

CRIMINAL LAWS (DOMESTIC VIOLENCE) AMENDMENT BILL 2016

Second Reading

Resumed from 11 May.

DR A.D. BUTI (Armada) [5.17 pm]: I rise to contribute to the Criminal Laws (Domestic Violence) Amendment Bill 2016 introduced into this house by the Leader of the Opposition on 11 May. As the Leader of the Opposition stated when he introduced it, this bill seeks to amend the Criminal Procedure Act 2004, the Evidence Act 1906, the Restraining Orders Act 1997, the Sentencing Act 1995 and the Criminal Code to implement a number of criminal law reforms in the area of domestic and family violence.

Everyone in this chamber knows that the issue of family violence is of great concern to this community. It seems to be one area of law and order that this government has failed to take seriously in the sense that it has not instigated major legislative reform or policy initiatives. We keep hearing that the government is serious about the issue and is taking legislative measures to enhance the ability of authorities to deal with the issue of domestic and family violence but it does not appear to be the case, as we have not seen any evidence of that. As we all know, the consequences of family and domestic violence can be quite significant for its victims, their families, communities and society in general. Domestic violence results in a personal and social toll and economic cost. A KPMG report of a number of years ago referred to a \$13 billion cost to the Australian economy if we did not seek to urgently address this issue.

Some jurisdictions have taken this issue very, very seriously. The Victorian Royal Commission into Family Violence was landmark, and the Daniel Andrews-led Labor government has led the way by holding a royal commission and agreeing to implement all its recommendations. There have also been significant reforms in New South Wales and Queensland, and in many respects the Criminal Laws (Domestic Violence) Amendment Bill 2016 includes many of the similar provisions that passed the Queensland Parliament after the comprehensive report delivered by Quentin Bryce, the former Governor-General of Australia.

It should be noted that this bill is not the sum of the opposition's policy or direction for dealing with family and domestic violence. It is interesting that in this term of government, the opposition has raised this issue in this Parliament. Very rarely does the government discuss this issue, and it seems to talk about this issue only in reaction to the opposition stimulating debate on this incredibly important issue.

This bill contains a number of reforms to the justice system to deal with domestic and family violence. As I mentioned, it makes a number of amendments to a number of acts, such as the Criminal Procedure Act, the Evidence Act, the Restraining Orders Act, the Sentencing Act and the Criminal Code, with the intention to increase perpetrator accountability and to provide greater protection for victims of family and domestic violence. This bill also provides the ability to signpost criminal offences and convictions in the area of domestic and family violence, and ensures that victims of domestic and family violence automatically come within the definition of "special witness" under the Evidence Act. Further, we seek to increase penalties for breaches of restraining orders.

It is hard to see how this government would not support the bill before the house. I can see nothing in this bill that the government would oppose. This government talks about being tough on law and order and has introduced legislation to this house to increase penalties and deal with hoon drivers, graffiti and vandalism. I am not sure how the government will be able to oppose this legislation on the basis of policy. The only reason it will oppose this legislation is because it wishes to play politics. When the Leader of the Opposition introduced this bill to the house on 11 May 2016, he mentioned that this is an incredibly important issue and stated —

We must come together as a Parliament and as a community to do what we can to fight this terrible crime. I urge the government to come on board with the opposition and support this bill.

The government may say it has its own legislation in the wings—it may say that. We are nearly at the end of a four-year term, and we have not seen it. During the last state election, the then Minister for Corrective Services went on about introducing electronic tagging of or tracking repeat offenders for breaches of violence restraining orders. We have not seen that legislation. When that has been put to the current corrective services minister over the past couple of years, he has said, "It's going to happen; it's going to happen." We are in the last seven weeks of Parliament in this four-year cycle. If the government seeks to introduce any legislation now, that tells us a couple of things. Firstly, it is in reaction to the opposition being on the front foot, without the resources of the government. Secondly, it shows that the government has never had commitment in this area. Thirdly, it will show a degree of cynicism that the government wishes to play politics with such an important area as family and domestic violence. This legislation could have been introduced ages ago by the government. It would rather introduce legislation to do with graffiti, which is important, but I defy anyone on the other side to tell me that graffiti causes as much damage to society and people as family and domestic violence. I will talk about this

more, but we seek to make changes to section 281 of the Criminal Code. The Leader of the Opposition sought to do that in 2012 in regard to what was commonly known as Saori's law.

I will speak to some of the amendments in the bill. The amendments will enable notations to be made on a charge in respect of any offence to specify whether it is an offence that occurred in a domestic violence context. Also, if the offender is found guilty of such an offence or pleads guilty, this bill will provide for a court order that that also be noted on the offender's criminal history. Further, similar notations can be provided on that person's criminal history, so one can go back and see what other domestic and family violence offences have been committed by that person. I make it clear that this bill will not affect the court's discretion on whether to formally record a conviction against the offender or when an offender's criminal history can be taken into account. These amendments provide the capacity to examine a person's past criminal convictions, and I will talk more about that later. A person's past family and domestic violence criminal convictions can be flagged to interested parties, allowing for better tracking of repeat offenders. Hopefully, it will allow better service delivery in this space and provide better protection to victims of domestic and family violence.

This bill will also amend the Evidence Act to include a presumption that victims of domestic and family violence are to be regarded as special witnesses. As such, they will have access to the directions the court can make to support them in the process of giving evidence—for example, by giving evidence from another room or via videotape recording. Surely the government cannot disagree that that is appropriate.

The bill labels breaches of violence restraining orders as crimes, and increases the maximum penalty for such breaches. I will say more about this, but it will increase the maximum for a breach to three years' imprisonment, and six months for misconduct and breaches of restraining orders and police orders. We hope these amendments will send a clear message to the community and to offenders that this type of conduct will not be tolerated. We understand that these measures in isolation will not solve the issue of family and domestic violence, but they will go a long way towards sending the right signals to offenders and the community.

This bill also seeks to amend section 281 of the Criminal Code. To secure a conviction under that section for unlawful assault causing death, the state does not need to prove that the offender intended to kill the victim. The crucial issue is that the death has resulted from an unlawful assault. Since that provision was made law, a number of offenders have been convicted in family violence situations, and have received penalties that the community would see as unjust, and this bill seeks to change that and to bring it into line with recommendation 44 of the Law Reform Commission's report on family and domestic violence. I will talk about that a bit more in a moment.

[Member's time extended.]

