

Hon Norman Moore; Hon Lynn MacLaren; Hon Kate Doust; Hon Jon Ford; Hon Ljiljana Ravlich; Deputy President; Hon Simon O'Brien; Hon Linda Savage; Hon Ken Travers; Hon Michael Mischin; Hon Philip Gardiner; Hon Dr Sally Talbot; Hon Adele Farina

PROHIBITED BEHAVIOUR ORDERS BILL 2010

Discharge of Order and Referral to Standing Committee on Legislation — Motion

Resumed from an earlier stage of the sitting.

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [5.04 pm]: The government considers this bill to be a significant and important part of its law and order program and therefore will not support this motion to refer the bill to a committee. As members will know, this government was elected on a strong law and order platform, and it was a very significant issue during the last state election. The then Liberal opposition made a number of commitments on law and order matters. This is part of that particular program. We are very anxious to ensure that our legislation is passed so that the measures we are taking with law and order matters are implemented as soon as possible. Indeed, in the second reading speech for the bill, there is reference to the Liberal Party's commitment at the last election and to the reason we are going down this path and down the path of a number of other legislative measures to achieve what we believe will be an improvement in some law and order issues in the community.

We therefore will not support the motion to refer the bill to a committee. Sometimes—I will not say on every occasion—references to a committee can be done for the purpose of delaying the implementation of a piece of legislation. If that is the intention of the Greens, I understand that. But this bill was a green bill and has already been subject to community consideration. Indeed, a number of submissions were made on the bill, and my understanding is that a number of amendments were made to the bill as a result of those submissions. It has already been considered by the community. I make that point because often one of the reasons for sending a bill to a committee is to make it available to the public and to give members of the public a chance to make their position known. It is our view that this has already happened by virtue of the green bill. We are very keen to progress this initiative and we are seeking to have it passed by the house prior to the house rising for the summer recess.

The Greens are clearly opposed to the bill and my advice to them is that they take off their rose-coloured glasses occasionally and have a look at the real world. I suggest that the opposition make an announcement that it is opposed to this legislation, vote against it and make a commitment to repeal the legislation, if that is its view, if it is elected at the next election. The current government has a particular view on law and order matters, and this is part of it. The opposition has a completely different point of view on law and order and it can make its position known to the public so that when the time comes for members of the public to vote again, they know where both sides of politics stand on these matters.

Again, I say to the house that we will not support the motion to refer the bill to a committee to delay what we believe is an important part of our law and order program. Indeed, because it was a green bill, our view is that members of the public have had a chance to comment. The time has come for the house to make a decision. If members do not like the house's decision, they should give a commitment to change it if they are re-elected sometime down the track. We will not support the motion moved by Hon Alison Xamon.

HON LYNN MacLAREN (South Metropolitan) [5.07 pm]: I rise, not unexpectedly, to support the motion to send this bill to a committee. I noted the Leader of the House's comments about why the Greens (WA) might be particularly interested in sending this bill to a committee and the association that we do not live in the real world. I invite the Leader of the House to examine a bit more carefully the learned comments and criticisms that have been made in response to this bill and to consider that that opinion might be a little premature and that the Greens are in fact looking at the real world, just as many people in Western Australia are looking at the Prohibited Behaviour Orders Bill and pointing out quite realistically that it will not work. In fact, laws exist for the behaviours on which the government is trying to impose this overly harsh law and order regime. I consider the opportunity to refer this bill to a committee to look at carefully to be an opportunity that this government should grasp.

The people of Western Australia have a reasonable expectation that any and all laws passed by Parliament will be made on sound judgement, on reasonable evidence and with realistic budgets. I do not think that this bill does that. I have more substantive comments to make about the Prohibited Behaviour Orders Bill, and they are based largely on the comments that Hon Alison Xamon has already made.

The PRESIDENT: Order! On that note, I will clarify something for the member and the house. Hon Lynn MacLaren is speaking to the referral motion, but because she has not yet spoken to the main question that the bill be read a second time, this contribution is taken to be her contribution to the second reading debate, as well as

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her comments on the referral motion. I just wanted to make sure that she knew that while she was on her feet and that other members are aware of that. She can continue her comments on the substance of the bill as well.

Hon LYNN MacLAREN: Thank you, Mr President. That advice is much appreciated.

I will make some very brief comments about the reasons the Greens oppose the bill and the reasons we think a committee may be able to improve it somewhat. The Aboriginal Legal Service has been mentioned several times. I believe that a submission it made to the Western Australian Parliament has been tabled in this house, but it was tabled some time ago. I want to focus on a couple of the points made in that submission as to why this bill should be rejected. The Leader of the House mentioned that a green bill had gone out to the public for comment and that the government had already considered some feedback. There were some refinements to the manner in which the PBOs would be introduced. The initial ideas floated in the Liberal Party policy paper were not really addressed. They basically stayed the same.

What we have before us is pretty much what the Liberal Party wanted to do in the beginning. The concerns that the Aboriginal Legal Service has relate to the discriminatory and damaging impact that the legislation will have on certain segments of the WA population. Many members have already mentioned the sectors that the ALS is concerned about. They include Aboriginal people. Many of them will be discriminatorily impacted by this legislation. The reasons why have been articulated by others. In addition, people who are suffering from mental illness, young people and the homeless will be impacted by the legislation. We have a sincere responsibility to speak up for these people in this house. We should not be passing laws that will impact on them indiscriminately and in a very damaging way.

