Other benefits can be gained. There are other things happening, too, such as people becoming involved in schemes such as adopt a bus stop, which are very useful.

I want to touch on the attractive side of graffiti, but I remain to be convinced that the legislation pays consideration to this. People who catch the train into Thornlie train station will see some amazing murals that I think have official government sanction, either from the City of Gosnells or the Public Transport Authority. They are stunning works of art that depict the highlights of our area. There are magnificent murals that show cockatoos and the river area, and capture the essence of the environment of Thornlie and Gosnells. That is a positive thing and done in the context where a blank grey concrete retaining wall does not need to remain. A grey retaining wall is not the most attractive feature. As trains go by passengers are able to look out and see very colourful and professional depictions of some of the area's natural features. That adds to our sense of identity and knowledge of the area, and is highly beneficial for us.

However, we have to be careful about the word "mural", especially for cyclists. In some contexts a mural is not a depiction or a work of art on a wall, but is a wall. In Italy, if signs point to a "muro" and a cyclist wants to ride up it, they will be heading for a very steep hill. I know people have been caught out by that and have found themselves riding up an incline well in excess of 20 per cent. That is a word of caution about the words "mural" and "muro", but of course in our language "mural" means an imaginative depiction, a creative one at that, and it is something that we can commend people for. However, it needs to be done with some degree of government sanction, and that is why we need to ensure that those blank canvasses, those grey walls, are made accessible. All due consideration should be given to safe access to those mural areas—those grey concrete walls that can be decorated effectively. Of course, it should be done in such a way that the local community is consulted and that it does not come up as some sort of offensive surprise; it should be something that the community is engaged in.

The minister talks about graffiti as a blight or a scourge on society, but there are many other things at perhaps a similar level. I have brought up in this place recently the problem of noise in the community. I only wish that we were giving the same sort of attention to the issue of noise. I tabled in this place recently a petition with over 500 signatures, from people who are concerned about graffiti—they hate seeing tags—but also hate audible graffiti: that is, the noise that comes from people who constantly play loud music late at night without any consideration for others. I think there is perhaps some similarity there. We have people who do not care about others; they just want to tag and mark an area so that it provides them with some degree of gratification. With

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noise, it is the same deal. We have people who want that self-gratification that comes from hearing music in a way that pleases them without any consideration for their neighbours. It is unfortunate that when there are people who are disrespectful and who do not consider their neighbours that we have to come up with a legislative response. Again, we could be tackling this problem at its source and maybe that is why we need to somehow educate people about the damage they cause society when they commit acts of graffiti and when they also play loud music at all sorts of hours and offend their neighbours in that way. It is another kind of graffiti and yet it is one, despite my best efforts here, that the minister has just let go. When we debated the out-of-control party legislation, I suggested one good, effective way of determining an out-of-control party would be to look at things such as decibel levels. The minister said that the government could not do that. I forget the reason, but I do not think it was a very good reason. That would be a nice, quantifiable way, rather than this current method of having to determine how many people are inside a dwelling. It is rather impossible for a police officer outside a dwelling to do that when they need to know how many people are inside. That is much harder than measuring a decibel reading. On the issue of people not having respect, it is the same sort of problem whether we are talking about acts of graffiti or people making undue noise.

The Liberal Party made commitments in 2008 and again in 2013 around developing a graffiti vandalism enforcement bill. I can see that most of the elements identified in that policy are in the Graffiti Vandalism Bill before us. It is, after all, consolidated graffiti vandalism enforcement legislation. The Liberal Party has seen that a major step forward in our fight against graffiti is to consolidate all these elements and have them in one piece of legislation. I am interested that the Liberal Party's commitment was to strengthen the Public Transport Authority's capacity to immediately ban serial offenders from public transport property as soon as they were convicted. I would like to know more about how that would work and the duration of it and just how effectively it can be administered. There would have to be some sort of time limit on that. It is something I would like to know more about when the minister responds to our second reading contributions.

