

MISUSE OF DRUGS AMENDMENT (SEARCH POWERS) BILL 2016

Second Reading

Resumed from 25 August.

The ACTING SPEAKER: Member for Mandurah, I am sure you can make a compelling contribution in 90 seconds!

MR D.A. TEMPLEMAN (Mandurah) [5.58 pm]: As you know, Mr Acting Speaker, my contributions are very commonly positive and to the point. Noting the time, I rise to speak on the Misuse of Drugs Amendment (Search Powers) Bill 2016.

Ms M.M. Quirk: Part of this legislation deals with the search of transit routes in the metropolitan area. Is your electorate in or out of the metropolitan area?

Mr D.A. TEMPLEMAN: I am glad the member asked that question. What an interesting question to ask. I thank the member for Girrawheen for the question. Of course, I would assume that if we are speaking of our policing districts, then, yes, unfortunately we are in the metropolitan area in terms of our policing district being the south metropolitan policing district. However, I will seek clarification from the minister during consideration in detail on that question, bearing in mind that I expect that some of the powers that the member for Girrawheen mentioned will be undertaken on Forrest Highway, which of course traverses through to Bunbury. In fact, the police jurisdiction changes halfway down into the south west policing district. But what an interesting question the member for Girrawheen has raised.

Sitting suspended from 6.00 pm to 7.00 pm

Mr D.A. TEMPLEMAN: I was going to say, “Hi there, Madam Acting Speaker”, but I should not be so frivolous!

The ACTING SPEAKER (Ms L.L. Baker): Hello, member for Mandurah.

Mr D.A. TEMPLEMAN: I was rudely interrupted by the dinner break and would like to make further comment on the Misuse of Drugs Amendment (Search Powers) Bill 2016.

As the member for Girrawheen quite correctly pointed out, the control area or search area or area of authorisation or area subject to an authorisation—what is it called?

Mrs M.H. Roberts: Drug detection area.

Mr D.A. TEMPLEMAN: That is right. In regard to the authorisation area, the second reading speech reads —

The area cannot be situated in the Perth metropolitan area, nor can an area exceed five square kilometres.

That raises a point that the minister may be able to answer in consideration in detail. I am one of the members who is always interested in boundaries, because I am constantly harassed by the Western Australian Electoral Commission and others to continue to advocate for my electorate’s regional status. The minister mentioned in her second reading speech that this bill relates to the Perth metropolitan area. I am seeking clarification of what that actually means for Peel, given that the policing district of Peel stretches through to the Shire of Murray and, indeed, the Shire of Waroona and City of Mandurah, which are clearly regional areas. However, under the policing regime, they are encapsulated within the south metropolitan policing district. I am happy for the minister to respond perhaps now or in consideration in detail, but my question is: which boundary are we talking about? The Perth metropolitan area does not include Mandurah, the Shire of Murray et cetera as designated in the metropolitan region scheme; however, if we are talking about the police districts, then Mandurah, the Shire of Murray and the Shire of Waroona are included in the south metropolitan policing district. I am interested in that because, quite honestly, as the minister and many others are aware, the communities that I represent are not at all immune to the scourge of drugs. Indeed, the sad statistical facts show that methamphetamine use is of major concern for Western Australia, and that unfortunately includes areas within the Peel region. High-profile clandestine drug laboratories have been either exposed by police officers through raids or detected after incidents such as explosions et cetera, so Mandurah and the Peel have not been immune from that.

There are a number of schools in my area, and I am on the board of a number of those schools. When you are on the boards of a number of schools, you have the opportunity to have information divulged to you about the prevalence of parents who are under the influence of drugs. Of course, you are also made well and truly aware of the issues associated with illicit drug use and their impact on families, and specifically on children who attend those schools. Those issues are of major concern. In the case of a number of my schools, I receive reports, both

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anecdotal and consolidated, if members like, about children going home to households where drug use unfortunately exists. I know that the police men and women of the area that I represent are working very hard, along with the Department for Child Protection and Family Support, to ensure that the protection of children is the key issue, but I think we all know that there are many, many children who have a home environment where drug taking is prevalent. One can only imagine the sorts of things some of our children in many communities throughout Western Australia observe and experience. In that respect, I want to know from the minister—it comes back to the boundary issue—whether the extended powers outlined in the second reading speech and this bill will actually be permissible in my region. I think it is an important question.

Mrs L.M. Harvey: It will be. When we get into consideration in detail I can give you a very wordy description of how the metropolitan region is defined. It is defined specifically in the Planning and Development Act 2005, so we have made reference to that definition as being the definition of “metropolitan region”. As I understand it, that ends in a line around the southern end of Rockingham across to Cockburn. As Mandurah is south of that, it would not form part of that region.

Mr D.A. TEMPLEMAN: I am assuming that one of the advantages of that is Forrest Highway, which leaves Perth from its southern end and goes through Cockburn. Once we get into the Shire of Murray, the boundary, which starts around Paganoni Road or I think what is now called Karnup Road, we are effectively into non-metropolitan territory. I assume that from there on, there would be the capacity to have a special area; what is the term again—sorry? It is an authorised area. That also brings public transport into question. The railway line terminates at the City of Mandurah. The last three or four kilometres of rail are in the non-metropolitan area. I would be interested to know whether the powers outlined in this bill would in fact allow police to have operations at the railway station or surrounding areas. Could they declare that area?

Mrs L.M. Harvey: No.

Mr D.A. TEMPLEMAN: They could not?

Mrs L.M. Harvey: No.

Mr D.A. TEMPLEMAN: Why could they not? That is probably something we could get into during consideration in detail.

Mrs L.M. Harvey: Yes.

Mr D.A. TEMPLEMAN: It is of interest. I am pleased the minister has clarified the boundaries for me because I think it is important. I will be following the consideration in detail on the Misuse of Drugs Amendment (Search Powers) Bill 2016 with interest.

Assistant Commissioner Pryce Scanlan was the superintendent when he was at the Mandurah office, but I just want to acknowledge the work of now Assistant Commissioner Scanlan and a number of other police officers who have served in the Peel. I commend those officers because we have been very fortunate in the Peel region, particularly when we were a police district in our own right; members know my views on that. I commend those officers for their commitment and understanding of the challenges of policing the interesting demographic, the interesting socio-economic mix, the interesting geographic configuration, if you like, that is the Peel police district, as it was once constituted. It is an interesting place, and the challenges that face that community, particularly when talking about methylamphetamine use, other drug use and alcohol abuse, are very, very stark. This community has a large number of people who are abusing drugs and alcohol, and when some of that abuse, if you like, manifests into criminal activity, violent activity, domestic violence and other criminal and antisocial behaviour, the policing role is very difficult. I salute the police men and women of the district—people like now Assistant Commissioner Scanlan when he was there—serving in Mandurah and the Peel at the moment. I am well aware that they are attending, on a day-to-day basis, some very serious incidences directly linked to the abuse of drugs, the misuse of drugs, and, indeed, the illegal distribution and dealing of drugs. I know that with more resources on the ground in the region, their workload would certainly be assisted. With those comments, I look forward to the consideration in detail process.

MS M.M. QUIRK (Girrawheen) [7.13 pm]: I think we need to remember and start with the premise that Western Australia has the highest consumption of methylamphetamine of anywhere in the country. A 2013 survey found that WA had the highest methylamphetamine use, at 3.8 per cent for the population over 14 years of age who had used the drug, compared with the national average of 2.1 per cent. Implicit in this bill is that existing police powers are not adequate to investigate, interdict and prosecute drug traffickers, especially those distributing and importing methylamphetamine.

I have to say that when a bill is introduced this late in the parliamentary term, one needs to be somewhat cynical and a little sceptical. This is not a recent problem; this problem has been evident since, I think, the mid-2000s. It

is in the last year or so only that the government has taken any notice at all. Last year what was known as a meth enforcement plan was released to the public, and under that plan measures were taken to —

- create an intelligence Meth Desk to support the Meth Teams
- further strengthen multi-agency partnerships targeting road, rail, air and post
- establish joint agency teams specifically targeting methamphetamine money trails
- explore legislation to strengthen meth enforcement

I will talk a bit about those strategies shortly.

That was a year ago. A couple of months ago the Premier presented the “Western Australian Meth Strategy 2016”. Members need to be mindful that this was considered such a problem in the mid-2000s that in 2007 the then Carpenter government held an ice summit that resulted in a number of recommendations and actions to be taken by law enforcement and other agencies such as Health to stem the flow of drugs and to also stem the demand and to ensure adequate treatment. At this stage of proceedings it has taken eight years to get this. How many pages are there? There are pictures as well.

Mrs G.J. Godfrey: What did your government do about it?

Ms M.M. QUIRK: We had a summit, and then we actually started to implement some of those recommendations. We had actually, member for Belmont, funded those in the last budget, some months before the election. That is what we did—all right? In fact, if the member listens, she might learn something. This strategy is maybe 10 or so pages—the pages are not numbered—but this is what we have been waiting for for eight years.

The other issue I have about this is that the government is trying to tell us it is a recent problem. In the foreword to this strategy the Premier states —

The emergence of meth in our community is putting enormous pressure on families, communities and our police and hospital emergency departments.

As if this is something that is just happening!

Similarly, the minister’s second reading speech states —

Members will be aware that in recent times, —

“In recent times”, members. The second reading speech continues —

...sadly, methylamphetamine has become readily available.

I have news for members: this has been a problem for a decade.

Mrs L.M. Harvey: If you have a look on page 5, member, it goes into that. Page 5 of the meth strategy goes into meth usage in the state going back to 2009.

Ms M.M. QUIRK: Yes, and the minister has taken this long to respond to it.

Let us go into what was in the meth enforcement plan that was announced over a year ago. I was somewhat surprised when I saw that it was to —

- create an intelligence Meth Desk to support the Meth Teams
- further strengthen multi-agency partnerships targeting road, rail, air and post
- establish joint agency teams specifically targeting methamphetamine money trails
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I was surprised, because I thought they were all standard operating practices in investigating complex organised crime, especially those with multijurisdictional aspects. In fact, I was particularly surprised because, as some members know, I worked at the National Crime Authority, which had a brief of investigating organised crime throughout the 1990s, and we acted exactly on those methodologies. So, for this to be presented as some shining new strategy 20 years on does not fool me.

What secondly concerns me about the bill is why the police cannot secure sufficient intelligence through other means to be able to entertain a reasonable suspicion necessitating these more scattergun approaches that I think lower the threshold on which police can act. I am really concerned. Police can gather intelligence in a number of ways. Reasonable suspicion is not a huge threshold to overcome, yet police say that they feel hampered by it.

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This legislation is a concession that what police have been doing for a number of years is in fact unlawful. Members will recall the so-called bikie runs. There was a lot of coverage on television of outlaw motorcycle gangs going on runs throughout the state and, very visibly, police were stopping outlaw motorcycle gang members and searching them and their vehicles. The only suspicion police had was that they were bikies; they had no other intelligence by and large to give rise to reasonable suspicion of a crime. Although the police had the power to stop those bikies under the Road Traffic (Administration) Act 2008, they did not have the power to search the bikies or their vehicles, yet they did it constantly. This legislation is a concession of something that I have been trying to get out to the police for over a decade: that what they had been doing to bikies and other people, by stopping vehicles and searching them, was not authorised by law.