This bill is likely to increase the incarceration rates of Aboriginal people. It will allow people to be imprisoned for minor offences. We already have misconduct restraining orders that will deal with many of the behaviours that people are concerned about. In fact, the Aboriginal Legal Service has provided us with specific information about misconduct restraining orders. I quote from the submission that has been tabled. Page 6 states —

Should the court consider it necessary, the court is empowered to prohibit the respondent from engaging in particular behaviours including being in specified places or with specified people, communicating with specified people, or engaging in specific behaviours at specified times or places.

Misconduct restraining orders, which are in the hands of the courts to impose, will manage quite a lot of these behaviours but also have the added failsafe in that the courts can, in deciding whether to impose an MRO, take into consideration particular situations the respondent might be in, such as difficulty with accommodation, or under undue hardship as a result of the MRO being imposed. It is really important that the court has the ability to weigh up those situations and decide whether to impose a misconduct order.

The Prohibited Behaviour Orders Bill is discriminatory and damaging. It will have an impact on certain sectors that we really should be looking after. In particular, the Aboriginal Legal Service said that the bill has the scope to breach civil liberties, including the right of association, which is a fairly fundamental right. I would hate to see the prohibited behaviour orders used in that way in Western Australia because, as members know, we enjoy quite a free and fair society and can associate with whomever we like. The submission states —

... no evidence has been provided to demonstrate that PBOs will reduce antisocial offending or that existing laws cannot be used more effectively to achieve the alleged benefits of PBOs.

Hon Michael Mischin: Evidence will be available in a year's time after it will be put in place.

Hon LYNN MacLAREN: We look forward to seeing that evidence in committee. That is an appropriate place in which that kind of evidence might come up. What was the foundation behind this and are there realistic views —

Hon Michael Mischin: You said this about mandatory sentencing, and the assaults against police dropped 37 per cent.

Hon LYNN MacLAREN: I wanted to support the comments most recently made by Hon Col Holt about the impact of this legislation on children. I quote from the ALS's submission yet again. It states —

ALSWA submits that publication of a child's details will ostracise the child and their family from the community and hinder the ability of a family to deal with the offending of the young person. This will not assist the child in developing a sense of social responsibility nor will it strengthen the child's family group.

In fact, the ALS stated that if this bill was to be considered by a committee, it should consider the following recommendation —

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That if publication of details of PBOs and their subjects are retained, the Bill be amended to remove children from the default position of automatic publication and require an application for publication of details with respect to the child to be brought before the court separately.

It is a very reasonable recommendation. It is a real world recommendation and it is a recommendation that the Greens support. In fact, I will simply say that all the recommendations in the Aboriginal Legal Service of Western Australia's submission to our Parliament regarding the Prohibited Behaviour Orders Bill should be considered by the committee and be accepted by this government. It is a reasonable ask. They are not unreasonable asks. They are based on real world experience of the Aboriginal Legal Service, which has served this community well for many years. I think we would do a disservice not to take them into account.

In summing up, the Greens are opposing this legislation. We cannot see how it can be amended. However, there are some suggestions for amendment that would be worthy of consideration by a committee. Although I oppose the bill, I support the motion to send it to a committee.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [5.19 pm]: The opposition will support the motion of the Greens (WA) to refer the Prohibited Behaviour Orders Bill 2010 to the Standing Committee on Legislation. Based on the discussions in this chamber over the past couple of weeks, we believe that enough concern has been expressed by a number of members about the lack of evidence provided by the government to proceed with this bill and the lack of evidence that this type of legislation will have a positive impact and lead to a change in behaviour. It has not provided that evidence. Given that this experiment failed in the United Kingdom and the British government's attitude that this is simply a conveyor belt to jail, we question why this government is still proceeding with this legislation and not looking at other alternatives or at what is currently available in the court system to address these issues. We also believe that there should be a much broader discussion in the committee system about the differences in this legislation. The government says that this legislation deals with antisocial behaviour but then it provides us with a document listing the types of offences that would be picked up under this legislation. We have only to read the list to see that they are acts of criminal behaviour, not antisocial behaviour, so the government needs to clarify that and have a broader community discussion.

We are very concerned that the government has not taken into account the permanent impact of naming and shaming individuals. The fact is that names and photographs will be put on the internet. The opposition believes that the committee should look at the research done elsewhere about the long-term implications of placing a person's photograph and name on the internet. As we now know, once any document or detail is put on the net, it is there forever; it is instantaneous and it is everywhere. It is not isolated to the here and now; it is everywhere! Even if that information is deleted, it can always be found again. The government should undertake to research and provide information about not only the long-term implication of putting names and photographs and other details on the net, but also the use by other people of that information and how it will impact on the young people and children this bill allegedly targets to modify their behaviour. The opposition has already expressed its concerns and believes that much broader research about the implications for that group of people in our community is needed. I do not believe that the government has done that work, but it could do that work.