I want to say a little about the work the City of Gosnells has been doing and to acknowledge its excellent work. The latest program I have seen from the city on this involves working with industry—industrial area clean-ups. We know that light industrial areas are particularly vulnerable to graffiti attacks. The City of Gosnells has made available \$1 000 to any company that is the victim of an attack for the clean-up of various areas. I think that is important. Having said that, I must say that some of the light industrial premises that I see around the city could do with a good clean-up. This gets to the heart of this issue. If an environment looks pretty run-down, it will be more vulnerable to these sorts of graffiti attacks. Perhaps in this case, the best form of defence against graffiti is to make sure that people's premises look spick and span, and that way they will be less vulnerable to graffiti attacks. The city has taken it upon itself to promote the idea of giving people \$1 000 for the removal of graffiti, and that is something the city should be congratulated on because it will improve things. Then, of course, we have the safe city program, which I have spoken about in the past. "Removing graffiti is possible" is a key component of the City of Gosnell's safe city and anti-graffiti campaign.

I will conclude my remarks there. I support the bill but I have concerns about the government's process for determining its legislative priorities.

MR P.B. WATSON (Albany) [10.29 pm]: They save the best till last.

Ms S.F. McGurk: That's why I'm here.

Several members interjected.

Mr P.B. WATSON: I hope that the member for Churchlands, who has been chirping all night, will get up and speak after that.

Mr S.K. L'Estrange: Hardly; we all want to go home.

Mr P.B. WATSON: I know, he always chirps.

I want to talk about the Graffiti Vandalism Bill 2015. To me, this bill is a bit of a farce. These provisions are already in the Criminal Code, but I know why it has been brought forward—to live up to the government's mantra of tough on crime. A person will get a \$24 000 fine and imprisonment for two years if they write graffiti on the outside of my house, but if they break into my house, they get a four-month contract. Is that right, minister? Is it right that if a criminal breaks and enters, they get a four-month contract?

Mrs L.M. Harvey: Are you talking about the Turning Point program for a first-time offender?

Mr P.B. WATSON: Yes.

Mrs L.M. Harvey: That is a pilot program.

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Mr P.B. WATSON: If a person breaks into my house, they get a four-month contract, but if they write something on the outside of my house, they could get up to two years in jail and a fine of \$24 000. Is that right? So, where are our priorities? Are we trying to protect people inside their house or outside their house?

Mrs L.M. Harvey: You need to understand that Turning Point is a program. It is not a legislative framework.

Mr P.B. WATSON: It is still a government initiative.

The SPEAKER: Thank you very much, members! Hansard is trying to do their job. We cannot have an across-the-chamber debate. Through the Chair, please.

Mr P.B. WATSON: Thank you, Mr Speaker. I appreciate your interference to help me.

I think we are looking at this in the wrong way. In Albany, we do not have a real issue with graffiti. Under the Albany Youth Support Association program Act, Belong, Commit, we have an open access art studio. The young people who want to do graffiti can put their graffiti on the walls in that studio, and they can tag it and leave it there for a while for everyone to admire, and they then wipe it off and someone else can do the same thing. In Albany we also have some old buildings that young people can go to and do their graffiti. I will not say where they are, because I am sworn to secrecy, but they are out of town and near the bush. Some of the art that these young people do is amazing. I reckon that if we put some of that art into art centres in Perth, people would pay a lot of money to come and see it. The young people in Albany are supported in keeping graffiti off the streets and the main thoroughfares. Admittedly, we do get some graffiti on the Wesfarmers' trains, but that art is very good. It is not just rubbish. They put very good murals on those trains, and I think a lot of people enjoy it when those trains go through the crossings every morning and they see those bright murals instead of the old, grey train engines.

What concerns me about this bill is that in section 445 of the Criminal Code, we have exactly the same as what is proposed in this bill. If we were to ask people in my electorate what are the top 10 issues for them, graffiti would not be one of them. We are rushing this legislation through. The biggest issues in my electorate, minister, are ice and domestic violence. They are probably the top two. There are a lot of other issues, such as roads —

Mr S.K. L'Estrange: The local member!