I can cite another example that happened just after I became a local member. Concerns were raised about so-called Asian crime gangs comprised of young men of Asian descent. I found that police were randomly stopping cars in my electorate and if a young Vietnamese boy was driving the car, they would carry out a stop and search. I had to raise the matter with the local superintendent and say that just because a driver is an Asian does not form grounds for a reasonable suspicion that that person is a member of a gang, thereby empowering the police under the Misuse of Drugs Act to search the vehicle. I am pleased to say that the superintendent understood the point I made, conceded that police did not have that power and the practice ceased immediately, which I was very pleased about.

Similarly, so-called routine traffic stops are rarely routine traffic stops. We hear in the news quite frequently that a cache of drugs has been found in the boot of a car after a routine traffic stop. If it was a routine traffic stop, the police would have had no capacity to search the car. Of course, we know that in those cases police have a reasonable suspicion to search the car, but they do not want to disclose either police methodologies or the existence of a confidential informant. Those sorts of issues are very live and it is pleasing that this informal practice, which I believe is unlawful, is now being formalised. I would like to raise a number of other issues about the minister's second reading speech. The first arises from the second major paragraph that states —

It is of great concern that our postal and courier services are unwittingly being used by criminals to distribute this insidious drug.

I think the word “unwittingly” might not be appropriate. I suspect criminals are aware that they are using postal and courier services to distribute drugs, so I am not sure that is an accurate reflection of the conduct that the minister is trying to arrest through this legislation.

In the next paragraph the minister refers to the Australian Crime Commission determining that a high proportion of methamphetamine seized in Australia originates from overseas. Again, we have known this for some time. The police commissioner is on record as having said that local methamphetamine labs are really for users—that they produce enough for their own use and are not part of the larger distribution ring. We know, for example, that places such as China and Myanmar are sources of large volumes of drugs and precursors, but that begs the question also whether the Australian Federal Police and what is now known as Australian Border Protection officers, formerly Customs, are a bit thin on the ground in Western Australia. If we are not interdicting as many drugs from overseas as we should be, that begs the question: are AFP levels sufficiently high? I certainly know from past experience that there is a skeleton crew of Australian Federal Police officers in this jurisdiction and if Western Australia attracts large imports of methamphetamine because the prices are higher, criminals can secure larger returns from that importation. Maybe the AFP needs to think about reallocating its resources.

The next observation the minister makes in the second reading speech states —

The current legislative scheme is quite limiting in that the Criminal Investigation Act and Misuse of Drugs Act powers require a “reasonable suspicion” requirement to be satisfied on the part of the police officer in regard to the particular vehicle, place or person ... This ... can severely limit the scope of police operational actions.

My experience is that it is not difficult to get to that level of reasonable suspicion. For example, telephone conversations, telephone intercepts, information from confidential informants and observations through surveillance are low levels of securing evidence. We have to wonder whether the police are trying to shortcut basic police work and take a somewhat more arbitrary approach to investigating drug distribution and importation.

The second reading speech refers to similar powers in New South Wales and the Northern Territory. I want to speak a bit about the South Australian legislation, because there are some material omissions in the Western Australian legislation. First of all, under the South Australian legislation, South Australian police have what is known as a standing warrant card, which lasts for six months and is renewed. It gives South Australian

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police power to execute searches without a warrant if they believe there is the commissioning of an offence. That will not be the case under this legislation. That is the first distinction.

Secondly, section 52A(2) of the South Australian Controlled Substances Act 1984 states —

- (2) This section applies to the following areas:
- (a) licensed premises or a carparking area specifically provided for the use of patrons of any licensed premises;
 - (b) a public venue or a carparking area specifically provided for the use of patrons of any public venue;
 - (c) a public passenger carrier or any place at which public passenger carriers may take up, or set down, passengers;

A similar provision to that is not found in the Western Australian legislation. Knowing what we know about drug distribution areas, areas such as licensed premises and the car parks around those areas are the site of many drug deals and for the distribution of drugs. I query why that particular provision was excluded.

Similarly, the next material difference between the South Australian and the Western Australian legislation is the capacity to extend a warrant. In the South Australian legislation, the authorisation for police to search in particular areas is limited to the granting of the warrant for 14 days or the authorisation, and then two subsequent extensions—that is a maximum of 52 days—whereas in the Western Australian legislation it is not limited.

Again, there can be rolling warrants over a period of many months instead of the South Australian situation in which it is limited to 52 days. Frankly, if the police have not got anything in 52 days, they should move on. Another thing of note in the South Australian Controlled Substances Act is contained in section 52B, “Special powers relating to drug transit routes”.

[Member’s time extended.]

Ms M.M. QUIRK: Section 52B(9) states —

The Commissioner of Police must—

- (a) establish procedures to be followed by police officers in the exercise of powers under this section, being procedures designed to prevent —

Emphasis is added to this —

as far as reasonably practicable any undue delay or inconvenience to persons being subjected to the powers; ...

That is eminently sensible but is found nowhere in this legislation. Subsection (9) continues —

- (b) establish procedures to ensure that the exercise of powers under this section is not authorised in relation to more than 3 areas at any one time.

That is a very sound provision, but it is not included in the Western Australian law.

Mrs L.M. Harvey: That provision is in ours.

Ms M.M. QUIRK: I could not find it.

Mrs L.M. Harvey: The number of authorised areas is restricted to three at any time.

Ms M.M. QUIRK: Yes, minister, but I was talking about procedures and guidelines not unduly inconveniencing the public. I could not see that anywhere in this legislation, minister; nor is there any restriction on the number of times that an authorisation can be renewed. That is a very important area, because the Misuse of Drugs Act is notorious for warrants being rolled over. The police could have unlimited entry and searches over an extended period, and if they did not find anything, they would come back again and again. Some people regard it as verging on harassment. Be that as it may, on occasions when the police are unsuccessful, they want another go. Again, we need objective parameters around the use of these powers.

That brings me to another area of concern, which is that we have got ourselves in this situation because the government did not take the issue seriously enough soon enough. It did not give police the necessary resources and did not train sufficient police with the expertise to investigate these complex areas of criminal activity. For example, when the police get rid of civilians in their ranks through redundancies, it is quite often analysts, forensic accountants and frontline police who are asked to go, when they are the people who assist in these complex investigations. Similarly, about 30 detective positions are currently vacant. These complex matters are

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usually investigated by detectives and I find it inconceivable that 30 detective positions are vacant. I am advised that some of those positions have not been filled because the applicants do not have the relevant experience. Instead of having officers who would normally be charged with investigating these more complex kinds of cases, we have vacant positions and there is a lack of corporate knowledge to be able to fill those positions. That is a matter of concern if we are extending the powers of the police without the guidelines, such as those in the South Australian legislation, and we are treating this as an emerging problem and not an endemic problem. If we do not have personnel who are trained and equipped with the resources to give these investigations a red-hot go, that is equally of concern. No doubt the Minister for Police will say in response to these various assertions that my claim that 30 detective positions are vacant is incorrect. However, I do not take anything that the police minister says about detective positions seriously because the twelfth report of the Community Development and Justice Standing Committee, “How do they manage?”, tabled in March 2016 made a finding that there were 50 detective vacancies at that stage.

Mrs L.M. Harvey: They were new positions created.

Ms M.M. QUIRK: Perhaps the minister could listen and she might learn something. I quote from page 33 of the report, referring to the Western Australian Police Union of Workers, which states —

The WAPU has also raised concerns about recruiting detectives to vacant positions. A newspaper report in September 2015 suggested that WA Police had been “caught short” because it had an “unprecedented” 50 detective positions vacant. However, WA Police executive director Anthony Kannis said that some of these were newly created positions.

While WAPU conceded that this may be the case, the union believed a contributing factor was a lack of motivation by constables to complete detective training courses. WA Police had apparently been unable to fill the courses for some time.

WAPU senior vice president Mr Shortland said the reluctance to apply for detective positions was due to perceptions that the position had been devalued, that there were limited promotional opportunities, and that detectives had to spend time on menial tasks which diverted them from core duties.

This is a key point —

Mr Shortland said the union had attempted to bring the situation to the attention of police management for some time. Despite the Minister for Police asserting in parliament in September 2015 that no member of the police union had raised the issue of detective shortages with her at any time, the WAPU was able to provide the Committee with an extract from a recording of a union board meeting on 13 May 2015:

In this place in September 2015 the minister denied there was a problem.

Mrs L.M. Harvey: That was over a difference to do with detectives and you know that!

Ms M.M. QUIRK: I know nothing of the sort. The quote from the witness at this committee hearing reads —

... the Police Minister attended and spoke with the board, and one of our directors raised directly with the Minister and her chief of staff issues regarding detectives and detective vacancies.

The report continues —

The conversation lasted approximately four minutes. The union representative raised the issue of newly-trained detectives having no say in where they were posted, which resulted in them having to travel large distances to work from home ... The Minister said she would raise this issue and would also find out where WA Police was up to with applications and graduates.

In that conversation the Minister made reference to additional detective positions being created and that it was her intention they be deployed in the regions, but that ultimately there had been no such qualification put on deployment. The implication from this exchange is suggestive of a level of Ministerial involvement in operational matters not consistent with information supplied to Parliament.

I repeat: “not consistent with information supplied to Parliament.” The report continues and refers to the police union secretary —

Mr Tilbury said that an over-supply of detective vacancies had been a longstanding issue, but the WAPU had had trouble obtaining an itemised list of exactly where the vacancies were and whether they could be attributed to current vacancies that could not be filled.

The committee went on to state in finding 10 —

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WA Police still has a high number of detective vacancies, despite having been alerted to the situation months before it became critical.

The committee states also in finding 11 —

Evidence before the Committee is not consistent with what the Minister for Police told parliament and *The West Australian* newspaper in response to questions regarding detective vacancies.

That report came out in March 2016. We still have 30 detective vacancies. Irrespective of the fact that the minister is not prepared to admit that she has misled Parliament and *The West Australian*, and irrespective of the powers conferred in this bill, there is no point conducting complex organised crime investigations if the workforce is 30 detectives short.

DR A.D. BUTI (Armadale) [7.40 pm]: I also rise to contribute to the debate on the Misuse of Drugs Amendment (Search Powers) Bill 2016. The minister states in the first paragraph of her second reading speech —

The abuse of drugs is the root cause of many of the problems that our community faces. We are constantly hearing of death, injury and damage related to the abuse of alcohol and drugs.

I do not think anyone would deny that that is the case. The issue of drugs is of major concern in certain pockets of the electorate that I represent and is obviously the root cause of much of the crime and misery that many people face and endure. I think we are all sensitive to and aware of the need to tackle this very, very important issue in our society—the ever-increasing use of drugs and the problems that result from that.

The bill before us seeks to reduce the restrictions placed on the police in their use of search powers. Obviously, search powers is a highly regulated issue because we always want to ensure that there is a balance between the need for police to do their job and the privacy or civil liberties of residents. This has been of particular importance in the United States of America. Under the Fourth Amendment of the US Constitution, search and seizure by the police has a constitutional meaning that we do not have in this state. In this state, those powers are regulated by Parliament, and Parliament has the ability to change those powers. That is not the case in the US. The regulation of police search and seizure under the Fourth Amendment is determined by the Supreme Court as the final arbiter of the US Constitution. Of course, the High Court of Australia is the final arbiter of the Australian Constitution, but police powers are regulated by Parliament. The judges then interpret the legislation that has been passed by Parliament.