We know the value of committee work in this place. In fact, we have recently seen that value and the quick response of the government to the work of the Standing Committee on Legislation on another piece of legislation—a plank of this government's law and order reform platform; that is, the Criminal Investigation Amendment Bill. The committee strenuously worked its way through that bill for the last year and has in fact made more than 40 recommendations to the government about how it can improve that legislation. I understand the government has acknowledged that it will accept about 36 of those committee recommendations. When the Criminal Investigation Amendment Bill was before the house, the government said that it would not look at changing it, but now that the committee has done the work—that is, done the research and worked out how that bill could be improved—the government recognises that it is now a better piece of legislation. The government thinks that; we do not! I use that as a recent example of how government legislation can be improved. Although issues about this bill have been raised, it is important that the Greens have moved to refer the bill to the committee, because a lot more work is needed. The Prohibited Behaviour Orders Bill is another example of this government putting up knee-jerk reaction legislation without thinking about the long-term implications for all the players engaged with it.

The opposition believes there needs to be more input from the community. Although the Leader of the House said that a green bill had been put out for public debate, it was introduced in, I think, the last sitting week of 2009. I know that when I searched the Attorney General's website to find the submissions for that green bill, I could not locate them. I do not know whether they are available for public viewing. When I contacted the Commissioner for Children and Young People for a copy of her submission to the Attorney General on the green

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bill, the commissioner advised me that she could not provide me with a copy and that it was not a public document because it had been sent to the Attorney General. I wonder whether other such submissions were also conveyed in the same way. We therefore have no idea of the types of views presented to the government about this legislation. If this referral to committee is successful, it will afford those people who are genuinely concerned about the make-up of this legislation and about its implications, the opportunity to present to the legislation committee in a public forum and put on the permanent public record their views about this legislation and whether it can be improved. I know that the Leader of the House has said that the government was elected and that it has these law and order bills that we should support because they are a part of the government's mandate.

Hon Alison Xamon: The government did not have a mandate.

Hon KATE DOUST: No; it did not have a mandate. The member is right. It is a collaboration of the Nats and the Libs; it is not a mandate. I thank her for reminding me of that.

It is not that Labor members do not acknowledge the difficulties. We do not wear rose-tinted glasses; we know that there are issues out there in our community. We know that there are antisocial behaviour problems. But we do not think that legislation such as this will change that behaviour. We believe there needs to be a much broader look at how to change behaviour, and this legislation is not the way to do it. Our problem is that we do not want to see bad or poorly drafted legislation go through this place—legislation that will not work and is not practical. Therefore, we want to make sure that the people with expertise in this area and the people who have worked with this type of legislation are brought in to provide the evidence that this government has not been able to provide or put on the table to substantiate this legislation; that is, to provide the empirical evidence as to how and why it might work. We think that the only way to make that happen is to refer this bill to the Standing Committee on Legislation.

Opposition members are concerned about the implications for young people; we do not think that the government is. I know that Hon Col Holt provided details about his concerns today. I encourage National Party members who are concerned about the implications of this legislation for young people to stand and be counted in support of this referral. It might be their only opportunity to afford some protection to those young people. As Hon Col Holt referred to in his contribution to the second reading debate, young people of 13 will make mistakes. I had another look through the bill today and I have some real concerns about how the decision will be made to take the step to impose a PBO. It is not necessary to have a record of criminal activity; it might only be a community service order on record that is taken into account by the prosecutor or court when totting up how many offences a young person has before looking to slap on a PBO. I think the committee should look at whether this is fair or appropriate legislation for young people and at the implications for young people in terms of future employment and education opportunities.

We have not had a proper discussion with the government about the funding implications of this legislation. I do not think that the parliamentary secretary is in a position to answer those questions as we work our way through this bill. Perhaps that would be something better dealt with in committee. I pick up on Hon Lynn MacLaren's point about the submission from the Aboriginal Legal Service. I think that excellent submission contains thorough, detailed and well thought-out amendments. Amendments that one would have thought the government would take on board and perhaps put on the notice paper for consideration to improve the legislation. They might have been supported by members on this side of the chamber. The parliamentary secretary may well laugh, but I think that the ALS has reasonable grounds for concern given the potentially large number of Indigenous children this legislation could target and that it has worked up some very good amendments to make this better legislation.

By referring this bill to the Standing Committee on Legislation, a whole range of players in our community will be given a better opportunity to voice their concerns, to raise issues about this bill and to suggest amendments to make this a better bill. It would give the government the opportunity to garner the research material to better explain the reasons we have to deal with this legislation and to better explain how it will or will not work. I still do not believe that slapping on a PBO will change somebody's behaviour. The bill contains a whole set of circumstances that are, I think, impossible to manage. The Leader of the House's commitment on behalf of the Liberal and National Parties in this place to not support a referral to the legislation committee is very disappointing. Labor members would have liked to have had a well thought-out discussion about how the government expects to deliver and manage all that is contained in the legislation. I think all members opposite are aware of the value of our committees and the important work that they do, which has recently been evidenced by the stop-and-search legislation and the report that has just been handed down. We look forward to going through that report in detail at another time. We hope there will be support in this chamber to apply the

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same rigorous testing of this legislation in that committee, so that there can be a better outcome and a better piece of legislation for this chamber to view and a better outcome for our state.