Dr A.D. BUTI: Parts 2 and 5 of the bill enable charges for criminal offences to be noted and recorded on a person's criminal history. That is consistent with Queensland and New South Wales legislation. It does not interfere with the court's discretion on whether to formally record a conviction against an offender. When introducing similar legislation in Queensland, the Attorney-General stated —

This signposting will ensure that a perpetrator's criminal history clearly illustrates any pattern, or increased frequency or escalation, in domestic violence which can then be considered by the court and police when considering matters such as bail and in sentencing the offender. It also provides greater protection of victims against future violence and the timely identification of this type of conduct by relevant agencies to reduce incidents of escalated violence, including domestic homicide.

Referring to the Queensland equivalent amendments, Dr Silke Meyer, postdoctoral research fellow at the Institute for Social Science Research at the University of Queensland, wrote —

It is important to demonstrate to victims, perpetrators and society that violence within the family home is no longer being tolerated and that it is therefore being taken as seriously as any other form of violence occurring outside domestic settings.

Those proposed amendments will help to ensure that information about a person's pattern of offending in a domestic and family violence context is more readily identifiable to the court and it will assist in tracking domestic violence offences and offenders, listing practices, risk assessment, bail processes, wraparound support services and data recording on domestic violence.

Part 3 of the bill seeks to amend the Evidence Act 1906 to provide for existing protection for special witnesses to apply also to victims of domestic violence. I am sure the minister will acknowledge that domestic violence victims are in a vulnerable situation, and the court process can be very stressful for them, particularly if the offender is in the same room. In introducing similar legislation in Queensland, the Attorney-General said —

A recurring theme in submissions to the task force is that victims are traumatised by having to repeatedly retell their stories. When criminal charges are laid, police report that there is often difficulty pursuing the prosecution given a reluctance of the victim for fear of continuing with the criminal prosecution.

There is also the fear of being confronted by the offender. There is academic support for the inference that victims are re-traumatised if they have to give evidence in the same room as offenders. Qualifying as a special witness, which is the purpose of this amendment, will allow a victim to give evidence without having to be confronted in the same room as the offender.

I will go back to the issue of the recording of the offences on the criminal record. A bench book has been formulated for judges in Australia. In reference to family and domestic violence, the draft of the bench book reads —

The risk of life-threatening injury or death is reported to be higher where the past violence experienced by a victim occurred within the last year and included at least one incident where the perpetrator used or threatened to use a firearm or knife or attempted to strangle or choke the victim, or where the perpetrator made a death threat of any kind to the victim, or where the frequency or severity of incidents of threatened or actual physical violence increased in the lead up to the life-threatening injury or death. Some victims however may never experience any form of actual or threatened physical violence and yet may still be at risk of death; in some reported cases, the homicide is the first incident. In these cases, there may be other important signifiers of risk evident in the perpetrator's behaviour, such as: physical violence outside the intimate relationship; misuse of alcohol or drugs; intense jealousy towards the victim; or exercising a high level of prolonged control over the victim's daily activities and life.

That is why it is important that notification of a charge of domestic violence is made, and that it is recorded on an offender's criminal record. The amendment does not in any way reduce the discretion of the court on whether past convictions should be recorded.

The policy intention behind the proposed increase in maximum penalties for breaches of violence restraining orders is to provide a greater deterrence for perpetrators of domestic violence and to reinforce the community's view that domestic and family violence is not acceptable and will not be tolerated. Referring to a breach as a crime reinforces the seriousness of the breach. We are proposing with this amendment to increase the maximum penalty quite significantly but, under section 41 of the Sentencing Act 1995, where imprisonment is the only specified penalty, the court may use any of the sentencing options in section 39(2), including those in paragraph (c), which is release or imposition of a fine. Under section 41(2)(b), the court may also imprison the offender and impose a fine. Under section 41(6)(a), the maximum fine corresponding to three years' imprisonment would be \$36 000 for an individual. That is why we have not gone down that path in this bill. We have set out the maximum, but under the Sentencing Act there is always discretion about the imposition of a fine or a term of imprisonment.

Turning to the issue of Saori's law, or an amendment to section 281 of the Criminal Code, this is actually recommended in the Law Reform Commission report at recommendation 44. This measure was introduced by the Leader of the Opposition in the last term of Parliament but was voted down by the government without any rationale. I do not wish to verbal the Leader of the House, but I think I correctly remember the member for Kalamunda, who was Leader of the House at the time, say, "Watch this space. We will introduce some form of legislation." That has not been the case. Section 281 of the Criminal Code, a very interesting provision, was introduced by Hon Jim McGinty a while ago and the rationale behind those amendments was as a result of a series of one-punch deaths. Hon Jim McGinty introduced that bill to address the one-punch homicides and to "ensure people who caused a death by assaulting another were held accountable for their actions". In his second reading speech, Hon Jim McGinty did not mention that it would apply to domestic violence death scenarios. The idea behind the one-punch legislation was generally about a person who hits a stranger and they die. Domestic and family violence is not about strangers and are usually repeat offences.

I mentioned that recommendation 44 of the Law Reform Commission report on family and domestic violence recommended what has been included in this bill to increase the maximum penalty for offences. That would mean that as a result of this amendment, penalties for convictions under section 281 of the Criminal Code would carry a maximum penalty of 20 years. At the moment the maximum penalty is 10 years.

This bill is commonly referred to as "Saori's law" because it came about as a result of the tragic death of Saori Jones. Members would be well versed in that case. Bradley Wayne Jones admitted felling his wife Saori Jones in December 2010 with a "full-on punch". Even though Saori was vomiting, bleeding and lying unconscious on the floor at Mr Jones' home, he failed to call an ambulance and when she died he left her body for 11 days, until the police arrested him. When he punched her, she fell to the ground, unconscious. Saori had two children, one of whom was a baby. Jones put the baby on Saori Jones' nipple, even though she had vomited

and was lying unconscious. It was absolutely deplorable. Although Jones was originally charged with manslaughter, the charge was downgraded to unlawful assault causing death because the delay in discovering Saori's body made it difficult to identify the specific cause of death. Although that difficulty is not necessarily addressed in this legislation, the bill provides for the possibility of a sentence similar to a manslaughter conviction with the seriousness of domestic violence. Bradley Jones received a penalty of around three or four years' jail. He is now out of prison. He is free. What that man did was appalling; it was unbelievably disgraceful. It does not make sense that the government does not agree to increase the maximum penalty to 20 years for a conviction under section 281 of the Criminal Code in a family domestic violence context. As I stated, Hon Jim McGinty introduced section 281 in response to one-punch deaths in which intent would not have to be proved. In one-punch deaths a person punches someone and does not intend to kill them, but the victim hits the ground and dies. Hon Jim McGinty introduced a clause to allow for conviction in those situations with the maximum penalty of 10 years. What we are saying, which is consistent with the rest of the bill, is that we need to send a message to society that domestic violence is a serious crime and has to be treated as such, and that it is incredibly unjust for a person in the Bradley Jones scenario to walk free after three years. One is not saying that this will necessarily be a deterrent. I do not think anything would have been a deterrent for Bradley Jones, but there is the issue of justice. The issue of justice is that someone who did what Bradley Jones did should not be out of jail after three years.