This bill seeks to increase the powers of police in certain circumstances when searching for drugs. The search and seizure powers of police basically have a long history that comes from the United Kingdom or English common law and found its way to the US. The whole issue was the need to have a reasonable suspicion that a crime had been committed or was about to be committed. That then gave police the power to search a home and to search a body. It all came down to what was reasonable, because the way that the common law and then the US Constitution developed was from this issue of privacy. In the US, there is a constitutional right to privacy. In Australia, there is no constitutional right to privacy. In Australia generally, the common law does not provide a right to privacy; it is enacted only through legislation.

Police powers have generally been regulated in Western Australia through the Criminal Investigation Act 2006 and the Misuse of Drugs Act 1981. Under the Criminal Investigation Act, a police officer has the power to enter a place, stop and enter a vehicle, or stop, enter and search a vehicle, provided that a reasonable suspicion requirement is satisfied before the use of that power. Under the Misuse of Drugs Act, a police officer may stop, detain or search a vehicle when the police officer reasonably believes that a person in possession of the vehicle possesses a thing suspected of being used in the commission of an offence. That is the orthodox regulation of police behaviour that comes from a long line of cases in the UK and the US. As I said, in the US it has constitutional entrenchment. This bill seeks to allow a police officer to search a vehicle in certain circumstances without the necessary requirement to pass the reasonable suspicion test. This increases the powers of the police. However, as was stated in the first line of the minister's second reading speech, we have a major problem with drugs in our society. We will look at this in consideration in detail.

This bill does not give the police unlimited powers in all circumstances. It seeks to reduce or stop the flow of drugs into our state, particularly into the major population centres. The minister may have mentioned this before but I would be interested to hear her comments about the boundary within which this provision will apply. The designated area cannot be in the Perth metropolitan region and it cannot exceed an area of five square kilometres. Civil libertarians would be happy to know that the area is stipulated as being five square kilometres in size. I would be interested to know whether the police consider that to be an appropriate geographical distance in which to allow for the operation of the amendments proposed in this bill, or whether they believe it should be more than five square kilometres. It would not take very long for a car travelling at a high speed to cover five

kilometres. I would be interested to know the reason five kilometres has been designated as the geographical restriction. I assume that the focus is to try to prevent what police intelligence consider to be the main drug routes—maybe from the Northern Territory into Western Australia, or interstate. I do not know because I have never been involved in this activity. What is the intelligence that determines the routes, and why is the metropolitan area not possibly within that regulation?

Mrs L.M. Harvey: Can I respond by way of interjection?

Dr A.D. BUTI: Yes.

Mrs L.M. Harvey: The reason we are looking at transit routes is that police need to be able to effectively stop vehicles, pull them over to the side of the road and search every vehicle. There are not as many opportunities in the metropolitan area to be effective because there are opportunities for vehicles to divert around. People can communicate quite effectively within the metropolitan area and find out where the roadblock is and circumvent that. This is really designed more around the major arterial routes and major highways throughout the state, like Great Eastern Highway, Great Northern Highway and Forrest Highway—patches like that where we can pull people over and stop and search the vehicles. That can be effective because vehicles cannot divert from the search area.

Dr A.D. BUTI: Can the minister explain by way of interjection why the five-kilometre limit was proposed?

Mrs L.M. Harvey: That was in response to the initial legislation introduced in South Australia, where they worked out that five kilometres—it is more like an area designated around the search zone—was an effective catchment to ensure that they were catching vehicles that might come through the stop-and-search point prior to determining where the stop-and-search point was.

Dr A.D. BUTI: I assume that, after that five-kilometre stretch, it reverts back to reasonable suspicion as a criterion.

Mrs L.M. Harvey: Yes. This provision can apply only in an area that has actually been designated and determined—marked out, if you like—by a superintendent.

Dr A.D. BUTI: Thank you. We will explore this further in consideration in detail. The member for Girrawheen has mentioned some of the issues that may be of concern, but some of the issues that she raised were more to do with the resources that the police have received or have not received, and the issue of detective vacancies and so forth. We can always have the laws, and it is always easy for Parliament to pass laws, but unless the resources are in place to give effect to the aims of the legislation we are debating, one must wonder what is the use of it. There is a political use, because it is easy for governments to say, “We’re tough on XYZ because we passed legislation.” However, the resources must be put in place to ensure that the objects of the legislation passed by Parliament can be achieved at an operational level. Otherwise, it may be smart politics but nothing more.

We all know that the drug problem we face in Western Australia is of major concern. We need to ensure that there is a marriage of the legislative framework and the operational police framework that will give us the best chance of reducing the impact that the growth in the use of drugs is having on our society. Drug abuse is the root cause of many problems faced by our community, and we need to look at how we can address it. We need to look at other methods, such as programs that reduce the likelihood of people turning to drugs. Why do people use drugs? It is a complex issue, to which we have a legislative response, a judicial response and the police response, but we also have to look at a preventive response. This bill is trying to reduce the supply of drugs, which is a laudable object, but we also need to look at the other side, which is reducing the demand for drugs. This is basically economics—supply and demand. We want to reduce both the supply and the demand. If we just reduce the supply without reducing the demand, in economic terms, what happens? The price of drugs goes up, and what happens then? People who are addicted to drugs seek to obtain means for purchasing drugs, and that results in more crime to obtain the money to buy the drugs.

If we just reduce the supply of drugs and do nothing about the demand, that is a major problem. I remember having this conversation over a cup of coffee with a police officer a few years ago. He said that we had to be very careful not to be concerned only about the supply; we also must look at how we are going to reduce the demand for drugs. That goes to reducing the number of people using drugs for the first time, as well as preventing people from lapsing back into using drugs. Before the break the member for Collie–Preston made a fantastic speech about his personal experience in the area, and it is very difficult. He mentioned how his daughter had just been released from prison and, I think, within 10 or 15 minutes she had received telephone calls asking whether she wanted to buy drugs. This is a very difficult issue, and we need to get it right at all stages. I look forward to examining this bill in greater detail when we get to the consideration in detail stage.

MRS M.H. ROBERTS (Midland) [7.56 pm]: I rise to speak on the Misuse of Drugs Amendment (Search Powers) Bill 2016, and I commend the quite learned contributions of my colleagues, particularly some of the contributions tonight, including those of the members for Girrawheen and Armadale. The opposition supports this legislation. This is welcome legislation that is effectively already in place in South Australia and the Northern Territory. It deals with a real problem, and will provide some important tools for police officers to hopefully reduce the amount of drugs available in the Western Australian community.

As a number of my colleagues have already commented this evening, and indeed when this bill was previously brought on for debate, preventing the transportation of drugs into the community is just one part of an overall drug strategy. Over the past few weeks I have read quite a number of books and papers about drug use, including many that say that countries such as Australia and many other countries around the world have got their strategies out of balance. I have read comments such as that 50 per cent of people in jails around the world are there because of drug-related crimes and that the so-called war on drugs is not the solution. We have to have other solutions. We have to reduce demand and deal with the underlying social issues that create demand for the drugs. So long as we are dealing only with supply, and all we are doing is upping penalties, particularly on those who are already addicts, we are not actually dealing with the issues.

That said, it is also essential to deal with the supply side, but dealing with supply is never going to be the answer in and of itself. This legislation, as I said, is already in place in South Australia and the Northern Territory. As the minister noted in her second reading speech, huge amounts of drugs are coming into the Western Australian community each year. The drug of most current concern is methamphetamine. Many studies indicate that methamphetamine use in Western Australia is the highest in Australia. That is not a record that Western Australia should be proud of. I note that the government recently released results of the analysis of sewage that indicated a consumption of two tonnes of methamphetamine a year in Western Australia. That is a phenomenal amount of methamphetamine in the population of Western Australia. I note, too, that in the minister's second reading speech, she said —

In the 2014 calendar year ... the AFP... seized 193 kilograms of methylamphetamine destined for the Western Australian market. Of those seizures, 45 kilograms came from postal and parcel deliveries, 15.2 kilograms came from international air couriers —

That is, cargo and baggage, and —

... 16.5 kilograms was concealed in freight and 115.7 kilograms was seized in other searches.

An even greater percentage of methamphetamine may come in via freight. I do not suppose that we will fully know about that until these laws are in place. I appreciate that it is really important to effectively close down these major drug routes. The current belief is that, because it is so much cheaper to manufacture methamphetamine in countries such as China and Taiwan than in Australia, those involved in the drug trade find it very lucrative and much cheaper to source the drugs in those countries and import them, one way or another, into Australia and distribute them from there. Again, in her second reading speech, the minister refers to the fact that one kilogram of methylamphetamine can be purchased in China for \$6 522 and sold in Australia for \$590 000—\$590 000 for one kilogram! I understand that there was a seizure in the order of some 700 kilograms in the last financial year. If we look at how small a deal size is, that is an awful lot of people making an awful lot of methamphetamine deals. This wreaks havoc on the community and on families. It destroys lives; yes, some people die as a result of their drug abuse or getting involved in activities while they are affected by drugs. Indeed, they might die as a result of the people or activities they get mixed up in because of their drug use. However, there are also people whose lives, and the lives of their loved ones, are totally and completely wrecked because of what methamphetamine does in both the short and long term. I have spoken to constituents whose children are addicted to methamphetamine, and also other drugs, about the binges they go on, the wrecking they do and estranged children breaking into their parents' homes to sell or pawn their goods. They also break into other people's homes. The breakdown of families that occur as a result of drug addiction is nothing short of horrendous. Sadly, I speak to constituents just about every second week who have a child in prison or in trouble with the legal system. Many, although not all, have a link to drugs—more often than not with methamphetamine.

This is not a new problem. It is well documented that not just drugs, but methamphetamine, has been a problem in our community since the 1990s. In fact, having done nothing much for the last eight years, this government likes to try to pretend that this is some kind of a new or emerging problem. It is not. The problem has been around for a very long time—the whole eight years it has been in government and well before that. Well ahead of this novel thing of testing the sewage to see how much methamphetamine has been consumed in the community, the Australian government has instituted one of the research tools that is available through the Australian Institute of Criminology; it is called the DUMA reports—"Drug use monitoring in Australia". This evening, I refer to the AIC Reports, monitoring reports 27, "Drug use monitoring in Australia: 2013–14 report on

drug use among police detainees” by Sarah Coghlan, Alexandra Gannoni, Susan Goldsmid, Eileen Patterson and Matthew Willis. In the introduction, the report notes that this form of reporting by the Australian Institute of Criminology commenced in 1999. Back then, a limited number of police lockups or watch houses around Australia were selected where drug use would be monitored via urine analysis. I think it is fortunate that East Perth lockup—now, of course, Perth watch house—was amongst one of the first sites. I am having a quick look for the other sites, but just four were chosen where drug use would be monitored. The first four sites were Southport, Bankstown, Parramatta and East Perth. They all started in 1999; Southport and East Perth in the first quarter, and Bankstown and Parramatta in the third quarter. Those four original sites continue to be monitored. Over time, it was extended to some other sites in Brisbane, Adelaide and Elizabeth in 2002; Darwin and Footscray in 2006; Alice Springs in 2007; Kings Cross in 2009; South Hedland in the third quarter of 2013; and Surry Hills in the fourth quarter of 2013.