HON JON FORD (Mining and Pastoral) [5.31 pm]: I particularly support the referral because I want to know what the unintended consequences will be for people, particularly in my electorate, who live in very poor conditions. As I said in my previous contribution on this bill, they already suffer from discrimination and isolation from the community, from both a support perspective and a real perspective. I want to know the practical implications of the effects of this bill on them. I do not know how it would work. Whenever I think about it in depth I cannot see a practical positive impact that this bill would have on those people. That is an important aspect that the committee will be able to flesh out. It will be able to talk to those people, many of whom do not even know that this is what the government is planning to do. The government might claim that there has been consultation on this, but in Jigalong, Wangkatjungka, Oombulgurri and Beagle Bay people do not know what this legislation is. It will just happen. In fact, if members went to the main communities and doorknocked and asked the white people and those with better resources and a better economic position in society, in places such as Broome, Port Hedland, Karratha and larger more populous areas, they would not know either. I would like to hear their views on it.

I would also like to hear some of the views of police. Rather than a few coppers of senior rank in town in the policy division, I would like to hear the views of police in those areas on how this legislation would work. I know that their views do not always match the government's view. To take the example of the liquor restrictions in the Kimberley, senior officers there say that prohibition does not work and that we need to have another solution and that prohibition is a short-term fix.

My understanding is that anti-social behaviour orders have been an absolute failure in Britain, so why are we introducing something into this society that has already been seen to be a failure in a comparable jurisdiction? A committee would have the ability to look at that. Not that I would encourage committees to travel to Britain, but I think committee members would learn some valuable lessons.

As I said before, as with all such legislation, we end up with an unintended consequence. I have not heard anyone from the government side say that this legislation will not discriminate against people living in poverty; that it will not discriminate against Indigenous people; that it will not particularly target certain classes of people in the community. All the evidence that I have seen shows that it will not deliver what the government's stated objectives are. Who knows; the committee might come back and say that it works.

Hon Michael Mischin: Really! We have had two speakers on the opposition side say that it is not going to work and they oppose it outright. Do you really think they are going to come down with a committee report that says, "What a great idea"?

Several members interjected.

The DEPUTY PRESIDENT (Hon Helen Morton): Order, members! I think Hon Jon Ford has the floor.

Hon JON FORD: I think the reflections of the parliamentary secretary are insulting to any member of any committee. I do not know about committees that he works on, but the committees that I work on are cross-party committees. We work very well together and we do not take a party line.

I ask the house to support this referral motion. Let us see what comes back in the form of a report. Let us get the detail. If the motion fails, it will take a lot longer to flesh that out in committee here. But if that is the way that the government wants to go, that is the way we will go.

HON LJILJANNA RAVLICH (East Metropolitan) [5.38 pm]: I too would like to give my support to the motion moved by Hon Alison Xamon. I am really grateful that she moved the motion —

Several members interjected.

Hon LJILJANNA RAVLICH: Yes, I am. I am really pleased that she has moved it. I do not see why anybody should be afraid of scrutiny. I do not see why people would want to adopt a position of not wanting to have confidence in the legislation that they are putting through the Parliament and to ensure that they get it right and that the legislation does not carry with it unintended consequences. I am sure that members were listening when I made my contribution to this debate some time ago. Even I have forgotten parts of it! I do remember a very important point that I made about the yellow Lamborghini and the fact that there were such unintended consequences as a result of the speed at which this government wanted to introduce its law and order legislation and just ram it through. All of a sudden the government found that it had created a huge problem for itself and, of course, for the owner of the Lamborghini, the person who took the Lamborghini for a joy-ride and the many

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other people who were involved in that very sad and sorry case. However, it is a very interesting case and a very good case in point because without proper scrutiny, there is always a high risk of unintended consequences.

This is part of the government's law and order program. This is part of the government's saying, "We got elected, and we have a policy of being as tough as we can on matters of law and order. We have a policy of being tough on crime; and, by golly, all those bad people out there are going to cop it, because we want the good citizens of Western Australia to know exactly what we are about." But, having said that, it is important that we get this legislation right. It is important that this legislation does not carry with it a range of unintended consequences. It is important that this legislation does not inadvertently discriminate against certain people in our community.

Hon Simon O'Brien: Of course!

Hon LJILJANNA RAVLICH: I do not think that is very funny, Hon Simon O'Brien. There are groups within our community who face a huge challenge in trying to deal with a range of laws that have unintended discriminatory consequences. Whether we like it or not, that is the way it is. It would, therefore, be very worthwhile if a committee of this place could have a thorough look at this piece of legislation.

I also remember making the point, in my previous contribution to this debate —

Hon Simon O'Brien: It was about as articulate as this one!

Hon LJILJANNA RAVLICH: I thank Hon Simon O'Brien very much for the compliment! I accept that. During that debate, the parliamentary secretary provided me with a list of behaviours that would be prohibited under this legislation. I remember making the point at that time that the parliamentary secretary had said that that list was only indicative; it certainly was not the full list of behaviours that would be prohibited under this legislation. I think I cited cases in the United Kingdom in which begging and fights between neighbours about fences had fallen into the category of prohibited behaviours. If we do proceed with this legislation, we need to ensure that we wrap a greater level of certainty around it.