When the Attorney General tabled a report in Parliament on the review of section 281 he mentioned the community disquiet with the operation of section 281 for the length of sentence for convictions under section 281 in a family and domestic violence scenario. That is all this amendment seeks to do—that is, increase the maximum penalty to 20 years. The court will still have discretion to look at the context. It is in conformity with the Law Reform Commission report on domestic and family violence and consistent with the report tabled by the Attorney General in the other place on the review of section 281.

The bill before the house seeks to do a number of things. It seeks to send a message to society and to offenders that domestic and family violence is a crime that should be treated as seriously as any other form of crime. It also increases accountability for offenders. It allows for better tracking of offenders. It provides better relief for victims of domestic violence to provide evidence in court and also provides some degree of justice in convictions under section 281 of the Criminal Code in those convictions that have occurred in a domestic and family violence scenario. As the Leader of the Opposition said, let us forget about politics. The government and the minister have it within their power to allow this bill to pass this house and for it to then go to the other house and be debated and to become law. The government has been missing in action on this issue. It may bring in a similar bill at some stage, but it is a bit late in this term to do that. I implore the government to agree and support the bill before the house.

MR R.F. JOHNSON (Hillarys) [5.48 pm]: I am not going to take 20 minutes to speak on the Criminal Laws (Domestic Violence) Amendment Bill 2016. My colleague, who has just spoken, the member for Armadale, has a lot of experience in this area. He is a qualified lawyer and he has a commitment to do something about domestic violence in this state. He has asked many questions in this house. Today we are debating a bill that the opposition brought in a little while ago.

As the member for Armadale said, this is a simple bill. It simply asks for a few things that should take place. He just mentioned that there should be a penalty of 20 years and not 10 years when somebody is found guilty of killing another person in a domestic violence situation. Why does the government not accept such a domestic violence amendment to the Criminal Code? The maximum penalty for killing someone when driving dangerously is 20 years. They may not have meant to kill someone, but they have driven dangerously and they have ended up killing someone. That carries a maximum penalty of 20 years, yet in the case that we heard about, where there is the definite intention by a person—normally a male, but not always—to kill their wife or partner, they get only 10 years. How can we balance that out and call it justice? It is not justice; it is deplorable. It is a shameful description of justice when we compare those two penalties.

I agree that previous charges should be brought forward. I think the court should know when someone has been found guilty of repeatedly breaching restraining orders, particularly violence restraining orders, and attacking their wife or partner. I say that because it is normally the husband who does it to the wife. It can happen in reverse, and I know that only too well as it happened to me many years ago. I was a sufferer of domestic violence, but I will not go into that now. Normally, the husband commits the violence against the wife. When the wife or partner ends up being killed, some action has to be taken.

We have 18 days left of Parliament, not counting tomorrow. If the government intends to bring in a bill and rush it through both houses of Parliament in those 18 days, I say shame on it, because we will not have enough time to really consider it. The government has had at least four years to do this. It was dealt with before that; it was dealt with in 2012, when the opposition brought in a very similar bill.

Dr A.D. Buti interjected.

Mr R.F. JOHNSON: Yes, indeed, but they are all interrelated in my view when horrendous killings take place in a relationship between a man and a woman. I do not think it is unreasonable to expand the sentence from 10 years to 20 years; in fact, I think it is very reasonable. I believe that if somebody has repeatedly breached a violence restraining order in particular, the courts should be aware of that. As the member quite rightly said, the Minister for Corrective Services said some time ago that he was going to deal with this and that detection bracelets would be used to show where people are. But they do not always work and they do not stop a person from killing somebody. They might show where the person is, but quite often it can be too late. Some years ago on the estate where I lived, a husband killed his wife while his children were in the house. I will not say their names because I do not think it is appropriate. He used a kitchen knife to stab his wife to death. She did not have a chance to press the distress button for the police to come; he killed her before she had an opportunity to do that. That was a clear case of domestic violence ending in death. To me, it was absolutely murder. That person went to jail, but not for 20 years. It was a lot less than that. I suggest that that person would have been let out on parole a few years ago. An innocent life was taken.

At the end of the day, why would the government not accept a very reasonable amending bill that the opposition has brought in to bring some justice to people in this state? If it saves one life, it is worth it. I can tell members what will happen. The minister will get up and say that it is flawed, that there is something wrong with it, and that it will bring in its own bill at some stage—blah, blah, blah. That is what the Attorney General will say as well. I am afraid that the Attorney General has been asleep on the job. He should have brought in a bill at least three, if not four, years ago when he took over in the new term of Parliament in 2013.

Dr A.D. Buti: In regard to the Law Reform Commission report, it came out over 15, 16 or 17 months ago now. It is a comprehensive report and the Attorney General said that there is a bill, but we haven't seen it.

Mr R.F. JOHNSON: That is the point I am trying to make. He did not need that report to bring in legislation to deal with domestic violence that ends in somebody's death. He could have done it of his own volition and I think that, as Attorney General, he should have done that.

Dr A.D. Buti: Do you remember in the first month or two of this government all the urgent bills it had, including the urgent bill about the East Fremantle city council? That was really urgent! Domestic violence is not urgent!

Mr R.F. JOHNSON: I know. We are talking about people's lives. I could not agree more with the member. I sympathise with the member and the Leader of the Opposition, who introduced this bill, because I know it will go nowhere. The government will use its numbers to vote this bill down. I say to government members, as I have said to them before, shame on them; they should support this bill. If they care about innocent people, particularly women, and the children who are witnessing this sort of disgraceful, inherent violence from some of the individuals who perpetrate these offences, they will support this bill. Forget about the party politics and just support a good bill that will possibly save some people's lives. It will send a clear message that this Parliament will not accept that sort of behaviour from these disgraceful people—I would say human beings but I think some of these people are less than human beings.