We have a snapshot of drug use amongst detainees in police lockups. Clearly, we would expect drug use to be higher amongst people who have been taken into a police lockup but, as one looks through this report, there are some interesting facts. One fact that I thought was quite interesting is to do with South Hedland. Contrary to what people might perceive, the drug problem in South Hedland is not as big as in East Perth by comparison, but the problem of drug use here in Western Australia is very high.

I emphasise this because it really highlights that, back in 1999, we were selected to be part of this monitoring. The monitoring was not for just methamphetamine; urine analysis also monitors alcohol, cannabis and other drugs. It is really disturbing that amphetamine use has continued to rise over that period. I will quote from the executive summary on page xiii, which states —

Thirty-seven percent of adult detainees tested positive to amphetamines;

Thirty-seven percent —

this constitutes an increase of 13 percentage points since 2011–12 ...

That was 24 per cent of detainees. From that, we can see that methamphetamine use is not declining. It is increasing. It is becoming more and more of a problem. It continues —

This is the highest recorded rate of amphetamine use in DUMA’s history, with the previous peak being 35 percent in both 2003 and 2004.

Rates of amphetamine use varied between the various data collection sites, but there is a note that in this particular year East Perth was 39 per cent. That is two per cent above the national average. There is some caution there about comparing sites. No doubt I suppose there should be a caution about comparing it with the national average because of the different numbers of samples taken at each site. In general, it gives a picture of how big a problem this is when there was that kind of urine analysis at the former East Perth lockup. Basically, just under 40 per cent of people tested positive to amphetamine use. It is very easy to draw the link between amphetamine use and other criminal offending.

There is quite a lot of detailed information within these reports, which is of enormous benefit to government. I will refer to what it says about South Hedland under “Featured results”. It states —

- *South Hedland* — In an attempt to better understand a regional offending population and their alcohol and drug use, the DUMA program was utilised to collect data in the Pilbara region of WA via a one-off data collection at South Hedland in the third quarter of 2013. In South Hedland, 51 police detainees were interviewed and compared with a sample of 209 detainees from the regular DUMA site of East Perth. The South Hedland sample were significantly more likely than the East Perth sample to have consumed alcohol in the past 48 hours, and to consume it more frequently and at higher levels. South Hedland detainees were significantly less likely than East Perth detainees to have used both cannabis and amphetamine-type stimulants. South Hedland detainees were also significantly less likely than East Perth detainees to report feeling dependent on cannabis or amphetamine-type stimulants. South Hedland detainees were more likely than East Perth detainees to attribute their current police detention to alcohol rather than illicit drug use.

The “Summary” states, in part —

- A slight decrease in prevalence of cannabis use was observed, continuing the downward trend observed since 1999. Despite its use decreasing, cannabis remains the most commonly detected illicit drug.

Sadly, the most notable thing in the summary, as I said previously, was —

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- Overall, in 2013–14 the most notable trend in illicit drug use within the Australian detainee sample was a 13 percent increase in detainees testing positive to amphetamines. This was mainly due to an 11 percentage point increase in detainees testing positive to methamphetamine.

This has been happening on the Minister for Police's watch. Drug use has been a significant problem in the community for a long time. Yes, it is a driver of crime. It was not a new discovery last year, when the minister's crime stats turned bad, that suddenly methamphetamine had a link. I am referring to the 2013–14 report to let people know what was known back then, when the minister could have acted. This was the picture when the member first became the Minister for Police. This was the problem. This is what she needed to do something about. The Minister for Police has been part of a government that has had no comprehensive strategy to deal with drug use in the community. It has certainly not had a strategy to deal with methamphetamine. Even now, although this is a very welcome step, it is only a small part of the picture. Taking out the supply routes and confiscating hundreds of kilograms of methamphetamine sounds good and sounds tough—it even is good—but it shows the demand and the market for it in Western Australia. When that amount of methamphetamine is confiscated, the minister would surely know that we are not getting it all because we know at the moment two tonnes of it is still making its way through the population of Western Australia into our sewage each year. That is the scale of the problem.

This is probably the biggest crisis facing the Western Australian community. I often talk in here about the road toll. The road toll disturbs me because there are preventable crashes happening each week in Western Australia. People are being seriously injured and killed on Western Australian roads. The road toll, as a rounded figure, is about 200 people killed each year. Probably double that number of people are seriously injured each year. That is a lot of people. It is a tragedy. But on a scale compared with the effect methamphetamine has on the Western Australian community and on individuals, imagine how many people will be affected by that two tonnes that is making its way into the community? How many tens of thousands of people in this state are addicted to methamphetamine? How many tens of thousands of families are affected? Some people might think it is just hundreds of families or thousands of families. This is a big state. From speaking to people I come into daily contact with and from amongst my constituency, we know what the prevalence is, and from the people who present at just one police watch house—it is huge. This is a major crisis. It is a crisis that this government has largely ignored. No doubt the minister can and will wave this report around and there will be a few more pictures with the next drug seizure and she will say, "These new laws are working because we have now seized another 100 or 200 kilograms." Maybe next year it will be found that there is only 1.7 tonnes of methamphetamine in the water. I hope so. I hope it reduces; I hope it does not go up. What we know through the population of people in detention is that it appears to have been increasing.

I have not been able to find online any more recent report than the report that I referred to, so it is not some deliberate attempt. I suspect if I found a more recent one I may find that the problem is even worse and that the amount of methamphetamine and other drugs found in people's urine at police watch houses may well have increased further. We have not needed to test the sewage this year to know that there is a crisis-like problem. There is no new discovery with rising crime rates. We saw those double-digit crime rates month after month last year. When we saw those kinds of increases, suddenly we heard that there were a lot of different reasons for it—one was methamphetamine, another was PayPass, and another was that apparently people were not locking their doors and windows and the victims were creating the problem by not locking up! Yes, methamphetamine and drug use is certainly a driver of crime, but it is a driver of crime that this government has really done precious little about. We are now seeing this kind of reaction or responding phase.

I commented previously that we have a minister who is responsible for mental health and other issues who says, "We're looking at compulsory detention for drug addicts." I believe there are not just thousands, but tens of thousands, of parents and other adults out there who would like to see their loved ones get compulsory treatment. They would like to see their loved one back to who they were. They would like to see them off drugs and making sensible decisions and leading a productive life and being a happy part of someone's family. The problem is that not enough treatment places are available for people who are prepared to put up their hand. Quite apart from those who give advice that chances of long-term recovery are much higher for people who volunteer to be part of a program to get off drugs or part of a live-in system or whatever, and apart from the fact that the chances of success and of long-term success are much higher for those who volunteer than those who are conscripted to get off drugs, there is not enough room in places for the people who want to volunteer. It is therefore a bit of a sop to the community for the government to say that it is thinking of this; it might trial it; it might do something. This is an idea that this government has been floating through one or another of its members for the last two or three years. I note that it still has not done anything and that it still has not brought a bill into the house. I think the government is having a lend of the people of Western Australia. If it had any sense of responsibility at all, it would look at the current demand and at how many people want to volunteer to be part of a program and whether they can be accommodated and how much it would cost. I think if the government did that calculation, it would

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find out that it would cost a lot of money that it does not have in its budget. That is a sad thing. In time, when people reflect on the Barnett government, they will reflect on how bad it acted on social policy and how it absolutely dropped the ball.

Ms A.R. Mitchell: I can't believe you're saying that.

Mrs M.H. ROBERTS: Sometimes the truth hurts. The Premier has been interested in building some monuments to his ego.

Several members interjected.

The ACTING SPEAKER (Ms J.M. Freeman): Members!

Ms A.R. Mitchell interjected.

The ACTING SPEAKER: Thank you, minister.

Ms A.R. Mitchell interjected.

The ACTING SPEAKER: Minister! I was on my feet. I will call you for the first time.

Ms M.M. Quirk interjected.

The ACTING SPEAKER: Member for Girrawheen, I am on my feet. I shall call you. Let us all just calm down. I call you for the second time, member for Girrawheen and I call the member for Kingsley, the Minister for Mental Health, for the first time.

Mrs M.H. ROBERTS: Drug abuse in our community is one of those key social areas in which this government has failed. From the very start, the Premier wanted to be known as some kind of building Premier and wanted to build monuments to his own ego. I am constantly getting approached by people in my constituency who question: Why has the government's priority been Elizabeth Quay, this or that and how come their local services have been cut? How come they no longer have a Legal Aid office in Midland? How come, in Midland, one of the most needy communities in the area with a higher percentage of Indigenous people than any other metropolitan community, Legal Aid has been taken away? How come money has been cut from debt counselling services? How come we have not heard any big initiatives for social policy? How come, after eight years of the coalition government, we are only now hearing that it might be considering—it has been considering it for two or three years—some kind of compulsory treatment for drug addicts? I will tell members how come: the government has broken the bank. It has no money. It has taken state debt from \$3.6 billion just eight years ago to more than \$30 billion with a projection to over \$40 billion. Perhaps because the Premier is under threat from people in his own party, some members opposite may feel the need to defend him, but the fact remains that his approach to social policy has been very poor. Every one of those key service delivery areas have been areas of failure for the Premier. I think he looks at things through the western suburbs' prism and does not see what we do not have.

I remember asking the Premier a question during question time in 2010 about whether he would put a cap on state debt. At the time, state debt was about \$15 billion or \$16 billion. As a supplementary, I asked: Will the Premier cap it at \$20 billion? The Premier said that it would get nowhere near that. If members opposite are wondering why the money is not there for all the social programs, it is because the government cannot afford it. It has taken us so far into debt that it no longer has the flexibility to spend money on those programs. That is why we have had so much cut out of our community. That is why I am getting demountables promoted for Woodbridge Primary School rather than Midland primary school being reopened. The member for Swan Hills knows Midland primary school needs reopening. He knows Guildford Primary School is full and is a heritage school. It is completely full. The Gallop government and Alan Carpenter as education minister built a new primary school at Woodbridge, but it is full. Just over in Caversham, a new primary school was promised as part of the estates shown in all the advertising brochures. It is a government requirement that a site be handed over for a primary school when an estate comprising a certain number of houses is built. The developers handed over the site two or three years ago. The school was to have commenced by now but we cannot get a start date from the Minister for Education. We cannot get a commitment that a school will ever be built. There is a whole community there with a block of land in the middle. The City of Swan is moving on with its share and building a community facility but there is a vacant block of land in Caversham because this government is not building a school. We know what happens. Families move in; their kids have to go to school somewhere, so they are being pushed into Guildford or Woodbridge, or being driven to other schools or being put in the private system. As a result, the Minister for Education will say, "There's no real demand because it's being catered for elsewhere." Those communities are being deprived. The fact is the Labor government built an average of six primary schools a year during the term of its government. This government is building an average of three a year

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and letting down communities. We are seeing more demountables go in. This is part of the failure of the government's social policy.

Mr J.H.D. Day: Remember the bill.

Mrs M.H. ROBERTS: I am not welcoming the minister's interjection.

Mr J.H.D. Day: I'm being very polite.

Mrs M.H. ROBERTS: Polite, but ineffectual.

Mr J.H.D. Day: Do you want me to take a point of order?