I turn now to some of the recommendations that the Aboriginal Legal Service of Western Australia made in its submission to the Western Australian Parliament on this bill in August 2010. The ALS raised some serious issues on behalf of Indigenous people. Those matters require thorough investigation by a committee of this Parliament. The first recommendation was that the bill be withdrawn from Parliament. The second recommendation was that, prior to any vote on the bill, information be sought to demonstrate how prohibited behaviour orders will reduce antisocial offending, and why other mechanisms that already exist in this state cannot be utilised to achieve this aim. That is a fundamental question to ask, yet that is a question to which we currently do not have an appropriate answer. No-one has explained to me why the mechanisms that currently exist under statute are not working and why we need to introduce a new parcel of legislation to fix this problem.

Hon Simon O'Brien: Read the EM!

Hon LJILJANNA RAVLICH: I have read the EM and the second reading speech. Hon Simon O'Brien would not have the capacity to get up in this place and explain where those gaps are. He has no idea.

Hon Michael Mischin: If you would sit down, we would be able to do it!

Hon LJILJANNA RAVLICH: The parliamentary secretary will get his turn to respond.

Hon Michael Mischin: Sometime before the end of this year, I hope!

Hon LJILJANNA RAVLICH: Members opposite just have to stop carping.

Hon Donna Faragher: Stop carping? Are you listening to yourself?

Hon LJILJANNA RAVLICH: I know that Hon Donna Faragher is a member of the government, and I know that she does not like to hear this. But the questions that I raise and the issues that I raise are very serious. Rather than try to be smart alec about this, members of the government should listen to what is being said. I am putting very good reasons for why the motion that has been moved by Hon Alison Xamon should be supported and why this legislation should be thoroughly investigated by a committee.

The third recommendation from the Aboriginal Legal Service was that the government should pursue more economically rational policies to effect positive community changes to reduce antisocial behaviour. Of course, that also needs to be explored. We need to explore the mechanisms that are currently available and see whether those mechanisms are effective in reducing antisocial behaviour. Is there anything else that we can do, other than legislating by this means, to achieve this outcome? I do not know. However, if I were a member of the committee, that is a matter that I would very much want to investigate thoroughly.

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The fourth recommendation of the Aboriginal Legal Service was that, prior to any vote being taken on the bill, evidence be offered to demonstrate why PBOs are required, given that, under statute, we already have misconduct restraining orders. I am not a lawyer, and I do not know the details about misconduct restraining orders, but they would appear to achieve an outcome that is very similar to, if not the same as, prohibited behaviour orders. I would be very interested to pull apart the workings or the make-up of misconduct restraining orders and compare them with what we are proposing for prohibited behaviour orders.

Hon Adele Farina: Good point!

Hon LJILJANNA RAVLICH: Yes, good point! I do not hear anyone over there say that is a good point. I think it is an excellent point.

Hon Michael Mischin: It is not a very good point at all.

Hon LJILJANNA RAVLICH: If the parliamentary secretary thinks he has the answer to that, then, apart from listening, he should give us in his response a comprehensive analysis of where misconduct restraining orders and prohibited behaviour orders are similar, where they are different, and where there are gaps that need to be addressed, and why we need to end up with something that is like misconduct restraining orders —

Hon Michael Mischin: They are not alike. Read the bill. You should know that.

Hon LJILJANNA RAVLICH: I am not a lawyer. I have already put on the public record that I am not a lawyer. Is the parliamentary secretary telling me that the Aboriginal Legal Service does not know what it is talking about? I am going only on the recommendation of the Aboriginal Legal Service.

Hon Michael Mischin: But it doesn't have the responsibility of government, does it? It has its own clientele's interest at heart.

Hon LJILJANNA RAVLICH: The parliamentary secretary says that I should read the act and tells me that I am not a lawyer. I accept that I am not a lawyer and that if I read the Criminal Code, I probably would not understand all of it. However, I have confidence that the Aboriginal Legal Service is across this issue. If it is saying that there is a similarity between what misconduct restraining orders do and what prohibited behaviour orders do and is asking why we need both —

Hon Michael Mischin: Would you support the bill if I could show you what the differences are?

Hon LJILJANNA RAVLICH: I support it going to a committee. It is not a matter of what the parliamentary secretary and I believe and whether I believe what the parliamentary secretary says. It is very important that a number of people get together to tease out the information and look at it in detail. There are plenty of times when I have taken someone's word and got myself into all sorts of trouble.

Hon Robyn McSweeney: You too have appeared before committees.

Hon LJILJANNA RAVLICH: I spent half of my ministerial life appearing before committees! I could have done much more had I not done so much of that. The Aboriginal Legal Service raises a very good point. I believe that a parliamentary committee could do very good work by looking at those differences.

I have a number of recommendations to get through. The next recommendation is that prior to voting on the bill, evidence should be offered to demonstrate how PBOs will have a greater impact on reducing reoffending than existing criminal offences and sentence options. That links to the recommendation I dealt with previously. If we are to have this new legislation, we want it to make a real difference. We do not want it to be no different from what is already out there, other than being a marketing exercise or legislation which promotes the government as being tough on crime but which achieves nothing more than that which exists under the current statutes. We would need evidence to demonstrate—we still have not heard any—how PBOs will have a greater impact on reducing reoffending. I ask the parliamentary secretary whether any analysis has been undertaken or research done to demonstrate that that is the case.

Hon Michael Mischin: Sorry, that what is the case?

Hon LJILJANNA RAVLICH: This is a very good point. The Aboriginal Legal Service recommended that prior to a vote on the bill, evidence should be offered to demonstrate how PBOs will have a greater impact on reducing reoffending than the existing criminal offences and sentence options.