We have seen many cases. Which crime has had one of the biggest increases? It is domestic violence. Crime is going up. The minister will refute that. She will say that crime is coming down. It is not coming down where I live. I have seen a 37 per cent increase in one suburb in my electorate—Kallaroo. The minister will say that she should not be expected to know the crime rate in certain suburbs, but it was in the newspaper. Everybody could see it and I thought she would have looked at it since then and seen that the people in my area are not satisfied with the way the government is performing with the number of police it has monitoring what is going on and catching these sorts of criminals. As I have said before, I have put forward a proposal that could see 400 extra cops on our roads. The RAC and the police union support it. The only people who do not support it are the minister and the Premier. They do not support it. There is money in the road trauma trust account. Apparently, they are giving bouquets of flowers to people who have never had a demerit point because they are good drivers. I have never had a demerit point in my life. I have a completely clean driver's licence that goes back 29 years. I do not want a bouquet of flowers. I would be happy if I was presented with one, as I would donate it to my favourite charity, Radio Lollipop. I think some of the people who are being chosen are probably hand-picked and it is just a bit of a gimmick. That is not the way we should be spending money. We should be trying to save people's lives, whether it is on the road or in cases of domestic violence, which we are hearing about today. Today we are talking about domestic violence. That is the case that we must put forward, and I think it has been put forward extremely well by the opposition.

I choose which issues I will vote on these days. As an Independent, I have that luxury—and it is a luxury. I do not have to simply go along with the herd, like a lot of sheep that very often follow the black sheep. In this case, I will vote with the opposition, because I think what it is doing is right. This legislation is right. I look forward to hearing what the minister has to say when she gets up. I presume she will talk on behalf of the Attorney General. I would love to hear the excuses she will give for why the government will not support this bill. This bill could

go through this house tonight and go to the other place and be debated within a couple of weeks and it could become law well before this house is prorogued for the next election. That is what should happen. We could save many lives if that were the case, but it will not happen. We will hear all the excuses under the sun. I have been described as the member for hot air. It is up to some people to call me that if they like. At the end of the day, I like to think that what I say and do is for the people in my electorate and the people in Western Australia in general. Some people might think it is hot air, but it is not; it is absolute concern. Everything I say I say with conviction and I always tell the truth. If somebody wants to tell me that I have not told the truth, they can stand and have a go at me. Tell me when I have not told the truth. They will have a job to find that time, because I pride myself on being honest and truthful.

I will not take up any more time, because I know other people want to speak on this bill. I give it 100 per cent support. I think it can save people's lives. It has been well thought out and it covers every angle that needs to be covered. I do not believe there are any excuses that could be put forward not to support this bill. I absolutely commend this bill to the house.

MS S.F. McGURK (Fremantle) [5.58 pm]: I am very happy to get up today and support the Criminal Laws (Domestic Violence) Amendment Bill 2016. I thank the people on our side for the work they have done, but particularly the member for Armadale, who has done quite a bit of the legwork to bring forward these proposed amendments to strengthen the criminal laws on family and domestic violence. The Leader of the Opposition and the member for Armadale have outlined the specific changes that are proposed in the bill, so I will not dwell on those, but they include amendments to the Criminal Procedure Act, the Evidence Act, the Restraining Orders Act, the Sentencing Act and the Criminal Code. They represent a strengthening of the implications of people carrying out the very serious offences of family and domestic violence, strengthening the criminal justice system as a whole. We have heard many examples in this house and in the media of how our criminal justice system is wanting with cases that come before it, in the message that it sends to not only the victims, but also the community as a whole. I think the community sees that our current legislation is wanting and improvements can be made. As other members have said, it will be interesting to hear the government's response to the amendments to those acts I read out and whether it will do the right thing and accept these improvements to our current system as a stepping stone to improving our responses to the very terrible statistics and the circumstances that lie behind those family violence statistics.

Some time ago I received a message on Facebook from a woman—I will try not to take too much time telling this story—whom I had not seen for some time. I used to work with her in one of the unions that I worked for. She went to work for other unions and I lost track of her but I used to interact with her a little on Facebook. I sent her a message on Facebook asking her to support something that I was doing relating to women. Not long after that, I got a call from her on a Sunday night. I was surprised because I had not seen or heard from her for some time. I took the call and she told me that she had been living in Melbourne for the last six months. I received this call about three or four months ago. She moved to Melbourne because she had been assaulted by her partner. She had some issues with her partner at the time and she asked the police to issue her partner with a move-on notice, I think, not a restraining order, but before the police issued that notice, she was assaulted in the worst possible way. She was in her bed in her place alone. She does not remember what happened but her neighbours, whom she did not know, were alerted by screaming. She was being assaulted by her partner, who was using a wrench to hit her head. She would have died if her neighbours had not heard the screaming and came and interrupted him. He fled the scene. I think it took the police a couple of weeks to find him. He changed his identity, but eventually they tracked him down. My friend was very seriously injured. When I spoke to her, she was still on anti-fitting drugs. She had staples put in her head. Her skull was fractured. She was taken to a women's refuge, which urgently decided to move her interstate using its resources, although she did say that police had been positive in their dealings with her and she had been moved to Victoria for her own safety.

In three or four minutes I have just told a very dramatic story but it is one that I think highlights the fact that these circumstances can come before any of us—our neighbours, family members, people we know or colleagues who we work with whose circumstances are very serious. This woman is a very capable woman. She is a mother. I would not have thought that she would be in that sort of situation but she was. The amendments to the acts that are proposed in the Criminal Laws (Domestic Violence) Amendment Bill are important because they strengthen our criminal justice system's response to circumstances such as this and the thousands of circumstances that occur across the state in any one year in various manifestations. Of course, the worst is homicide. We know that that is still occurring at an alarming rate. In many cases the circumstances can involve serious assault and assaults of various degrees of severity.

I wanted to speak about a few other responses to family and domestic violence. Dealing with our criminal justice system is one important way that we can send a message to the community that this sort of violence will not be tolerated and will be dealt with most seriously by the criminal justice system. The reality is that we need a range

of different responses to family violence. We need responses from the police and the Department for Child Protection and Family Support. We need perpetrator accountability. We need a risk assessment of what is going on. We need specialised family violence services. We need all those responses if we are going to deal with this issue effectively.