Mrs M.H. ROBERTS: That is up to the minister; he is welcome to take a point of order. He can take his time because there is not one. He has come into the chamber relatively recently and I am talking about methamphetamine use, it being one of the many areas of social policy failure of the minister's government. I understand that people opposite do not like to hear me talk about the many failures of this government but, frankly, there are many of them and I am pretty depressed about the services cut out of communities like mine. We have not been the beneficiary of royalties for regions or of anything much by the minister's government. If members wonder what drives crime, one of the huge drivers of crime is not dealing with social issues. It is not supporting families who are struggling in my electorate who do not have the resources that many people in the electorates of members opposite have. When it comes to having a child who is affected by drug use or under the influence of methamphetamine or the like, perhaps many of the constituents of members opposite can take their children to private clinics and get them all kinds of support. I have heard of people flying their children to locations overseas to get them treatment, rather than keeping them in this state. They are not options that are available to my constituents. My constituents come in with problems such as their son or daughter is going totally crazy and they have not slept for days, that they have hocked half the stuff in the house, that the mother cannot sleep or that there has been family breakdown—everything is happening. When their child is having one of these crazy moments, the family tries to get the police out but the police say that it is not an issue for them because the child has not yet committed a crime and it is a mental health issue. They ring the mental health teams or sometimes when the kids calm down enough they take them down to the hospital. That is where we see all these scenes replayed over and over again of crazy people in hospital emergency who are just going off. Nurses and other hospital staff are being assaulted by people who are high on drugs. After they have calmed them down a bit, the family ask, "What can we do with them?" They are told, "Sorry, there's no room for your child in the government's mental health facility at the hospital here, because your child doesn't actually have a mental health problem; they have a drug problem." Where can they take them? There is nowhere; there is nothing for them. They take them home again and it just revolves around—the police are called again and the medical staff at the hospital are assaulted again, because the government is not dealing with the root cause of the problem.

The government cannot necessarily sort out the whole problem, but there needs to be some support there. There are kids in my electorate whose families are in real need. The few supports that were there for them a few years ago are no longer there—they are getting taken out. As for the government's independent public school system, it has not benefited most kids in my electorate. What IPS did in the first couple of tranches was to allow for staff selection. The schools who got it loved it. If a school was in a leafy green suburb, it could select staff and whatever. However, I will tell members what that did; it depleted good staff from schools in my constituency. That was not a good thing. Maybe members opposite do not know about that; maybe they do not have schools where kids show up not properly clothed or with no shoes or when they have not had breakfast. People sit back and wonder why these kids have gone off the rails, why there are these problems and why we are dealing with higher crime rates. Sorting out crime rates is a very complex issue. Dealing with drug abuse in the community is a very complex issue. If the solution were as simple as bringing in a bill like this and saying, "Right, we're going to lock down a couple of roads at designated times and places and we're going to take drugs out of the market", it would have been done all round the world and we would have no problem, but the fact is that so long as there is demand and so long as the government does not deal with the underlying causes and that end of things, it does not actually have a proper drug strategy or methamphetamine strategy. It has to be complex.

My criticism here is certainly not of the Minister for Police for bringing this legislation forward. I welcome it. It is a good step and it will be beneficial. My criticism is absolutely not of the police. They do the best job they can with the tools that they have got. Frankly, it is all very well to say that there will be tougher penalties for those who assault police—now there are calls for tougher penalties for those who assault nurses, teachers and everyone else in our community—but would it not be better if the people working in our community were not assaulted in the first place? We know that drug use and abuse is driving a lot of those assaults. That is what we have to do something about; that is the crisis. When these mainly young people, but also older people, are going off and are taken to hospital emergency or apprehended by police and taken to the lockup, they frankly do not know what they are doing—they do not know where they are, what they are doing or what is happening, and they have

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absolutely no idea what the penalty for their actions is, so the penalty does not serve as a deterrent. I do not make that as an argument to suggest that there should not be tough penalties, that there should not be consequences or that the people involved are not responsible, because they are—they have to be responsible for their actions and there have to be significant penalties. The question members opposite have to ask themselves is whether those penalties are the deterrent that they are looking for. I suggest that they are not.

If the government actually wants to reduce drug use and abuse in the community, it has to deal with supporting families. It has to support families that are finding it difficult to function, that are struggling financially and that do not have the supports that they need. I am also not saying that methamphetamine use or abuse is limited to people in lower socioeconomic areas; it is not—it is right across the board, from the highest to the lowest. What I am saying, though, is that it is much, much more difficult for those in lower socioeconomic brackets to get any support at all. They also fare worse when they are put before the courts, because they do not have recourse to parents who can afford to get them better legal representation. Some go without legal representation. Those who used to get support through the Legal Aid office in Midland now have to make their way to St Georges Terrace to consult with Legal Aid, for example. If those kinds of support are removed, it exacerbates the problem.

What we need to be doing as a community is to get as many people off these drugs as possible. The police can remove hundreds of kilograms of drugs, but the issue with that is that it can potentially create a situation that is even more lucrative for those who manage to get the drugs through. Like for most commodities, it is a matter of supply and demand. We saw this when heroin was at an epidemic level more than a decade ago now—probably back in the late 1990s. When there were some big heroin busts, the price of heroin went up considerably. I understand that the same supply and demand effect can happen to some extent with methamphetamine. The difference, though, is that methamphetamine is so prevalent in the community—there is just so much of it out there—that the impact on price is probably not as great. It is a real problem. I hope that people will reflect on the fact that in eight years, we have not seen a comprehensive strategy from the government. Yes, we have seen some toughening up of penalties and we are seeing some extra powers being given to the police at the death knock of this government. I do support police being able to stop vehicles, hopefully on routes where drugs are coming into Western Australia from the north of the state or Darwin, or where drugs are being brought by vehicle across the country. As the member for Girrawheen highlighted, the importation of drugs from overseas is not new. I recall asking Hon Christopher Ellison, when he was a federal minister, how many containers were searched at all Western Australian ports, and I found out that less than three per cent of containers are searched. Therefore, the potential for drugs to get into this country is high. Police and others say that they analyse various companies that bring containers into the country. There are some random searches, and a lot of searches are based on some form of intelligence, but that still means that 97 out of 100 containers are not searched. I would certainly be interested to know what is happening there.

Tonight in this bill we are focusing on how we can stop drugs that are imported into the country from being taken around the country. Basically, it is suggested that drugs are coming in through Darwin or other areas around the top of Australia, or potentially through sites on the east coast—Brisbane, Sydney or somewhere on the Queensland coast—and are being trucked across the north to Darwin and then down the west coast. It is usually possible though chemical testing to determine the origin of drugs. If those drugs have come from China or Taiwan, what is the federal government doing to stop those drugs from getting into the country in the first place? If drugs from China, Taiwan or elsewhere are not coming into the country through our major ports, where are their points of entry? What surveillance is in place in our remote coastal areas? What surveillance does the federal government have in place in the north of Western Australia, across the territory and in the north of Queensland—all the remote locations that it is suggested to me that boats can use to bring in drugs? We know that the federal government is very focused on boats that carry refugees into the country, but is it quite so focused on drugs coming into the country? Perhaps the federal government needs to lift its game in coastal surveillance and its checks on not only major ports but also, indeed, some of the minor ports around the country. I know the big ports have very sophisticated equipment that can effectively x-ray or scan containers as they pass through. However, not every port in Australia has those facilities, so maybe more needs to be done in that regard also.

I also note that there is concern about postal or courier services being used for the importation of drugs, which is something that I know police have been concerned about for some time. This legislation will enable police to visit premises from which parcels are despatched. The member for Girrawheen pointed out quite effectively the error in the Minister for Police's second reading speech, in which she states that there is great concern that our postal and courier services are unwittingly being used by criminals. The fact is that they are wittingly and deliberately being used by criminals—not unwittingly. The only unwitting participants in this matter are courier companies. The criminals, indeed, are very deliberately using those services. This legislation will enable searches to be made in those places. However, that is the reactionary end—the end of the equation. The bill does not deal with the root cause—the drivers or the demand side. If there was no demand, there would be no incentive to bring drugs into the

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country. Most of us would not give \$2, let alone \$20, for a dose of these substances; so, if we were their market, they would go broke. Sadly, there are way too many vulnerable people in our community who fall victim to drugs and way too many who are easy prey for those who peddle drugs in our community.

We will move into the consideration in detail stage later and ask questions about the various elements of this legislation. I note for the record that we are not dealing just with methamphetamine, which is the biggest and most prevalent problem at the moment, and that the police will also have the potential to detect and deal with a range of other illegal drugs, including cannabis, cocaine and heroin. The police will also be able to deal with controlled precursor chemicals—that is, rather than take these substances in from other countries, the precursor chemicals are imported into Australia and then trucked into Western Australia. That will be welcome, too.

I also welcome the review provisions in the legislation. This is new legislation for Western Australia. I think it is appropriate that it is reviewed after five years. I hope that is done in a timely way. I also note that the legislation provides that reports on the exercise of the powers proposed to be given under this legislation are to be given to the police minister in a timely way, and, in turn, the police minister has an obligation to table those reports in the Parliament for Parliament's scrutiny. Hopefully, we will have that information at our disposal when the act is reviewed in five years' time.

I commend the minister for bringing forward this legislation. The opposition supports the bill. We support the job that the police do. The police are part of the equation. The police part of the equation is not to attempt to reduce demand, and it is not to deliver the social programs and supports into the community. That is the job of other portfolios and the job of government. The job of police is to work within the constraints that they have and with the laws and powers that they are given and to exercise those powers responsibly, which in 99 per cent-plus of cases they do. They do a job that a lot of people in the community would not want to do, but it is a very important job. I am hopeful that they will not only be able to take a substantial amount of drugs out of the community but also prosecute the high-level dealers who are bringing huge quantities of drugs into Western Australia. I hope that we can get to the people who are behind the scenes—not just the low-level couriers, but the so-called Mr Bigs who seem to escape the net, because those people are dealing in death and misery. Given the reaction I got to part of my speech, I suspect that has largely fallen on deaf ears, but I hope that members on the government side—members in the Liberal Party and the National Party—will reflect on what more they can do to reduce demand, because they have failed in that regard. Other governments have done more.

The Leader of the Opposition released a methamphetamine strategy more than a couple of years ago now, but, sadly, this government plays politics rather than dealing with the issues. Tonight, when I highlighted services that have gone out of my electorate and said that the government had been poor on social policy, members opposite were in total denial. They said, "Oh, no, no. Everything the government is doing is good." Elizabeth Quay and the new footy stadium will not get anyone off drugs. I am not saying that I do not support a new footy stadium, because it looks great and it will be great, but it is always about priorities and what the community needs most. It is always a balancing act for government. Even though the current Premier seems to think there is a limitless bucket of money, there is not. The government cannot do everything and has to choose its priorities. Unfortunately, the government has not prioritised those social and educational programs that could have benefitted our youth and supported our communities and which could have been rolled out in our schools and just may have deterred young people from taking up drugs and trying amphetamines the first time and therefore stopping them from getting hooked, thus saving a lot of pain in the long term. It is oft said that prevention is better than cure. I am asking members to give a little thought to how we can prevent some of these problems and how to nip them in the bud and deal with the root causes. How can we turn around the lives of 200, 300 or 400 young people in this state so that they do not in the next five to 10 years turn out to be the very people who are assaulting our police officers, medical staff in our hospitals or their teachers, or who are reliant on social security because they have fallen out of the education system and are not engaged with training and do not have a job or whatever? The likes of members opposite often want to twist words around, and none of those things is an excuse for getting involved in crime, but, frankly, once someone is hooked on methamphetamine, it is next to nigh impossible to get them off it. It is not easy. Some members in this place may have given up smoking or something else and found it exceedingly difficult, and they might have tried to give up a number of times. The control and power of methamphetamine over people is absolutely huge. The craving for this drug is unbelievable. Even with people's best endeavours, when they have managed to keep clean for two or three months, or for one year, two years or more, the urge to get back on this drug is incredibly high. Unfortunately, many people fall repeat victim to it. That is where we need greater focus. The Minister for Police and WA Police are doing their part of the job. The rest of government has failed miserably.