Mr P.B. WATSON: The local member has been elected four times in the most marginal seat in Western Australia. The member for Churchlands is in a safe seat for the Liberal Party, and the Premier did not even want him! So I would not be talking about anything like that if I were the member. Every time the member for Churchlands talks, he says nothing. So it is best to say nothing at all.

Mr S.K. L'Estrange interjected.

The SPEAKER: Thank you. That is enough, member for Churchlands!

Mr P.B. WATSON: Can I have some protection, Mr Speaker? I am only a new boy!

I agree that we need to do something about graffiti. However, I think this is just a prop-up by the government to make the minister look as though she is tough on crime. To me, there are many more important things. I think people are starting to wake up. The government says it is tough on crime and that is why it has brought in this bill. This is already covered in legislation. The minister got away with it at the last election. But I know from talking to people in the community that they see right through the minister now. We already have legislation for this offence; I think it is in section 445 of the Criminal Code. I am not going to stand in this place and talk all night on this issue. I know that the member for Fremantle wants to speak and that the staffers up there in the gallery want to go home, so I will not ask for an extension. However, this legislation really worries me when there are so many pressing issues in my community at the moment. We just had break-ins in Oyster Harbour in Albany. The district inspector came out and said it was an epidemic. We have had all these breaking and entering offences. The seniors in my electorate will not walk in the streets at night. They have issues about their personal safety, and we are bringing in legislation about hoons! Graffiti vandalism is not an issue for me as the member for Albany. I support the bill, even though I am supporting legislation that already exists and that as an issue in Albany it is way below other issues. Domestic violence is a huge issue. We are going to have an event in a couple of weeks called "Reclaim the Night", about wanting women to be able to walk safely in the streets of Albany. We can have Reclaim the Night, but a lot more has to be done. As I say, this is the Graffiti Vandalism Bill—yes, great! The Minister for Police will get kudos for a few days, but domestic violence is rife and ice is rife and people are not safe in their homes.

MS S.F. MCGURK (Fremantle) [10.36 pm]: I will make a brief contribution to the Graffiti Vandalism Bill 2015. People might be aware that many constituents in my electorate of Fremantle really like their street art.

Extract from Hansard

[ASSEMBLY — Tuesday, 13 October 2015]

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Mrs Michelle Roberts; Ms Lisa Baker; Dr Tony Buti; Mr Roger Cook; Mr David Templeman; Mr Peter Tinley; Mr Fran Logan; Mr Paul Papalia; Mr Peter Watson; Acting Speaker; Mr Nathan Morton; Mr Dave Kelly; Mr Chris Tallentire; Ms Simone McGurk; Mrs Liza Harvey

They really like the amount of public art that occurs in our community. Some members in the discussion this evening have spoken about the distinction between graffiti and street art. It is an important distinction and shows an important level of sophistication in understanding what is going on with these sorts of public acts, which is lacking in the bill before us today. I understand that the bill is essentially a compendium of existing provisions in the Criminal Code, and adds little new to the debate and to the sanctions that can be applied against graffitiists compared with what is already available. For that reason, I think people in the community have a right to feel frustrated by the solution that has been put before us in regard to graffiti.

People get frustrated by tagging and graffiti; essentially the vandalism in the community that they represent. I can understand people's frustration with that. However, as I said, I understand that little or no new measures contained in the bill will add to a solution to graffiti. It is, unfortunately, a simplistic approach that states that if we increase the number of sanctions on those people, we will be able to stamp out graffiti. One thing about being the last speaker is that everyone has already made these points previously. However, often the whole point of graffiti is for it to be underground, to be rebellious and to be anti-establishment. An attempt to tackle some of those issues is completely absent in the approach we see in this bill.