Earlier in question time the Minister Police; Women's Interests said that I had not asked many questions as the opposition spokesperson for women's interests. I was reminded of an earlier question that I asked her about the levels of family violence and how they might be impacted by the cuts to financial counselling that have been undertaken by this government. The minister responded that she was not aware of the issues around family violence and she did not think it was part of her portfolio.

Mrs L.M. Harvey: That's not true. Tell the truth.

Ms S.F. McGURK: I think the minister has corrected that situation. As she said in the answer, she realised that as the minister responsible for women and the minister responsible for police, it was pretty incredible that she would give that answer.

Mrs L.M. Harvey interjected.

Ms S.F. McGURK: I am not taking interjections. The minister gets plenty of time to speak in this Parliament. I think the minister has since taken the time to correct her knowledge of this area but still the government's response to family and domestic violence as a policy issue has been woeful.

One of the challenges in government is that the area falls within so many different portfolios at a ministerial level, across so many departments and across so many different service providers. For instance, the primary responsibility in government for funding for women's refuges sits within the child protection portfolio. That may have been what the minister was referring to when she said that she did not have knowledge of this area. But of course it is important that the Attorney General is completely across this area and understands how our criminal justice system is responding. It is important that the Minister for Police understands how police are responding in this area. I understand that we could make many improvements in WA in how police are educated on this issue, how they respond and how their specialist services are resourced.

It is important that the minister responsible for housing has an understanding of how this issue impacts because it is crucial that women in particular, or any parent with family responsibilities who is seeking to leave or deal with a violent situation, has secure housing. It is important that the Minister for Community Services has a good understanding of these issues because of the example that I gave about financial counselling. Financial abuse and the insecurity around financial independence is a key factor. One of the reasons that women, for instance, do not leave violent or abusive relationships is that they do not have financial independence or perhaps tenancy security. We know that women who experience homelessness may be victims of domestic violence. It is important that the government has a good understanding of this issue and takes a coordinated approach across ministerial portfolios and with the service providers across government agencies, in cooperation with the not for profits that have responsibility in this area.

Rosie Batty, a former Australian of the Year, is a very passionate and effective advocate against family and domestic violence. She is in Perth this week and she was also here last week. I attended a lunch that she spoke at that was sponsored by the group Women in Super. I will quote from her website. She was speaking in this case on the occasion of International Women's Day —

A timely reminder that we still have many challenges to overcome before we will see an end to family violence.

Like, gender inequality, **which is a key underlying cause of violence against women.**

I commend Rosie Batty for the work she has done, not only in bringing this issue to the public's attention and being a tireless advocate but also in not being afraid to speak about what she thinks are the underlying causes. At that lunch, she also quoted the Prime Minister, Malcolm Turnbull. I have relayed this quote since. She said, "Not all disrespect against women results in violence; however, all violence against women begins with disrespect." Understanding the need for respectful relationships in our community and trying to deal with this issue in a preventive sense is an important part of a comprehensive response to the high levels of violence against women and children in our community. It is an area that has informed the federal program called Our Watch. That is a nationwide program to drive change in culture, behaviour and power imbalances that lead to violence against women and children. Shamefully, Western Australia and New South Wales are the only two states not listed as partners. I do not understand why WA has chosen not to sign on to using the sorts of resources that are available through that program.

Some of the thinking about primary prevention and education programs that could assist in challenging poor attitudes towards women that contribute to violence against women is occurring in Victoria. Victoria's equivalent to WA's Healthway is VicHealth. It has looked at ways to encourage change in the community.

People know that our attitude to wearing seatbelts is different from what it was two decades ago. Our attitude to smoking is now very different. Our attitude to underage drinking, and to drinking and driving, has also changed. Over time, public health messages have been very effective in changing the way we approach some of the issues I have raised. Perhaps some of that change in societal attitudes could be used to help challenge not only disrespectful attitudes towards women but also the prevalence of violence in our community. VicHealth has adopted a strategy called Preventing Violence Before It Occurs. That has evolved into a program called Change the Story. As we know, Victoria and other states are doing important work in trying to address levels of family and domestic violence. Change the Story tries to deal with some of the drivers that contribute to disrespectful attitudes against women. In that analysis, violence against women is serious, it is prevalent and it is driven by gender inequality. Some of the gender drivers of violence against women, according to Change the Story, include condoning violence against women; men's control of decision-making and limits to women's independence; stereotyped constructions of masculinity and femininity; disrespect towards women; and male peer relations that emphasise aggression.

[Member's time extended.]

Ms S.F. McGURK: We have heard public discussion around some of these issues in sporting organisations. I commend those discussions taking place. Some public comments by leaders within the Australian Football League, for instance, have been challenged publicly and I am very grateful for that. That includes partly the players, but also some of the senior office bearers within individual AFL clubs and the AFL organisation as a whole. Those sorts of sporting and community organisations have an important role to play, like schools, in setting the scene for how we might address some of these issues.

I will quickly go over some of the other issues that have been raised in the primary prevention and education work that has been done in other states. I talked about some of the gender drivers that are expressions of gender inequality. The particular expressions of violence that consistently predict higher rates of violence against women include condoning violence against women; men's control of decision-making; rigid gender roles; male peer relations that emphasise aggression; and disrespect against women. Some of the reinforcing factors that might predict higher rates of violence against women include condoning of violence in general; experiencing an exposure to violence; weakening of pro-social behaviour, especially harmful use of alcohol; socioeconomic inequality and discrimination; and backlash factors such as increases in violence when male dominance is challenged. Some of those factors are not that surprising. I do not think one needs a particularly radical analysis of how society conducts itself to see that in environments in which some of those factors are present, there is more likely to be violence against women.

It is important to note that family and domestic violence is not a fact of life. Violence against women is preventable and actions can be taken by all of us as individuals and, importantly, as a community. The state government has an important role to play in promoting this in various ways. That includes actions that could prevent violence against women. That might mean challenging the condoning of violence against women. A good example of that is the White Ribbon organisation. Men from that organisation have stated publicly that they do not support violence against women and will do what they can to stop it. Other important contributors are actions that promote women's independence and decision-making; challenging gender stereotypes and roles; and actions that strengthen positive, equal and respectful relationships. All those things promote and normalise gender equality in public and private life and I think will go some way towards preventing some of the drivers that have contributed to the levels of violence against women and children and in families.