Hon Michael Mischin: If you pass the bill, we will see about the evidence and we will see how it works.

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The DEPUTY PRESIDENT (Hon Helen Morton): Order! Hon Ljiljanna Ravlich, this is not question time. Please complete your debate without asking the parliamentary secretary questions.

Hon LJILJANNA RAVLICH: Thank you very much, Madam Deputy President; I apologise for my indiscretion in that regard.

The point I make is that evidence should be provided to this house to demonstrate that prohibited behaviour orders will have a greater impact on reducing reoffending. From what I can see, no evidence has been provided to this place that that is the case. I have no idea whether they will or will not. However, I suspect that no analytical work has been done on whether PBOs will reduce reoffending more than the existing criminal offences and sentencing options. We should have access to information about that. I asked the parliamentary secretary about that and he did not really answer the question; he did not know. He knows as well as I do that this work has not been done. It is very important work and it is work that I very much believe should be done. The Aboriginal Legal Service does a very good job and is fighting an uphill battle. It probably moves a fraction forward before another wave of legislation that has unintended consequences impacts on the people the ALS represents. The ALS staff must sit in their East Perth office, shake their heads and wonder what is happening to the people who rely on their services and how on earth they will advance when every obstacle possible is put in their way. There will be no consideration of the way in which Aboriginal people socialise and interconnect with their families and so on. The one thing that can be guaranteed is that this will not be culturally sensitive legislation—not by a country mile. It is no wonder that the Aboriginal Legal Service is extremely concerned. It is obviously concerned because its sixth recommendation in its report states that the bill should be amended to ensure that a court cannot prohibit an Aboriginal person from interacting with specified individuals who are family or community members if the person does not pose a threat to a specified individual. That is an important point. What is the likely cultural impact on Aboriginal people as a result of the passage of this legislation? Clearly no-one in this house can answer all those questions. The parliamentary secretary has generously offered to explain all this to us as though it would be an easy task, but the fact is that it is not easy; it is very, very complex. The consequence of this legislation will not be uniform. It will hit some sections of the community harder than others. The legislation will impact people of a certain age. Commonsense tells me that the average 16, 17 or 18-year-old will be much more impacted by this legislation than a 95-year-old. I cannot see too many very senior people being impacted by it. Once again, the work probably has not been done on the impact the legislation will have on different age groups.

This legislation warrants being sent to a committee, and probably should have gone to a committee prior to being introduced into this chamber because of the seriousness of the consequences of getting it wrong. However, that is not the path the government has chosen. Instead, we are nearing the end of the second reading debate and we are now debating how to progress this legislation. Hon Alison Xamon has done the right thing and offered us a window of opportunity.

Sitting suspended from 6.00 to 7.30 pm

Hon LJILJANNA RAVLICH: I welcome the opportunity to continue my remarks. Members will know that I have some serious concerns about this Prohibited Behaviour Orders Bill. I support it going to a committee of the Legislative Council. I have already outlined a number of concerns I have with the legislation based on information in a report presented to this Parliament by the Aboriginal Legal Service. I want to put on the public record a number of other issues on its behalf.

One of the other concerns the ALS has is about the disproportionate detrimental effect of prohibited behaviour orders on vulnerable groups other than Indigenous people, particularly Indigenous youth. Work has probably not been done on the impact of this legislation on groups of vulnerable people or people of disadvantage. ALS recommendation 9 states clearly that the bill should be scrutinised by a parliamentary committee to establish the impact it will have on vulnerable groups in the Western Australian population before it is fully debated in Parliament. I made the point that perhaps this legislation should have been referred to a committee prior to the second reading stage.

Hon Norman Moore: Do you know what a green bill is?

Hon LJILJANNA RAVLICH: Yes, I do know what a green bill is. If the honourable member had been here all the time, he would have —

Hon Norman Moore: Just get on with it.

Hon LJILJANNA RAVLICH: If the member wants to interrupt, he can interrupt all he likes. I was going quite nicely until he came in here. He may not like what I say, but what I say will go on the public record because I speak on behalf of —

Hon Norman Moore; Hon Lynn MacLaren; Hon Kate Doust; Hon Jon Ford; Hon Ljiljanna Ravlich; Deputy President; Hon Simon O'Brien; Hon Linda Savage; Hon Ken Travers; Hon Michael Mischin; Hon Philip Gardiner; Hon Dr Sally Talbot; Hon Adele Farina

Several members interjected.

Hon LJILJANNA RAVLICH: I will not continue until there is silence.

Hon Norman Moore: If that's an invitation, we'll start talking very loudly.

Hon LJILJANNA RAVLICH: If members will misbehave, there will be no more of it.

Hon Liz Behjat interjected.

Hon LJILJANNA RAVLICH: I hope I have its vote.

I will continue my remarks. The point I am trying to make and put on the public record—the Leader of the House does not like it, but I do think that this bill —

Hon Norman Moore: You are always putting things on the public record, which is really important—I know; it's really important!

Hon LJILJANNA RAVLICH: Oh dear, oh dear, oh dear! The Leader of the House had no problem putting anything on the public record when he was on this side of the house.

Hon Norman Moore: I don't tell everybody all the time that's what I'm doing, though.