Recently there was a large public meeting in White Gum Valley, one of the suburbs in my electorate, which concentrated on questions of crime in the area. It was a meeting of the White Gum Valley Precinct within the Fremantle council at which well over 100 people attended. People were frustrated about two houses in particular in that community that are known to be places in which people are dealing drugs such as methamphetamines. The people living there are known to the police, but nothing has been done. One house is a private rental and the other is a Department of Housing residence. Despite numerous complaints, action by the police and numerous arrests, nothing has been done about those houses. It took a large public meeting to get the police and members of the council down there to draw this to their attention, but particularly it took the publicity of the local media, *The West Australian* and broadcast media to really get some attention to that issue. That is what people in my electorate—and, I imagine, those of many other electorates represented in this chamber—really want action on. They are difficult issues, and for the government to just stand up and talk about being tough on crime and increase sanctions, when we know that that approach does not always deal with the complexities of these sorts of issues, just frustrates the community. What they want is solutions. There is a similar issue in Holland Street to the one in White Gum Valley, and that also got quite a lot of publicity. There were some really shameful public housing units in Holland Street in which very open drug dealing occurred; that complex is also in White Gum Valley. I have spoken also a few times in this place about Davis Park in Beaconsfield and the amount of antisocial behaviour arising from the concentration of public housing in that area.

That is what people in my electorate would like some action on from the minister. The whole community could not say any more loudly that they want action on family and domestic violence. They do not just want a 20-point plan with no new resources put into it. I concede that we saw some announcements for extra spending in the Kimberley, and we will be having a close look at what those extra resources mean, and whether they will be dedicated to those communities, so that we can start to make some impacts. Apart from that, we have a 20-point plan with no new resources being made available, and the existing service is already stretched; that is what people are frustrated about. It is true that people do not like graffiti, they do not like tagging, and they do not like vandalism of public places of any kind, including graffiti, but they understand that we need a sophisticated approach to these issues, and I do not think we are seeing that in this bill.

I would like to refer to an analysis that was done in 2014. I am sorry that I could not get hold of the full article, but it was an analysis done in 2014 by two Western Australian academics, Myra Taylor and Umneea Khan. I think they are at Edith Cowan University, although Umneea Khan might be at the University of Western Australia. They did a study last year into the two years following the introduction in Western Australia of a new scheme to increase financial and incarceration penalties for repeat graffiti offending in Australia. I think the legislation they looked at was from 2004. They found that there was no significant reduction in the incidence of graffiti offending as a result of those increased penalties. One would hope that that sort of analysis might have informed the legislation before the house, but that is not the case. However, it has drawn the interest of the European Commission, which has begun a strategy called Graffolution. That is a multi-pronged approach that is being adopted by a number of countries and is being primarily developed in Barcelona. It looks at an extensive set of collaborative tools and resources to try to draw together the best practice of case studies and other methods of evidence-based successful practice designed to empower city administrations, public transport services and law enforcement agencies to share knowledge and more widely promote best practices in reducing graffiti-based vandalism. It is designed to give an online interactive hub that will enable local communities, citizens and graffiti writers to strengthen public awareness and enforce the prevention of illegal spraying activities using best-practice models. I referred to graffiti writers because part of the strategy is to use social media to teach young people in other connected public forums about where they might be able to practice their tagging or their art, if

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that is what they want to do, in a legal manner. This is a web-based online community, if you like, looking at a much more sophisticated approach to dealing with what is a phenomenon across the world—that is, vandalism in the form of graffiti. In my reading of the second reading speech and my examination of this bill, I do not see any discussion in this approach by the government of these possibilities or of how other communities have dealt with tagging, graffiti and vandalism. For that reason, I will be very interested to see whether the legislation will be successful. Despite a comprehensive Western Australian analysis of laws from 10 years ago that showed that increased sanctions for graffiti, both fines and incarcerations, did not result in a decrease in graffiti, 10 years later we are back doing exactly the same thing.