Some organisations are looking at putting this in place. I am familiar with Victoria as a result of its Royal Commission into Family Violence and the significant government resources it has put into this area of over half a billion dollars in trying to prevent family violence. Victoria has been putting work into school education and making sure that there are resources for sporting organisations and community groups that are not just a cookie cutter product: here is a program that will say why violence against women and children is bad or why violence in general is a poor way of resolving conflict. As I said previously, it is providing a much more sophisticated approach of using some of the ways that some of our health organisations have challenged societal norms and looked at change over a much longer term. I think that is very important and it is the sort of work that I do not hear anyone on the government side talking about, despite it being a big conversation in other states.

My impression is that providers of some of the services that assist women and children who are escaping family violence—women's refuges and the Women's Council Against Family Violence—spend most of their time trying to keep body and soul together and trying to deal with the demand in the refuges. I think a new refuge was recently established in the eastern suburbs and that is welcome but the demand is still high. Clearly, it is dealing with the emergency response situation and making sure that people trying to escape family violence have somewhere safe to go. But it is their services that are crucial; they need to be modern and effective and there needs to be a place for people to go.

In Fremantle, a number of us were concerned when the local council, which had had a long managerial responsibility for a local women's refuge, decided to vacate that responsibility and keep the building but facilitate a not-for-profit organisation doing that work. It decided to do that because the state government was proposing, I think, a three-year contract—or perhaps it was for five years, but let us say it was for three years—with no real increase to the funding available to that local women's refuge. The Fremantle city council had had enough of the cost shifting to it and it said, "We'll give you the money back, we're not interested; you facilitate a not-for-profit coming in and running that service locally." That is occurring but the state government wants more done with less money and it cannot be surprised when things start to go pear-shaped at the service end and there is pressure when people seeking escape from difficult, violent situations do not have somewhere safe to go. That is the case in Western Australia.

We know that financial counselling funding was initially cut completely by the Barnett government, but there was a big public back lash; anyone could see that it made no sense to not help people when they were in need of some financial assistance in managing their financial affairs before things got even more serious and they lost their car, their job or their home and they needed even more financial assistance. That made no sense. The government backtracked on that decision and put back half the money it had cut. It has not put back all the money into financial counselling; it has put back only half the amount. I have no doubt women and people in family violence situations need assistance to untangle their financial affairs and maintain some sort of financial independence, and they are worse off as a result of the decision to halve the amount allocated for financial counselling. How can this government sit there and think it is okay to reduce the amount of financial counselling when we have seen massive waste in any number of projects? We heard today about the Kimberley Ord project and the sort of money poured into it with little accountability or clear measurable outcomes. We know \$500 000 a month is being spent on empty car parks at the Perth Children's Hospital and there is the money allocated to the Bigger Picture advertising or the government's media monitoring; there are any number of examples. Still there are waiting lists of people trying to get into women's refuges and people unable to get financial counselling because this government has decided to cut the budget or cost shift onto local councils.

As I said, it will be interesting to see the government's response to these very comprehensive proposals to improve the responsiveness of our criminal justice system to domestic and family violence. The community is saying to us loudly and clearly that this is not acceptable. It wants government and its elected representatives to do something about family violence to stop it. So far, all this government has done is put out a 20-point action plan but that action plan had no additional resources, save for an allocation in the Kimberley, which was welcome. Save for that, no extra resources were allocated to the government's 20-point action plan to deal with domestic and family violence. I think that action plan was put in place about 12 months ago. I have not heard anything since about how the government intends to respond—but that is not true; I heard the Attorney General talk about bringing in a bill but I have not seen the details of it. We do not have many sitting weeks left, so the government cannot be too serious about that. If it was, we would have seen the legislation to date.

I commend the Criminal Laws (Domestic Violence) Amendment Bill 2016 and look forward to the government's response. I hope it sees its way to support it.

MS J. FARRER (Kimberley) [6.28 pm]: I have not written out a speech but I would like to talk about domestic violence in general. I had the good fortune of going to Beagle Bay on the weekend. On Monday there was a march in memory of all our young people from the Beagle Bay community who had suicided. The community itself organised the march. However, it did not stop at just suicide; it included domestic violence and violence against women and children. There was a young woman who was about 30 years old, but looked about 40 or maybe 50 years old. She was crying when she spoke about her life and the abuse her partner had inflicted on her. It was just really sad to listen to. She spoke openly about it to educate the other young women about domestic violence. It was a very good outcome in the sense that it revealed a lot of the issues. Sometimes people do not know why things are happening, which can lead to suicide. We all know about the high suicide rate in the Kimberley; a few mothers were involved and they left their little ones behind. Through domestic violence, women have suffered, but it has also left children very traumatised. The woman in Beagle Bay spoke very openly about the situation she was in, but at least she came forward before it got any worse. It was courageous of that woman to speak out, but she also gave us a look into the lives of some of our young women.

For us in the Kimberley there is no real support mechanism in place to look after our young mothers and their children and to support them. Women's refuges have been set up, but that is about all that happens. After reports to the police by the safe houses, as they call them, I do not think they have been taken any further. It is really sad to see these situations. In the past three years I have been in Parliament, I have gone back and been told about suicides that have happened, including those of mothers of three children or just a young suckling baby. But something needs to happen, because this is a crime against mothers and children.

I went through this stage with my sister. I do not know whether members can remember, but I talked in my inaugural speech about me raising 13 children. Four of those children came to us through this sort of situation.

My sister lost her partner years ago, but she was a young mother with children—her youngest was a bit over a year old—and her life was taken. Because we were in mourning, I could not follow a lot of the court procedures, but I would have thought that at that time, because it is an offence and it is not acceptable, the court and the police would have taken it a lot further. We all went through a traumatic journey, and me as their second mum did not have that support. We did not have support from the services out there. The police came and told me what happened, but nothing else took place after that. I was not a working mother because I had my own children, so the only income we had was through my husband. We raised 13 children. There was no support. Just the traumatic effects —

[Interruption.]

Ms J. FARRER: Excuse me; we are talking about something very important here.