Hon LJILJANNA RAVLICH: I was going quite nicely until the Leader of the House came into this place. Quite frankly, perhaps he should go out on urgent parliamentary business. I object to the notion that raising concerns —

Hon Norman Moore: Which you have already done in your second reading debate.

Hon LJILJANNA RAVLICH: This is totally different.

Hon Norman Moore: It's not; it's about going to a committee.

Hon LJILJANNA RAVLICH: These are issues that have not been canvassed before and they relate directly to the motion —

Hon Norman Moore: To what? You've got no idea.

Hon LJILJANNA RAVLICH: — to refer this legislation to a committee of this house for scrutiny.

Hon Jon Ford: You don't need to respond to the interjections.

Hon LJILJANNA RAVLICH: That is exactly right. That is exactly what I am not going to do. I am going to put it on the public record whether members opposite like it or not. It is going to go into *Hansard* and be read by thousands of people in this state because they will be waiting for it to come out so that they can read it.

Hon Ken Travers: They will be watching it live on the screen!

Hon LJILJANNA RAVLICH: They will be watching it live! The fact is, this bill should be referred to a committee. This should be scrutinised because we need to know the unintended impact of this legislation on more vulnerable groups within the Western Australian community such as Indigenous people and women. Will there be some disproportionate impact on women, young people, seniors and so on, Leader of the House? I say again: I do not think this work has been done. I would be very, very surprised if members opposite can provide us with some work that may have been done by the Attorney General's department or indeed anyone else within government.

Hon Michael Mischin: You already said that; you are repeating it.

Hon LJILJANNA RAVLICH: No; this is a different recommendation. I would be very surprised if work had been done on the impact of disadvantaged groups within our community from this legislation being passed and enacted in law. I think this is a very important issue. These are important questions; they are questions of public interest and they need to be canvassed. The only way they can be properly canvassed is through the work of a committee. What better place for that work to be done than a committee of this Parliament? We are, after all, a house of review. We are resourced to be a house of review and we do that job in an excellent manner. To argue anything else would be totally counterproductive.

I am not quite finished yet. Other matters need to be canvassed. One of those other matters is this question of non-compliance. I raise this to ask: what happens if there is non-compliance when these orders are served?

Hon Michael Mischin: The offenders will be charged and go to jail.

Hon LJILJANNA RAVLICH: I am glad the honourable member said that. One of the more obvious failings of the United Kingdom system is that more often than not the orders are not complied with and the antisocial

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Hon Norman Moore; Hon Lynn MacLaren; Hon Kate Doust; Hon Jon Ford; Hon Ljiljana Ravlich; Deputy President; Hon Simon O'Brien; Hon Linda Savage; Hon Ken Travers; Hon Michael Mischin; Hon Philip Gardiner; Hon Dr Sally Talbot; Hon Adele Farina

offending continues. One report indicated that 55 per cent of people on anti-social behaviour orders, the United Kingdom model, breached their order within a year. Another report stated that more than four out of 10 ASBOs were breached. I will read out the section of the submission from the Aboriginal Legal Service to the Western Australian Parliament in respect of this legislation. I want to put into *Hansard* its concern about expanding criminal records. It states —

It is argued that as the orders criminalise non-criminal behaviour, people are drawn further into the criminal justice system than they would otherwise be. Already, WA has the highest rate of detention for Aboriginal children in Australia with Aboriginal juveniles being 29 times more likely to be in detention than non-Aboriginal juveniles. At 5 August 2010, 65.7% of youth in detention in WA were Aboriginal. It is widely acknowledged through various reports that there is a need to improve diversionary mechanisms to reduce the contact Aboriginal children have with the justice system. Disappointingly, the Bill will have precisely the opposite effect.

Often, anti-social offending can involve minor offences and may be related to a particular period in an individual's life. Once an ASBO or PBO is created however, it prohibits a person from engaging in behaviours which would otherwise be lawful and therefore although the person may no longer be engaging in anti-social offending, they may continue to lengthen their criminal record and interaction with the justice system despite not engaging in criminal behaviour.

The parliamentary secretary says, "Put them in jail." The problem is that the parliamentary secretary sat across from me in the Standing Committee on Estimates and Financial Operations when we were dealing with the justice system. What I heard during that hearing, when answers were being given by his bureaucrats, was that the number of people going into jail is increasing at such a rapid rate —

Point of Order

Hon LIZ BEHJAT: Are we dealing with the motion at hand here or are we dealing with an estimates hearing that happened some time ago?

The DEPUTY PRESIDENT (Hon Max Trenorden): Member, that is a good point, but I heard the President say that this particular speech will be taken as a contribution to the second reading debate; therefore, I presume that that gives the member full provision to speak across the gamut. That would be my interpretation; someone can tell me if it is wrong.

Hon SIMON O'BRIEN: I believe that Hon Ljiljana Ravlich has made her contribution to the second reading debate on this bill and did so when the Deputy President was on leave from the house. The point of order here is clearly the question of relevance. The honourable member, I would submit to the Deputy President with respect, is indeed just repeating her contribution to the second reading debate and not limiting her remarks to the narrow terms of the motion as she is entitled to do. The opposition is clearly determined to waste as much time as it can, and that is its prerogative, and we have to sit here and listen to it. But —

Several members interjected.

The DEPUTY PRESIDENT: This is a point of order. There will be no interjections.