MRS L.M. HARVEY (Scarborough — Minister for Police) [8.58 pm] — in reply: I rise to close debate on the second reading stage of the Misuse of Drugs Amendment (Search Powers) Bill 2016. I thank members for their

Mr David Templeman; Ms Margaret Quirk; Dr Tony Buti; Mrs Michelle Roberts; Mrs Liza Harvey; Mr John Quigley

contributions to the debate and to the opposition for its support of what is a very important piece of legislation that will give police additional tools to shut down the transportation of methamphetamine around our state.

Members have gone to great lengths to highlight the issues of drug use in the community and the 25 per cent or so of methamphetamine users who are heavily addicted to the drug and need multiple hits of it to get through their day and who cause considerable problems for not only their families and the community, but also emergency services, police and our hospitals. That is why the government put together a comprehensive strategy to deal with methamphetamines in our community. This legislation is only part of the strategy to assist police in stopping the supply of the drug throughout the state. Obviously, we also need strategies around harm minimisation and demand reduction. The government has put significant funding into those areas, because it knows that if it does not drive down demand for the drug and there is still a market for it, there will still be an incentive for importers and traffickers of the drug to bring it into the state and sell it to those people who wish to consume it.

We will deal with the issues more comprehensively in the consideration in detail phase of the bill, but I will now address some of the issues raised by members. This legislation is before the house because police asked government to provide them with legislation to assist them to stop and search vehicles and to search distribution centres of courier companies in order to intercept methamphetamine in vehicles and in packages as it is shipped around by the traffickers. That is the context of this bill and why I have brought it into this place. I am not taking credit for the legislation; the idea has come from police. As the government has done since it was elected, when police have come to it and said they believe there might be a useful piece of legislation that will provide them with additional tools to do their job more effectively and to use the resources that government has given them to better effect, the government will bring legislation to this place to ensure that police have the tools they need.

The member for Girrawheen asserted that police may have been acting unlawfully in intercepts with outlaw motorcycle gangs on their biekie runs by stopping and searching them. I do not believe that is an accurate assertion. In those circumstances, when police run operations around OMCG biekie runs, each of the police officers involved in searches of OMCGs or their vehicles still need to form a reasonable suspicion. What then happens is that the court will determine whether individual officers have the requisite reasonable suspicion to uphold the evidence that is obtained or, indeed, to see if any charges that are brought against the offenders can be upheld by the court. I am not going to go into bat for the rights of OMCGs to not be searched. This legislation will, in effect, allow a police superintendent to declare a potential drug transit route around the activities of those OMCGs as they move around the state, which will allow them to lawfully search those vehicles; however, the provisions of the legislation would still apply.

A lot of comments were made about detective positions. There are over 800 detectives in WA Police. I wish to correct some of the comments that were made in March about detective vacancies. During a suspension of standing orders debate in this place, the Leader of the Opposition, the member for Rockingham, read the transcript of a conversation that the member for Girrawheen was quoting from. In the context of that conversation, he said that the question that was asked of me that started the conversation about detectives was, "How are you going filling the extra 200 detective positions?" It was about the detective growth program. Discussion then ensued about issues relating to detective tenure and the way that the training for detective school had changed; that is, officers were required to do the workbook exam in their own time rather than be paid for that as part of the detective training school. That position was subsequently reversed. That was well canvassed at the time. I wanted to correct the record because the assertion was made that I had inaccurately or incorrectly remembered that conversation. When I went through the transcript, I believe that during the suspension of standing orders, the Leader of the Opposition, the member for Rockingham, clarified the position quite well.

Ms M.M. Quirk interjected.

The ACTING SPEAKER (Mr I.C. Blayney): Member for Girrawheen, I note that you are on two calls. The last time I was in the chair, I asked someone to leave the chamber, and I do not want to do it again tonight. I would appreciate being able to hear the minister in silence.

Mrs L.M. HARVEY: To address the assertion, I was asked a question about the extra 200 detective positions, not detective vacancies. We have already canvassed that and I will not go back over it.

I thank the member for Armadale for his contribution to the debate. The police have assured me that they have the resources that they need in order to use this legislative tool should it pass through this place. Indeed, they are quite looking forward to being able to use it to effectively shut down some of the methamphetamine transportation methods throughout the state.

To go back to our strategy, obviously, we know that we need to drive down demand. This is not the only part of the methamphetamine strategy that we have in place—to try to stop supply, drive down demand and reduce harm. We have early childhood centres—child and parent centres—in certain communities that we know need that assistance. We are providing more comprehensive drug education in our schools and communities. We are

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funding rehabilitation beds and detox beds. We are ensuring that we expand the network of community-based alcohol and drug treatment and prevention services. That is also part of our strategy; that is, strengthening families, providing them with services and ensuring that a wider network of services is available for people to address their addiction issues in order to drive down demand and minimise harm. Obviously, that is a very important part of our strategy.

I look forward to consideration in detail, when we can examine the aspects of the bill that have been raised. I thank members very much for their contributions.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Mrs M.H. ROBERTS: Clause 2, “Commencement”, states —

This Act comes into operation as follows —

- (a) sections 1 and 2—on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act—on a day fixed by proclamation and different days may be fixed for different provisions.

How many different days does the minister anticipate there will be? I assume that part of the delay will be for the drafting of regulations. Have those regulations been drafted; and, if so, will the minister provide a copy of them? If the regulations have not been drafted, when does the minister anticipate that they will be drafted?

Mrs L.M. HARVEY: We expect that there will be two dates—the date on which the act receives royal assent for sections 1 and 2 and then a subsequent date, which will be fixed by proclamation. That enables us to set up any processes that may be required to draft any regulations and develop those and also ensure that we have provided the appropriate training to our officers who will be using the legislation. The regulations have not been developed at this point. The usual process is to wait until the legislation has passed through Parliament prior to drafting the regulations.

Mrs M.H. ROBERTS: I think the minister just misled the house in the initial part of her answer. She said that she expects that the act will commence on two dates, one being the day on which sections 1 and 2 get royal assent and the other date being once the regulations are developed and so forth. I note that paragraph (b) refers to “the rest of the act”. Sections 1 and 2 of the act will come into operation on one date. The bill states —

the rest of the Act—on a day fixed by proclamation, and different days may be fixed for different provisions.

It would seem that at least three dates are contemplated. Perhaps the minister would like to explain that.

Mrs L.M. HARVEY: The advice I have received is that clause 2(b) is standard drafting in the event of some unforeseen circumstance that may require different parts of the act to be proclaimed on different days. However, we do not anticipate that occurring. We anticipate that the rest of the act will be fixed by proclamation on a certain day. The second line allows for any contingencies should a problem occur. At this point, we anticipate proclaiming the rest of the act on a single date.

Mrs M.H. ROBERTS: Assuming that this bill progresses through this house either this evening or at least this week and then goes to the upper house, which deals with it before the end of the year, when will we see the regulations? Will they be developed during this session of Parliament or will they be tabled once Parliament has reconvened next year and this act can be implemented?

Mrs L.M. HARVEY: We anticipate that the regulations will be provided to Parliament before the end of the year. In the event that that date is subsequent to the rising of Parliament, my understanding is that those regulations can be tabled with the Clerk in the Parliament at that time. Depending on how expeditiously the legislation passes through both houses of Parliament, it could well be that the regulations are drafted and ready to be laid on the table of Parliament prior to Parliament rising.

Clause put and passed.

Clauses 3 and 4 put and passed.

Clause 5: Part 4A inserted —

Mrs M.H. ROBERTS: Clause 5 is quite a long clause. I refer to page 4 of the bill, under “Division 2 — Authorisations”. Proposed section 20B, “Authorisation to exercise powers to search a vehicle or a person”, reads, in part —

- (1) A senior police officer may issue a vehicle search authorisation under this section if the senior police officer is satisfied there are reasonable grounds to suspect that an area is being, or is likely to be, used for the transport of any of the following —
 - (a) a prohibited drug;
 - (b) a prohibited plant;
 - (c) a controlled precursor.

Can the minister advise the house what those reasonable grounds will likely be?

Mrs L.M. HARVEY: The advice I have received is that the way we anticipate this working, or being used operationally, is that the reasonable suspicion about the area being a transportation route would be due to intelligence that the police have gathered, vehicle stop and searches or previous operations that have informed police that drugs have been transported across that particular section of road.

Mrs M.H. ROBERTS: In the minister’s response, she referred to “reasonable suspicion”, while the bill refers to “reasonable grounds”. Is there a difference? Is that a deliberate choice of words or does the minister regard that as an equivalent phrase?

Mrs L.M. HARVEY: The advice I have received is that the terminology used in the Misuse of Drugs Act is “reasonable grounds to suspect”, and in the Criminal Investigation Act the terminology is “reasonable suspicion”, but they have the same meaning for the purposes of legislation.

Dr A.D. BUTI: I wonder whether that is true, because “reasonable grounds” is like a justification for doing XYZ, and “reasonable suspicion” is a belief in something. I do not think that they are the same thing; I think they are quite different.

Mrs L.M. HARVEY: I am advised that in the Criminal Investigation Act, “reasonable suspicion” is defined, but the term “reasonable grounds to suspect” in the Misuse of Drugs Act has not been defined similarly, because it is an older piece of legislation. In effect, the advice I have received from my adviser is that it is interpreted and used in the same way.

Dr A.D. BUTI: Page 3 of the bill contains the following definition —

drug detection area means an area referred to in section 20B(2)(a);

This is really an operational issue. How is an area defined operationally? Is it done through the use of a global positioning system? How does one actually define it?

Mrs L.M. HARVEY: The advice I have received is that it would depend on the area. It may be defined by GPS coordinates or it may be defined by an actual physical map, but it would need to be defined sufficiently to ensure that officers understand the area within which they can operate and use the search powers in this legislation.

Dr A.D. BUTI: Page 3 also contains the following definition —

drug detection dog means a dog trained to detect the presence of any of the following —

Does this have to be a dog trained by Western Australia Police or can it be a dog trained by any other authorised authority?

Mrs L.M. HARVEY: It needs to be a dog trained in the detection of drugs, and as these operations are put together it may be that those dogs are owned by corrective services or customs and border control. Police envisage that they may be conducting some of these operations in cooperation with other agencies and, as long as the drug dog is trained in the detection of drugs, it is an appropriate animal to use for this purpose.