It had a traumatic effect over the years on these four little kids. I went to the Aboriginal Legal Service to see whether I could get support for those kids, and for me because she was my younger sister. But the pain and suffering we all went through was never acknowledged. When I looked at this lady in Beagle Bay the other day who talked about her life, it reminded me of my sister. This is a crime against vulnerable women and our children. We always talk about our kids as being the future, but what sort of mechanisms are in place? Children do not have any rights to speak out and tell how they feel. I guess all the experiences they go through they keep locked up inside. Sometimes I wonder whether all that hurt and pain—the trauma they have experienced—leads to them taking their own lives. We talk about our young people taking their own lives; it is to overcome that pain. It is a journey that our kids carry on their shoulders by themselves. They do not have a mum around to support them, but they are also dealing with another family that they are now part of because of the situation they have been placed in. It is a very big crime that has been going on for a long time.

The person who contributed to the death of my sister went into prison for only a short time because that is how the court saw it. He went to prison for a short time, but the effects on the kids had not been taken into consideration. It still plays up with them. It still plays up in their minds and in their everyday life. They are adults now, but we are dealing with a different type of, I guess, trauma that has been passed through. It is a crime that should not be left so that it festers. We need to make sure that this sort of crime is dealt with properly.

I thought I would tell that story today because of the incident I saw at Beagle Bay. The community rallied around and talked about the issues that young mothers face because of the dominance of their partners and how it affects them. Although they have the police up in the peninsula, I do not think the pain and trauma that that woman has been experiencing for some time has been taken into account. She is only a shadow of herself and she has four little kids, but she spoke out. I think that was one of the best talks on suicide, because we could see how this would lead on, especially for young mothers after the crime that is dealt to them and because of the silence. We know that women exposed to domestic violence sometimes feel powerless to seek help, but this is one thing that we should not bypass. I am pretty sure all members of Parliament have families. I am pretty sure that we all have Aboriginal people in our electorates who we sometimes see on the streets fighting, even in the city here. It is not just the Aboriginal people; it is everyone—every mother. I just thought I would contribute by giving that little bit of information. Thank you.

MS J.M. FREEMAN (Mirrabooka) [6.38 pm]: I rise to speak on the Criminal Laws (Domestic Violence) Amendment Bill 2016. Before I begin, I acknowledge the member for Kimberley and her very powerful story about her sister. It demonstrates how this situation can touch someone personally and so strongly. For people like me, who has never had to deal with violence from someone I trusted and for whom I cared, it brings home how it is an act of complete betrayal.

I went to a funeral this morning. It was nothing to do with violence. I went to the funeral of a woman who was loved very, very much by her husband. She suffered with cancer and has passed this world. One of the things that someone said during the funeral service was that she had entrusted her husband with her heart. That is why family violence and intimate partner violence is such a shocking thing. It is still violence, and it is appalling. In fact it is probably the worst violence of all in our community, because we trust and care for people, and then violence is perpetrated against us. It is difficult to understand that, and I am very fortunate that I do not have any experience of it.

It is really important that we recognise that this is not a women's issue; this is a human issue. The Leader of the Opposition introducing this legislation, and the member for Armadale championing the prevention of domestic violence and the response to domestic and intimate partner violence, shows that the Labor Party is really clear that it does not see this as the responsibility of women to try to stop. It is upon our whole community to prevent violence and respond accordingly. This legislation is about responding, signposting, enabling a person experiencing domestic violence to be treated as a special witness, ensuring proper response to breaches of restraining orders and, most importantly, responding to the horrible situation that happened to Saori Jones.

I have a picture of Saori Jones in my office downstairs. It is captioned “Don’t forget Saori Jones”. That young woman had no family here. The people who loved her were the people in the refuge who kept on telling the police that something was wrong. The police went to the door and did not go in, even though the refuge workers had told them that something was wrong. We do not know; if they had gone in when they were first alerted that she had not returned to that refuge, the consequences may have been different for her and her children. It breaks my heart to think that she suffered so badly at the hands of someone she had once trusted, and who had given her citizenship. She had come from another country and entrusted her future and that of her children to this person. He received such a limited sentence; there was no justice for her in that. Again, it is this whole thing about blaming the victim that we seem to have around domestic violence. He murdered her, and he got away with five years in jail. He murdered that woman, and we need to do something about that in this house. We need to stand up and be counted. If that is the mechanism that the law has to use because it cannot show that she died from the blow but she died in massive pain on a bed where she was left, and where she rotted, we should change the law so that the sentence and the punishment fits what was a hideous crime against Saori Jones.

One in six women and one in nineteen men will experience physical or sexual violence in their lifetime from a current or former partner. Three key sources of national data show us this—the intimate partner homicide figures, collected by the Australian Institute of Criminology; the Australian Bureau of Statistics personal safety survey; and police statistics. I raise this because the most comprehensive survey of interpersonal violence in Australia was run in 2005 and 2012, and I think there are some figures from 2003. Supposedly in 2016, the Australian Bureau of Statistics was going to run the ABS personal safety survey again. I went to the ABS website and there is no indication that it will run that survey again. I will certainly—and I think the government should—write to the minister concerned to say that this is important information to determine how people in our community feel about their personal safety and that it needs to continue.

Although nothing can beat the power of what we just heard from the member for Kimberley, one of the most powerful figures is that Aboriginal and Torres Strait Islander women are 31 times more likely to be hospitalised and 10 times more likely to die from violent assault than other women. We need to change that and we need to address it. The Criminal Laws (Domestic Violence) Amendment Bill 2016 goes part way to showing that we take the issue seriously in this place. As the Leader of the Opposition said in his second reading speech, in a bipartisan message of solidarity against domestic and family violence, intimate partner violence will not be tolerated by the Western Australian government. The Victorian government has managed it. The Queensland government has managed it. The Victorian government had a royal commission. We did a law reform report but nothing happened from it. We need to stand strongly together, if for no other reason than we need to respect the people who have lost their lives and continue to lose their lives, become injured, become isolated or become financially incapacitated, or because of the impact on our children—as outlined by the member for Kimberley—because of the impacts that this violence has on our community.

When I was asked whether I would speak tonight—the member for Mandurah will attest to this—I said in my usual, cranky way that I have: “This is not a women’s issue! I refuse to stand up and have this as a women’s issue. I want as many men as women in the Labor Party to stand up and speak about this!” In this situation, men predominantly perpetrate violence against women and therefore it is the responsibility of men to take ownership of it. To say that it is a women’s issue is like saying to an Aboriginal person that racism is their issue to fix. It is not; racism is my issue to fix in the modular, non-Aboriginal community. That is what the White Ribbon campaign is about.