As other speakers have said, local councils are at the coalface of dealing with these issues every day after understandably facing pressure from their ratepayers. Fremantle council had a debate in 2012 that resulted in the adoption of a policy, which I think some other councils have adopted as well—I imagine the City of Vincent and I am not sure about the City of Perth—that basically allows street art in some areas, not just private areas; there can be public areas, but people have to make an application. The website from the City of Fremantle makes it very clear that graffiti is a criminal offence and can result in a criminal record, fines and penalties, and graffiti will be removed within two days of being reported, so it encourages people to report any unwanted graffiti and particularly offensive graffiti will be prioritised. It is made very clear that unauthorised art or marking a wall without permission was and continues to be a criminal offence, despite the council's new approach, which is to encourage public art, as I said, not just on private residences but also on public places, and we have seen a number of good examples of that. I live not far from the centre of Fremantle and some neighbours of mine have quite an extensive mural on the side of their house. I have mixed feelings about it: I quite like the mural, but I also quite like the traditional Italian–Spanish heritage of my community. Not long ago my neighbour was a 90-year-old Spanish woman who I could barely get boo out of. She has since moved to a nursing home and I think has passed away, and now we have a young family who have chickens and a very large mural on the side of the house. That is the state of things changing in Fremantle and across Western Australia, as I am sure occurs everywhere. We have a number of good examples of street art or public displays of art in both authorised private locations and public places. Perhaps my favourite is the etching of Dorothy Tangney, the first woman senator in Australia, on the side of the Norfolk Hotel in Norfolk Street. If people have not seen that, I urge them to see it. It is a fantastic and beautiful piece by the Portuguese artist Vhils. The bill defines graffiti as including a scratching or etching. I assume that is the scratching that occurs on glass and on trains. Like everyone, I get very frustrated by those acts. At the other end of the scale, this piece on the side of the Norfolk Hotel is, as I said, quite beautiful and worth seeing.

We also have a 25-metre numbat opposite the Fremantle Markets, which many members may have seen. That piece by the Belgian artist ROA was commissioned by the City of Fremantle. A recent large-scale demonstration of public art was by FORM, which did its PUBLIC 2015 collaboration with local, Australian and international artists. A good example of a more self-conscious large-scale expression of public art can be seen near the old Fremantle Traffic Bridge, where people are greeted by a large octopus painted on the side of the naval store. I think the artist is Phlegm. There are lots of examples of large-scale public art that have been really well done and are very sophisticated versions of what essentially began for many of those artists as what is described in this bill as vandalism and graffiti. Like many pieces of art, it can be quite difficult to draw a distinction between tagging or vandalism and art. The bill makes no mention of that distinction and there was no discussion of that in the second reading speech, so I would be interested to hear the minister speak about that. There were some interjections; for instance, the member for Churchlands said that if it is not authorised, it should be removed. I think that shows an incredibly shallow understanding of the artistic movement that has been celebrated around the world and within Australia. The National Gallery of Australia held an exhibition of the works of a number of those artists.

Melbourne has had a longstanding debate about how these issues are dealt with in Melbourne city. We know that people go to Melbourne to look at the street art. Some of it is very sophisticated and very clever. Other members have talked about witty graffiti that opened their eyes as they were growing up. I remember BUGA-UP being particularly clever when I was growing up. These are more complicated questions. As I said, none of the subtleties has been dealt with in this bill. For instance, one of the approaches that can be quite important in dealing with tagging is to encourage sanctioned pieces of public art that taggers or other people will not touch because they respect the art that has been put there. That approach has been adopted by a number of councils. A good example of that is the East Side Gallery, which is the old Berlin Wall between East and West Berlin. It is essentially a wall of graffiti that is now considered to be one of Berlin's most significant pieces of collective art. Sometimes it is difficult to know what is a Banksy and what is just a piece of rubbish that has been thrown up. Some of the messaging out there is political and some of it is very puerile. What is Indigenous rock art? It is

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something that people put up in a public space thousands of years ago that we now see as very significant and something that we treasure.

The hour is late and I know that a number of members have spoken about elements of the bill, including how the amendments to the Public Transport Authority Act will work within the public transport system, and have asked the minister what exactly is new in this approach and how this bill, if it is just a bringing together of existing sanctions from other pieces of legislation, will possibly make a difference to graffiti and vandalism in the community. People want action on not only vandalism, but also criminal activity in their communities and in their houses. People do not want just another piece of window-dressing, which is what I am afraid we are seeing with the Graffiti Vandalism Bill.