Mrs M.H. ROBERTS: I refer to proposed section 20B(4) on page 5, which reads —

A vehicle search authorisation may be subject to any conditions specified in the authorisation by the senior police officer issuing the authorisation.

Can the minister clarify what kinds of conditions might be specified by a senior police officer?

Mrs L.M. HARVEY: I am advised that this proposed subsection is included so that police can use the legislation to best effect around the intelligence that they might have gathered. For example, they might have specific information about a particular kind of truck or vehicle, or perhaps a vehicle towing a trailer, that their intelligence informs them is part of the drug trafficking trade, in which case police would have the authorisation

to target those specific makes or designs of vehicle. Depending on the intelligence that police have gathered, it may be appropriate to put limitations on the searches or it may be appropriate to put a limitation on the search in respect of the efficiency of the operation.

Mrs M.H. ROBERTS: Can we just clarify here? It might be possible, for example, that there may be some intelligence or advice that a certain size of vehicle or truck is being used, so police might be authorised to stop and search only those vehicles, and under that authorisation, even though it is within a specified vehicle search area, they would not be able to, for example, stop a family vehicle, or some other vehicles.

Mrs L.M. HARVEY: Yes. I am advised that it may very well be made a condition. If police have intelligence that leads them to believe they may be able to intercept a particular vehicle, they may exclude family vehicles or other vehicles as part of the authorisation.

Mrs M.H. ROBERTS: I also want clarity around the operation of the search. For example, proposed section 20B provides that the drug detection area shall not exceed five square kilometres, and it will potentially be in effect for a period not exceeding 14 days, but it might be less. Will it effectively look like a highly visible roadblock that everyone passing through will see, or will it potentially be a more covert operation? One of the reasons I ask this is that, for example, truck drivers talk to each other. Therefore, people will potentially be tipped off that the police have set up a roadblock in an area.

Mrs L.M. HARVEY: It could be both. The provision could be used for a more covert style of operation or a visible, large operation where it is obvious that police are stopping and searching vehicles. The ability in this provision to extend the authorisation for 14 days is in response to the issue raised by the member about truckies or other people talking to each other and perhaps holding off their drive because they know the police have set up a stop-and-search further up the road. The ability to extend that period is written into the provision in the event that that situation occurs.

Dr A.D. BUTI: Proposed new section 20B is titled “Authorisation to exercise powers to search a vehicle or a person”. Proposed subsection (2) provides that a vehicle search authorisation must set out the boundaries of the drug detection area. In the question I am going to ask, I am not being smart. There was a murder case—I cannot remember the name; the member for Butler may know—in which the boundary became really important. The murder took place in a river, and the case was about whether it was in Victoria or New South Wales. This is important. Under this provision, what would happen if by the time the police stopped the vehicle, it was half within the boundary and half out of the boundary, or three quarters out of the boundary et cetera? Where is the limit? How much of the vehicle has to be within the authorised area? I doubt whether the minister has put her mind to it, but it is an important question.

Mrs L.M. HARVEY: I am advised that in order for the vehicle to be searched under this legislation, it would need to be within the boundary specified by the authorisation. However, I am advised that should a situation arise, for example, in which the driver of the vehicle flees and the police find the driver outside the designated area, the police would be likely to be able to form a reasonable suspicion and use the grounds that currently exist under the Misuse of Drugs Act or the Criminal Investigation Act to proceed with the search of the vehicle.

Dr A.D. BUTI: Further, regarding the minister’s answer about the vehicle needing to be within the boundary, is she saying that the whole vehicle needs to be within the boundary?

Mrs L.M. HARVEY: Yes. Just to be clear, the way we envisage this provision working is that the stop-and-search point would be determined, and generally the five-kilometre perimeter around it would be put in place once police have determined where they want to put the stop-and-search point. That covers off on situations in which the vehicle might—I understand what the member is saying—be parked 50-per-cent out of the zone. What is the choice, then? The whole reason for having a five-kilometre radius around the stop-and-search point is to ensure vehicles are clearly within the stop-and-search area that police will be operating in.

Dr A.D. BUTI: Probably further to this provision, proposed new section 20G is titled “Powers of police officers in relation to searching vehicle in drug detection area”. Proposed subsection (2) states that the vehicle can be detained “for a reasonable period”. I would like to know what a “reasonable period” is. However, I am more interested in proposed paragraph (d), which states that a police officer may “move the vehicle to a place suitable to search the vehicle”. I presume the vehicle still has to be searched within the boundary of the authorisation area. Is that correct? Can the vehicle be moved to an area outside the boundary to be searched?

Mrs L.M. HARVEY: The advice I have is that the trigger for the search of a vehicle is that the vehicle is in the designated area. Should the vehicle then need to be moved from the designated area in order to effect an appropriate search, that could occur and not necessarily be within the five-kilometre radius.

Dr A.D. BUTI: What is a “reasonable period”?

Mrs L.M. HARVEY: The “reasonable period” is what would be reasonable in order to search the vehicle.

Mrs M.H. ROBERTS: Proposed new section 20C is titled “Authorisation to exercise powers to search premises”. This provision outlines an entirely different scenario that basically provides the power to search a delivery business. Proposed subsection (2) outlines that the authorisation must set out —

- (a) the address of the premises to which the authorisation relates;
- (b) the date and time from which it is to take effect;
- (c) the period, not exceeding 24 hours, for which it has effect.

I query whether, in most cases, the authorisation would be for 24 hours. I anticipate that most searches could and would be done in less than half that time. Is it likely that authorisation would still be sought for 24 hours just in case, or would there be circumstances in which only eight or 10 hours, or some other number of hours, might be specified?

Mrs L.M. HARVEY: The provision is for a period “not exceeding 24 hours”. The authorisation would dictate the number of hours that police anticipate would be required to search depending on the size of the delivery business and the number of packages that they anticipate might be there. If it was an intelligence-led operation, which is how we anticipate the legislation would most likely be used, and if police were searching for a specific package, they would determine what would be a reasonable time to be able to find the package, given its size, the nature of the business and the number of packages that would need to be searched. Police are constrained in that they cannot have an authorisation that exceeds 24 hours, but they would put on a time limit based on how much time they would reasonably expect they would require to search appropriately for a parcel that they might be looking for or for a general search of the premises.

Mrs M.H. ROBERTS: Can the minister explain the rationale for proposed section 20C(5) towards the bottom of page 6, where it states —

A premises search authorisation issued when 3 authorisations are already in force has no effect.

Why would there not be more than three search authorisations in place at once? Why is that restricted by the legislation?

Mrs L.M. HARVEY: I am advised that this follows on from the South Australian legislation. A limit was determined to be put into that legislation for the number of authorisations that could be issued. I am advised also that it is not desirable to cause too much disruption to too many of these businesses at any given time, so a limitation of three authorisations has been put in place. Obviously, the consequence of issuing more than three authorisations is that subsequent authorisations would have no effect.

Mr J.R. QUIGLEY: I take the minister to proposed section 20B(5) on page 5 concerning the review of a vehicle search authorisation. It states —

A vehicle search authorisation —

- (a) may be renewed by a senior police officer —

Can this be the same senior police officer who made the first declaration?

Mrs L.M. Harvey: Yes, it could be.

Mr J.R. QUIGLEY: It then states that the renewal must be done before the vehicle search authorisation expires and for a period not exceeding 14 days. Does that mean there can be a rolling 14 days of indeterminate length—the senior officer can renew it on the thirteenth day for another 14 days and again on the thirteenth day for another 14 days so that it is a rolling vehicle search area?

Mrs L.M. HARVEY: Although it could be renewed a number of times, if this is in Eucla, for example, we would have to deploy to that remote location police dogs and police officers trained in the use of the legislation. Obviously, the dogs and the officers would need to come back to Perth. We anticipate using this legislation in an intelligence-led way. Should police have the intelligence that a particular vehicle or driver may be coming through the stop-and-search area and the information has been fed back to the driver that a stop-and-search facility is in place, if the intelligence provides that the vehicles are moving through towards the end of the 14-day authorised period, we could renew that authorisation period to ensure we have the ability to stop and search the vehicle that we want to search. However, realistically, a rolling stop-and-search area would be so

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resource intensive that we would not be able to have a rolling authorisation staffed appropriately to use the legislation to effect.

Mr J.R. QUIGLEY: I am wondering why the 14 days are included in the proposed provision.

Mrs L.M. Harvey: It is a period not exceeding 14 days.

Mr J.R. QUIGLEY: I understand that.

Mrs L.M. Harvey: Maybe it is an operation for two or three days.

Mr J.R. QUIGLEY: I understand that; thank you minister. Proposed section 20B is not targeting a particular vehicle, as the minister suggests. Proposed section 20B(1) provides —

A senior police officer may issue a vehicle search authorisation under this section if the senior police officer is satisfied there are reasonable grounds to suspect that an area is being, or is likely to be, used for the transport of any of the following —

- (a) a prohibited drug;
- (b) a prohibited plant;
- (c) a controlled precursor.

We could say that that could apply to Eyre Highway forever and at any time, could we not? I am sure the police would have reasonable grounds to suspect that an area—Eyre Highway—is to be used for the transport of any of the following. It is not targeting a particular vehicle; it is targeting a road, is it not? We could say that we reasonably suspect that Eyre Highway is habitually used for the transport of any one of the things in 20B(1)(a), (b) or (c) rather than targeting a vehicle.

Mrs L.M. HARVEY: Yes. As with roadside breath and drug testing, we know people are driving under the influence of drugs and alcohol and we set up roadside testing units in an effort to catch, deter and inform and all those things. With this legislation, we can reasonably suspect that some of these routes are being used for the transportation of drugs. However, we would not deploy resources 24 hours a day, seven days a week to search every single vehicle that came through. Regarding my reference to a specific vehicle, the police intend to use this legislation in an intelligence-driven way. Yes, we reasonably suspect the route is being used for transporting drugs or precursor chemicals or whatever it may be. However, police will use their intelligence resources to determine whether it is likely that the stop-and-search powers and an area being declared for the purposes of the legislation can lead to someone transporting drugs being caught. We need to use our resources effectively. We would be using police intelligence to inform when and where we would be likely to declare one of these areas for the purposes of the legislation.

Mr J.R. QUIGLEY: Having recognised that Eyre Highway, for example, is a route about which there would be reasonable grounds to suspect vehicles on that route are transporting drugs, and gives rise to the authorisation in the first place, if we turn to proposed section 20B(5) —

- (a) may be renewed by a senior police officer —
 - (i) before the vehicle search authorisation expires; and
 - (ii) for a period not exceeding 14 days; ...

Notwithstanding the minister's intention this evening; this will be here for ages; I think it was enacted in 1988, from memory, and here we are talking about it nearly 30 years later, so this will be there for decades. A senior officer could make an authorisation for Eyre Highway in the vicinity of Eucla and the Eucla police could stop any vehicle coming into Western Australia to conduct a drug search, and they could roll that on every 14 days by issuing a renewal. That is the effect of this, is it not? We are not opposed to it; I am trying to find out the real effect of this legislation. The Eucla police could set up a permanent random search point at Eucla. There is nothing in the legislation that would inhibit that, is there?