White Ribbon is about men coming together, although women participate as well. It is led by men. It was started by a group of Canadian men who were appalled at a shooting, predominantly of women, in a school in Canada when a young man went after women. That is how I understand White Ribbon, off the top of my head. They were so appalled that they wanted to champion change through men—for men to say it is no longer acceptable. At one stage, I remember speaking to an Aboriginal leader who was a White Ribbon champion. He told me that often in communities, people see things they are uncomfortable with, but they do not say anything. The whole reason for White Ribbon and the championing of men is to give other men the power to say, “That is not on.”

In saying that, I refer to an article in *The Conversation* by Zoë Krupka, a health sciences student, entitled “Blaming victims for domestic violence; how psychology taught us to be helpless”. Krupka refers in that article to a scientific test in which dogs are basically shocked into such submission that even when their cage is open, they do not leave. Psychologists refer to that as the “learned helplessness” model. When people ask, “Why don’t they leave?” or, “Why do women put up with it?” or, “What happens?” that is a suggestion about the concept of learned helplessness. Krupka states in her article —

Like the slippery concepts of low self-esteem, Stockholm syndrome, co-dependence or traumatic bonding, learned helplessness has entered our vernacular. It has swallowed up socially accurate explanations for violence, until nothing is left but to blame the victim.

She goes on to discuss seeking therapeutic support and escaping domestic violence, and states that therapists have been trained to locate a problem in the client, not a problem in the perpetrator. Her article goes on to state that treatment has “individual attributes of victims of violence”; that is, it gives the attributes to those individuals and pitches their therapeutic techniques towards victim responsibility, which means to take control of their lives, leave, and do these things. That is what this piece of legislation is really about, as much as anything. It is about saying that if a person has done a crime, they should take responsibility and these are the responsibilities for it. That side of the house is always saying that people who do the crime should do the time and that they should take responsibility for those things, yet when it comes to domestic violence somehow we go back to blaming the victim. Krupka states, and I agree with her completely, that the “feminist framework of male entitlement, power and control” has to be debated, has to be out there and has to be included in our debate, and we need to stop embracing apologist responses such as anger management.

Krupka goes on in her article to state that as a victim of violence herself, which is not revealed until the end of the article, there is a myth out there that somehow it is the victim’s fault. She goes on to state in her article that women who experience violence —

... don’t “keep choosing violent men”. There are simply enough of them to go around to put one woman in this country in hospital every three hours.

[Member’s time extended.]

Ms J.M. FREEMAN: When Rosie Batty, a beacon in this debate, became Australian of the Year, I remember speaking to—and I have said this in this house before—an ex-police officer on the day. He questioned her becoming Australian of the Year, and then went on to say, “You know you’re never going to stop it.” I said, “No, I’m never going to stop it, but you could stop it. You’re the blokes; you’ve got to start saying no to this stuff in your community. You are police officers and you’ve got to stop thinking that this is not violence.” If we were to stop someone in the street and there was violence like this, we would be outraged. We would not accept it. That is what Rosie Batty says. The tragedy for Rosie Batty is that people started to take notice only when the most horrible thing happened to her—when she lost the most valuable thing in her life, her son.

Dr A.D. Buti: Some people blame her.

Ms J.M. FREEMAN: That is exactly right. Some people saw it as her fault for allowing things to happen. Again, that is that whole thing about it. If it was violence out in the street or violence anywhere else, we would never blame the victim. If someone untoward, an unknown person, invades a house and perpetrates an act of violence, we would never say it is the person in the house’s fault; we would say that that is unacceptable. That is what this is about. It is about us all saying tonight that it is unacceptable, it should not occur and these are the things we were going to put in place to ensure that.

There is much more we can do. The Victorian Royal Commission into Family Violence made something like 227 recommendations. The journey has been a long one and we have journeyed far; we have done good things. Members have done good things; we have all done good things. We stand in a different place from when as a young woman I was a women’s officer at the University of Western Australia. We stand in a different place, but we still have so far to go. Rosie Batty says that. She says it is about looking at the status of women in our community. She knows that it is about looking at those issues.

The Victorian Royal Commission into Family Violence report is both a reactive and a proactive document. Its 227 recommendations go to proactive and reactive aspects. The proposed changes we have here are certainly reactive. They are punitive in many instances, but that is just as important as proactivity. I am sure this government is just as committed as the Labor Party to proactive responses. I would like to think that both sides are as proactive as the Victorian government has been. It has now committed \$572 million towards implementing 65 of those 227 recommendations. One of those recommendations is a statewide establishment of 17 safety hubs and local entry points to specialist family violence services, which I think is an important goal. The report also highlights why jail terms for family violence offenders are not effective in deterring future offending, and it makes several recommendations relating to Victoria’s perpetrator interventions and behaviour change programs. Really, we have to stop accepting violence. A journalist rang me about something once and we were talking about violence. I said that I do not even accept that a person can hit someone on a football field and still be allowed to play. I think we should be stamping out all those sorts of things in our community. As I have said, other sections of the report focus on prevention, early intervention and recovery.

I want to talk about the 41 recommendations in the report specifically about diverse victims of family violence. They are targeted to information for people with disabilities, Indigenous people, culturally and linguistically diverse communities, older people and male victims. Since I, as the member for Mirrabooka, represent such a diverse community, I want to talk about the CALD communities and intimate partner domestic violence. In doing so, I do not want to stereotype newly arrived Australian communities and CALD communities as being somehow different from white Anglo-Saxon Protestant or generational Australian communities. I do not want to

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do that because there are many respectful and loving relationships in all CALD communities. But I have heard and known of women who have been pressured by other women to return to violent relationships in CALD communities. I have heard of threats to women to remain in relationships because they will have their visas removed, or their partners will ensure that happens. These days a person can have their visa removed for not being an appropriate Australian citizen so easily, but when they serve any time in custody for a restraining order or any sort of violence, unless they are charged and found guilty, they can keep their permanent visa. I know of a woman who had quite a bit of difficulty with her husband, but the Australian government said that he needed to do jail time for it to be able to have any impact on his visa. She lived in constant fear of this situation, yet other people seem to lose their visas quite easily. If a person perpetrates intimate partner violence or domestic violence, the Australian government does not see it as a serious issue.

Debate adjourned, pursuant to standing orders.