MRS L.M. HARVEY (Scarborough — Minister for Police) [10.55 pm] — in reply: I thank members for their contributions. I do not know whether opposition members were ill-prepared and had not read the bill or did not understand what the government proposed with this legislation. The Graffiti Vandalism Bill 2015 is part of the strategy that the state government has had in place, which has been successful on a number of fronts, to counteract graffiti vandalism in the community. The government's strategy has been to look at opportunities to achieve the stand-out successes that the State Graffiti Taskforce has had with its tough-on-graffiti strategy. The taskforce's strategy has strengthened partnerships by creating the Goodbye Graffiti database. It has provided an online reporting forum and a Goodbye Graffiti hotline, which has created more opportunities to report offences, as well as a taggers' database to assist frontline police in offender apprehensions. The government listened to the community and Public Transport Authority officers and people dealing with graffiti in the community. The community said to us that people who are responsible for graffiti vandalism should have to clean up that mess. We listened to that; hence, this legislation provides for clean-up orders for graffiti vandalism for offenders who are convicted of an offence. The PTA said it needed a better ability to apprehend offenders, because it was unable to apprehend offenders who stopped committing an act of graffiti. If they desisted from that activity, the offenders would get away, so the PTA wanted better powers to apprehend offenders. That has been included in this bill.

The incredibly successful Graffiti Taskforce said that a clear penalty framework would assist police officers in prosecuting graffiti offenders. That is what this legislation does. The government said to the community in 2013 that it would consolidate all the graffiti legislation from various acts into one piece of legislation to make it very clear for people who apprehend graffiti vandalism and for people who commit those offences what the penalty framework would be. That is what we are doing in this bill. In addition, the government has included some new initiatives to improve the powers of enforcement officers to prosecute and apprehend graffiti offenders.

Let us look at the Graffiti Taskforce. The Graffiti Taskforce was originally created by the Richard Court government, but was disbanded by the Gallop Government in about 2001–02. In 2002–03, around 10 000 graffiti offences were reported. That skyrocketed to 16 025 in 2007–08. The Liberal–National government came to power in 2008 and reinstated the Graffiti Taskforce. By 2014–15, the number of graffiti offences has reduced to 1 933 reported graffiti offences. That is in the framework of improving opportunities to report graffiti through the online forums, plus the 131 444 number. Overall, the number of offences reported is down. Local governments are now reporting a decrease in the incidence of graffiti. Local government costs of removing graffiti are decreasing. The national community survey that interrogates the community's perception of crime and community safety reveals that the community's concern about graffiti has dropped. After we look at all those measurements and tools, we can claim that we have reduced the amount of graffiti offending and graffiti vandalism in the community. We know that we need to keep the pressure on and we know that we need to do more. That is what this legislation is all about.

In my second reading speech, I said that the cost of graffiti to the community was around \$8 million. That was a conservative estimate based on \$8 million expended by the government partners in the Graffiti Taskforce, including Main Roads Western Australia, Western Power, the Public Transport Authority, the Department of Education and nine councils. It is more likely that the cost to the community is around \$25 million but we need to understand that because of the initiatives that this government has undertaken, those costs are coming down and will continue to do so once we introduce this legislation.

We are not operating in isolation. This legislative instrument is not our only tool. We work in the crime prevention space. We have CCTV grants and Office of Crime Prevention grants to target graffiti programs. The Graffiti Taskforce chair, Deputy Commissioner Steve Brown, oversees the state graffiti fund. That fund is part of our Tough on Graffiti strategy and has some clear objectives to reduce graffiti vandalism in the community, keep our neighbourhoods free from graffiti vandalism and ensure that all graffiti is reported. In 2013–14, that state graffiti fund expended \$200 672 in community grants of up to \$20 000 to clean up graffiti. In 2014–15, we are looking at \$203 743 and the 2015–16 round is currently under review.