Mrs L.M. HARVEY: There is nothing in the legislation that would prevent that from occurring. It is obvious, in the way that criminals behave, that if they knew there was going to be a permanent search point and that every vehicle was going to be searched when they went through a particular point, the drug couriers and criminals would find an alternative route. That is why this legislation is set up to allow for the declaration for specific points in time—for a specific number of days, for example—and different places in the transport network, because if we leave the stop-and-search facility in place in one particular area, the couriers will find alternate routes.

Dr A.D. BUTI: I refer to proposed section 20H on page 9, headed “Powers of police officers in relation to searching persons in a drug detection area”. In answer to the question I asked earlier about the vehicle being on the boundary, the minister mentioned that if the driver was outside the boundary, the police would need reasonable suspicion to search that person. I am wondering whether that is so under this proposed section. Proposed subsection (1) states —

... a police officer may do a preliminary drug detection test on the following persons —

...

(c) a person who a police officer has reasonable grounds to suspect has recently left a vehicle ...

So the police officer would need to have reasonable grounds that the person had left the vehicle, but would not need reasonable grounds that they were carrying drugs, because the words used are —

... reasonable grounds to suspect has recently left a vehicle that is, or was, in the drug detection area.

I assume that we are now referring to a person who is not in the drug detection area—he was, but now he is not. Maybe the police officer does not need to have reasonable suspicion if that person is outside the area if there are reasonable grounds to think that they were inside the area at one stage in a vehicle that was stopped.

Mrs L.M. HARVEY: I am advised that the way this can be used, for example, is if police stop a vehicle and the driver of the vehicle flees, or somebody indicates that the driver of the vehicle has fled, and they find themselves outside the authorised area. The police officer would then have reasonable grounds to suspect that the person had left a vehicle that is or was in the drug detection area. There would still be reasonable grounds to suspect that the person had been involved with the vehicle that was in the designated area.

Dr A.D. Buti: Yes, so the “reasonable” comes down to the fact that there are reasonable grounds that they were with that vehicle inside the designated area. You don’t have to have reasonable grounds that they were involved in drug dealing.

Mrs L.M. HARVEY: No, it is reasonable grounds to suspect that they were associated with a vehicle that had been stopped within the authorised search area.

Dr A.D. BUTI: I think that answer was slightly different from the previous one, but I think it has been clarified because I think that is the way the minister wants the legislation to work.

Mrs L.M. Harvey: Yes, thank you.

Mrs M.H. ROBERTS: Clause 5 is a very long clause; I am just making sure that I am not going into the next one. Proposed section 20I(3), at the bottom of page 11, states —

A police officer may do a preliminary drug detection test on, or in relation to, a consigned article under subsection (2)(b) only if the consigned article is in a part of the premises used for the purpose of —

- (a) storing consigned articles prior to delivery; or
- (b) sorting consigned articles prior to delivery; or
- (c) dispatching consigned articles for delivery; or
- (d) if the consigned article is in a vehicle, parking vehicles.

I understand that this prevents the search of other parts of the delivery business’s premises. I do not quite understand why that bit at the top of page 12 states, “if the consigned article is in a vehicle, parking vehicles.” That does not appear to make sense to me, so I am not sure what that reference is to. Could the minister please clarify which parts of premises are able to be searched under this proposal?

Mrs L.M. HARVEY: Paragraph (d) relates to the consigned articles. The consigned article needs to be in a part of the premises used for the purpose of storing consigned articles, or in a vehicle or in part of the premises where vehicles are parked. If a consigned article is in a vehicle in part of the premises used for parking vehicles, it can be searched subject to this authorisation. What this does exclude, though, is the ability for officers to search staffrooms, locker rooms, kitchen facilities and office components of these delivery businesses. In order to search those, the police would need a search warrant, as they would usually require. This legislation allows officers to search only those areas where the consigned articles are being sorted, stored in vehicles, being dispatched into vehicles for delivery or stored in a vehicle that is parked awaiting a driver to take it elsewhere.

Mrs M.H. ROBERTS: I have a further question on this. For instance, an order is in place for a particular premises. Parcels are in one of those defined areas. Could the minister please clarify whether police are then at liberty to open the articles or whether there has to be some preliminary test done that qualifies them to open a parcel, an envelope or a package of some description; and, if so, what would that preliminary test involve?

Mr David Templeman; Ms Margaret Quirk; Dr Tony Buti; Mrs Michelle Roberts; Mrs Liza Harvey; Mr John Quigley

Mrs L.M. HARVEY: This is in the legislation in a paragraph above. It states that a police officer can only — open and examine a consigned article if a preliminary drug detection test indicates the detection of any of the following in relation to the article —

- (a) a prohibited drug;
- (b) a prohibited plant;
- (c) a controlled precursor;

They cannot just open any consigned article. They can open an article only if a preliminary drug detection test has a positive reading.

Mrs M.H. ROBERTS: The further part of my question was: what would those preliminary drug detection tests be?

Mrs L.M. HARVEY: It would be either a drug dog or a scanning device. There are scanning devices available that can detect the presence of these chemicals. If that scanning device was run over a consigned article and came up with a positive reading, that would give the police the ability to open that consigned article and examine it.

Dr A.D. BUTI: I refer the minister to proposed section 20J on page 12, “Failure to comply with requirement of police officer”, which states —

A person who fails to comply, without reasonable excuse, ...

What would be a reasonable excuse? I would have thought that a person would not be able to refuse.

Mrs L.M. HARVEY: I am advised this is a standard provision for failure to comply. If there is a reasonable excuse—for example, a person has a physical disability or is unable to comply for some reason with the request—this proposed section will ensure that consequences are not levied against an individual who for some reason cannot reasonably comply with a request.

Dr A.D. Buti: So you may be looking at a physical or mental health thing?

Mrs L.M. HARVEY: It could be physical, it could be mental health; whatever it might be.

Clause put and passed.

Clauses 6 and 7 put and passed.

Clause 8: Section 42A and 42B inserted —

Mrs M.H. ROBERTS: I referred to this clause during my second reading contribution. It provides for the annual report to the minister on part 4A. As is explained in proposed section 42A, the commissioner must report to the minister. The details of what needs to be in the report are included in that proposed section. I am looking through them. I would like a few points clarified. Proposed section 42A(1)(b) refers to the areas subject to a vehicle search authorisation. The member for Armadale asked an interesting question earlier about how vehicle search areas would be defined, and whether it would be from GPS coordinates. As part of her answer, the minister said that it could be a map, but that the coordinates would need to be clearly defined. Will the annual report to the minister specify and define those areas in the same way as they would have been originally defined? Also, what level of detail will be required under proposed paragraphs (e) and (f)? Both paragraphs use the same words. They both state —

the number of occasions when, as a result of the exercise of the powers conferred by —

Paragraph (e) refers to section 20G(2) and paragraph (f) refers to section 20H(1) —

... a prohibited drug, prohibited plant or a controlled precursor was detected by a preliminary drug detection test;

According to the annual report, we will get to know in what areas searches were conducted. We will also know what premises were searched. Under paragraphs (e) and (f) we will get to know the result—whether they searched premises and found nothing or whether they searched premises and found a prohibited drug, or whatever. I want to know in particular whether under paragraphs (e) and (f) we will just get a single number of occasions, such as 15, or will we be given separate numbers—such as, prohibited drugs, three; prohibited plant, six; controlled precursor, five—or whatever? Are we going to be given specific numbers for each of those categories? Will we get a number for each of those occasions or will it just be a total number? Will the information provided indicate what was found in each of the areas? Will we know that when they were searching premises, for example, which premises were searched and what was found in terms of the exact numbers of prohibited drugs, controlled precursors and whatever, or will it not be that detailed? I would like to know that. I may have some further questions, but I will wait for the answers to that question first.

Mr David Templeman; Ms Margaret Quirk; Dr Tony Buti; Mrs Michelle Roberts; Mrs Liza Harvey; Mr John Quigley

Mrs L.M. HARVEY: We envisage it would be reported similarly to South Australia. Proposed section 42A(1)(e) refers to the number of occasions when a controlled precursor or drug is detected in a preliminary drug detection test. That is potentially the number of times that a dog or a machine has detected that there may be a controlled drug or precursor on premises. Then paragraph (f) is a bit more specific about what follows from that preliminary test, as in a positive detection for different drugs or precursor chemicals. I refer to the way this is reported in South Australia. For example, a comprehensive report was put together for the period 1 July 2014 to 30 June 2015, and we envisage that we would report in the same way. The report indicated that during the period there were 2 616 indications of the presence of a controlled drug, controlled precursor or controlled plant during the exercise of powers under various sections; and then from these indications there were 382 detections, 1 902 residual admissions and 325 residual denials. It goes on to detail police actions arising out of that with arrests, reports, drug diversions and cannabis expiation notices. We would expect a similar kind of reporting. That is certainly what I anticipate, because we want to understand how often the powers have been used in determining the individual locations where the search areas had been designated and then, out of that, the results, so that we can ensure the legislation is working in the way we anticipated.

Mrs M.H. ROBERTS: Just a follow up on that: where premises are listed, for example, courier company premises or whatever, will we be able to deduce from the report how many positive detections there were at a particular company on a particular occasion and also what has progressed with the particular premises that were searched?

Mrs L.M. HARVEY: The legislation provides that we need to advise the premises that were subject to a premises search authorisation and, indeed, define what occurred as a result of that premises search. So, yes, the detail of those premises and the outcomes would be part of that report.

Mrs M.H. ROBERTS: I think that is clear and if what the minister said is correct, that is satisfactory. I am not debating that; I just want to assure myself that we will not just get one list of premises, another list of numbers for detections, and then in the next part a list of what was found and whatever. My query is whether they will be matched by premises. For example, we might see that a particular company has been utilised more than another or that particular search areas are being more effectively employed than others.

Mrs L.M. HARVEY: I do not envisage that we will go down into the detail of individual searches; for example, a search of a particular courier company on a particular date and the charges and convictions that may come out of that. That level of detail would be difficult to collate, but certainly we can report the number of preliminary detections and what has resulted from those detections, as in the drugs that were found. When it comes to court outcomes, for example, I would not envisage we would put that level of detail in this report.

Clause put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MRS L.M. HARVEY (Scarborough — Minister for Police) [10.00 pm]: I move —

That the bill be now read a third time.

MRS M.H. ROBERTS (Midland) [10.00 pm]: I am really pleased that we have been able to deal with the Misuse of Drugs Amendment (Search Powers) Bill 2016 pretty quickly today. I note that this is the second bill we have put through the house today. I think this is very positive legislation. The opposition has been very keen to support it. I really hope that it can be expedited through the other house and that the regulations can be done promptly. I think these are necessary tools that the police need to have at their disposal. I certainly sincerely hope that it is very effectively deployed by WA Police.

MRS L.M. HARVEY (Scarborough — Minister for Police) [10.01 pm] — in reply: In closing the debate on the Misuse of Drugs Amendment (Search Powers) Bill 2016, I thank members for their cooperation in passing it through this house expeditiously, notwithstanding that there was thorough examination of the legislation by all those involved. I thank members for their cooperation. I hope that it can be expedited through the other place so that we can bring the regulations forward and bring the legislation into effect as quickly as possible. Once again, I thank members for their contributions to the debate. I believe this is good legislation that will be used to great effect by police to try to interdict the supply of methamphetamine throughout our community.

Question put and passed.

Bill read a third time and transmitted to the Council.