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The other aspect that I need to mention is that the police also have an enforcement strategy around graffiti. It is obviously important to police because it has been of high community interest for many years in this state. It has run the Operation Eraser programs 1 through to 9 since 2011. As a result of those programs, police have apprehended 1 110 offenders and charged them with 3 544 offences. Under Quadrangle, the program run in July this year, the police have charged 153 offenders with 407 offences. We are successful in apprehending offenders and charging them with offences, contrary to what the member for Midland was trying to assert.

Importantly, this bill creates a stand-alone offence of graffiti vandalism. Graffiti vandalism currently exists under the offence of property damage. The courts consider graffiti vandalism in the context of the penalties available for property damage. Property damage can range from someone tagging a bus stop all the way through to somebody smashing every single window in a primary school. The court considers all those offences in that context and awards the penalties in the context of that range of offences. We are saying that we want the courts to consider graffiti vandalism offences in the context of graffiti vandalism offending. Stripping out this offence as a stand-alone offence allows the court to do that. In addition, the court will now have the power to order people to undertake a graffiti clean-up order as a consequence of their actions. I think that is appropriate. It is certainly what the community wants. As part of this, we are looking at the ability to confiscate equipment used to record and transmit graffiti vandalism offences. There was much speculation about whether this might be infringing on the rights of people to political freedom of speech and a range of other things. It has nothing to do with that. When graffiti vandals film themselves vandalising property by applying graffiti and then transmitting that, the police will have the ability under the Criminal Investigation Act 2006 to seize the devices as evidence. Once successfully prosecuted, this legislation will allow the permanent confiscation of the equipment used to transmit and record the images. That is appropriate.

There was lots and lots of debate about what is art, what is graffiti and what is street art. I happen to really love street art. My son loves it, my nephew loves it and I have a number of talented family members who enjoy and appreciate the various different murals that have been painted, with permission, on the walls around the City of Perth. The crux of whether it is art or whether it is graffiti vandalism rests with whether there is the permission or consent of the owner to paint or etch the surface. In the absence of the permission and consent of the owner, it is no longer art; it becomes vandalism. That is what this legislation clearly does: it defines where the line is, when that line is crossed and when someone is committing an offence. That is part of the reason that it is important for us to bring this legislation forward.

Contrary to what the member for Willagee said, this is a crime that does not discriminate. Graffiti vandalism occurs in every suburb of Perth, and the offenders come from every suburb of Perth. The people who have tried to paint this as some kind of problem of disaffected youth should go and talk to the young people involved in the clean-up programs with the various different local governments involved in the Graffiti Taskforce. A lot of them come from very well-to-do households, and they do this because it gives them a thrill, they like to muck around with their peers and it gives them something to do; it does not necessarily have to do with being disaffected coming from a low socioeconomic status background. They are happy to offend in any suburb of Perth—the western suburbs, the eastern suburbs, the southern suburbs and the northern suburbs. They are happy to offend anywhere they can get to. It does not discriminate, and it does not respond to class politics.

The member for Mandurah asked about the juvenile justice team clean-up program—the restorative justice program. Since 2010, 376 young people have successfully completed that program. There have been 1 078 clean-up sessions completed on 2 407 assets. That program will continue. Nine metropolitan councils are involved, including the City of Mandurah, and Telstra and the Water Corporation are also involved. It is highly successful and, once again, another part of our strategy. The opposition tried to paint this legislation as some kind of one-trick pony; it is not, and the JJT clean-up program is part of the strategy.

The member for Willagee asked whether posters on poles would fit into this legislation. That would fall under the Litter Act—posting of a bill. There was some conjecture about local government being able to order the removal of unsightly and offensive graffiti from private property. It can; however, under clause 23, there is an opportunity for that property owner, if they choose to leave the graffiti there, to appeal to the State Administrative Tribunal, and then the onus is on the local government to prove that the graffiti it has ordered the removal of is offensive or unsightly. The SAT is the appeal mechanism.

The member for Mandurah asked about the apprehension powers under clause 34. Public Transport Authority officers cannot always assume that a person will continue or repeat an offence. Currently, if a graffiti offender sees a PTA officer coming, and they stop the offence and walk away, the PTA officer is powerless to do anything. This legislation will allow the PTA officer, if there is a reasonable suspicion that that person will continue the offence when the officer absents the scene, to apprehend that person. That is entirely appropriate, and helps the PTA security officers and police officers operate more efficiently in this space.

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There was also a question about clause 35 and the banning of people, at the behest of the chief executive officer of the PTA, from public transport use if they have been convicted of graffiti offences. The threshold for the ban will be if there are two or more prescribed offences in 12 months or three or more offences in 18 months. Those people will be looking at a ban of no more than one month for no more than two offences committed in 12 months. We will go into more detail in consideration in detail, but if more than two offences are committed in 18 months, they are looking at a ban from public transport of three months. They are not extensive bans.

I must address one other issue. There was a bit of a division on the other side about whether I would address this issue in good time or whether I would let it languish, and whether it was an important issue. The reason I am bringing it forward now, after the commitment was made in 2013, is that in the interim we have been focused on the Criminal Investigation (Identifying People) Amendment Bill 2013, the Criminal Investigation Amendment Bill to amend section 139(3) of the Criminal Investigation Act, the Mandatory Testing (Infectious Diseases) Bill, the Misuse of Drugs Amendment (Psychoactive Substances) Bill 2015, the three-strikes burglary and violent home invader legislation, helping to make people safe in their homes—that perhaps could have passed through this house much faster if members had decided to support it appropriately—the Road Traffic Amendment (Alcohol Interlocks and Other Matters) Bill 2014, the Terrorism (Extraordinary Powers) Amendment Bill 2015, a firearms legislation review, road traffic penalties amendments, the Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015, and the Declared Places (Mentally Impaired Accused) Bill. These are all things that we have prioritised ahead of the graffiti consolidation bill—appropriately, I would put to members. Looking at where our priorities lie, and what is important, I was listening to all the rhetoric about how domestic violence, home invasion and methamphetamine issues are important. All these issues are important, but what do we have on the notice paper from the Leader of the Opposition? The Major Events (Ticket Scalping) Bill 2014. Is there anything here on domestic violence, or all the other issues that are apparently far more important than graffiti? No, there are not; it is ticket scalping. I think the government has its priorities right. We have addressed our priorities and we are achieving our election commitments consistent with what we promised the community in an orderly fashion and I am very pleased with the progress that we have made today.

I thank members for their indulgence, but it was a very long debate and I had a lot of things to respond to. In closing, let us look at what the bill actually does. It creates a clear and easily understood offence of graffiti vandalism for the police to use. It deters vandals from promoting their offending by enabling cameras and phones used to photograph their damage to be forfeited. It gives property owners who are victims of graffiti vandals and whose property is not visible from a public place an ability to get their property cleaned at the offender's expense. It gives the owner of a property so cleaned an immunity against liability for injuries suffered by a person cleaning the property. It gets offenders to confront the effects of the damage and disruption that they have caused by ensuring that those convicted receive, as a minimum, a community-based order or a youth community-based order. As such, they can be required to engage as part of that order in graffiti clean-up activities. The bill enables the Public Transport Authority to get vandals off public transport, and it broadens the PTA's security officers' powers of apprehension to include persons reasonably suspected of committing the damage and disorder offences as previously discussed. That is what the bill does. It does exactly what we claimed it would do. We did not claim it would be the silver bullet for graffiti vandalism, but when we consider the success of this state government's strategy on graffiti, the Graffiti Taskforce—I congratulate you, Mr Speaker, and the member for Forrestfield for participating on the Graffiti Taskforce—it has been a huge effort and an outstanding success, and we will keep the pressure on graffiti vandalism and ensure that we can remove it from our community. We are doing it because the community said that it was important and wanted a response. It has that response. I thank members for their support for this legislation.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

House adjourned at 11.14 pm