Hon Ken Travers: We are getting into a speech.

The DEPUTY PRESIDENT: Hon Ken Travers, there will be no interjections. Let us hear the point of order.

Hon SIMON O'BRIEN: The honourable member can delay for as long as she likes and we have to listen to her, but she is required to conform with the direction that she address the motion and not have a go at a contribution to the second reading debate.

The DEPUTY PRESIDENT: I will take some advice, as I did listen carefully to the President when he spoke as the member got to her feet. I will take some advice and be back with you.

Members, this is interesting. Hon Ljiljana Ravlich has spoken before on this topic. She is therefore speaking directly only to the motion and her comments have to be relevant to the motion. I had been giving her a large degree of leeway in the belief that what I originally thought I heard was right, but I have just been informed that she does need to keep her comments relevant to the point of why the bill should be referred to the Standing Committee on Legislation and to not fall into a general debate. The member has the call.

Debate Resumed

Hon LJILJANNA RAVLICH: In my defence, however, I have to say that I have made reference to why the bill should be referred all the way down the track. Even at this point, I will make that point again. The reason I make

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these points about the expansion of criminal records and the increased number of people in prisons is that we do not know what the final impact of this legislation is going to be on the prison population. I do not know the answer to that question. I am sure that the parliamentary secretary does not know the answer to that question. I am sure that the Standing Committee on Legislation, if it were charged with scrutinising this legislation, would be very well placed to be able to make a determination on whether this legislation would result in people ending up with criminal records and in the justice system in cases in which perhaps they otherwise would not have if this legislation was not to become operational. The members of the Standing Committee on Legislation would also be able to ascertain whether PBOs are going to deliver what the government thinks this legislation would be able to deliver. It could investigate what happened in the United Kingdom regarding the success or otherwise of ASBOs and make some parallel analysis about whether PBOs in Western Australia would be successful, or are worth pursuing, depending on the experience of the United Kingdom. It is a reasonable case to argue that that is exactly the sort of role that the Standing Committee on Legislation should have. To suggest that the growth of prisoner numbers in Western Australia in no way relates to the legislation that we have before us simply defies logic, because there is a risk that more young and vulnerable people will be inadvertently caught out by this legislation, end up in the prison system and, as a result, have to deal with a whole lot of life outcomes that they otherwise would not have had to.

I do not know whether that is factual or not. I am not in the sort of position to be able to say so; I can only go on the experience of what I am told has happened in other jurisdictions. I can only go on what is written in the Aboriginal Legal Service submission to this Parliament about this legislation as a portrayal of the experience of what happens to Indigenous people. I think it is very important that we get to the heart of some of those matters, because these are not matters that have been canvassed in this house in any great detail. These are not matters about which evidence has been provided to this place. Consequently, we have been asked to accept at face value what the government has put forward. This is important legislation. It requires the time of the house, through its committee system, to be able to get to the heart of some of these issues.

I want to finish off a couple of points. Recommendation 18 of the Aboriginal Legal Service submission deals with the rights of the child. The recommendation by the Aboriginal Legal Service about this legislation states —

Given that the introduction of PBOs as proposed in the Bill will result in breaches of Australia's international obligations, that the Bill be withdrawn.

The Aboriginal Legal Service clearly articulated in its submission that the Prohibited Behaviour Orders Bill 2010 is an infringement of article 16 of the United Nations Convention on the Rights of the Child, which provides —

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

I do not know whether this legislation does or does not, but I have been told, through this report of the Aboriginal Legal Service, that that is exactly what it does. I take this report in good faith but, having said that, I do not think it would hurt for a committee to have a look at the possibility that this convention would be breached if this place were to make a decision to enact this legislation. I do not know what the big fear is about sending this to a committee; I would have thought that good sense would dictate that that is exactly what should happen, and yet here we go with a major objection. Not only is the government objecting to this bill going to a committee of this house, but it is also objecting to members taking the time of this house to put some of their concerns on record. That is what the Parliament is about. If the Parliament is not about bringing the concerns of the people to this place and putting them on the public record and representing those people in so doing, then what is this Parliament about?

Hon Simon O'Brien: Which people have spoken to you about this?

Hon LJILJANNA RAVLICH: This is the Aboriginal Legal Service's submission.

Hon Simon O'Brien: Okay; we have noted that. Which people have spoken to you whom you are representing?

Hon LJILJANNA RAVLICH: This is the ALS submission to the Western Australian Parliament—we are sitting in the Parliament! The minister would have received a copy of this.

The DEPUTY PRESIDENT (Hon Max Trenorden): Members, we had a point of order some time ago; I suggest we return to the motion in front of us, which is whether we send this bill to the committee. What the Aboriginal Legal Service says in its report is not quite relevant if it is not related to sending the bill to a committee. You are an experienced member and I expect you to return to that line.

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Hon LJILJANNA RAVLICH: Thanks, Mr Deputy President, but I am trying to make the point that this is exactly why this legislation needs to go to a committee. This Aboriginal Legal Service report, which is part of its submission to this Parliament, contains 19 or so recommendations. Those recommendations are very clear and outline the concerns of the Aboriginal Legal Service and the people it represents. I object to the notion that we should not be raising this in this place—of course we should. Not only should we be raising it, but we should also be saying to ourselves that the bill requires thorough investigation and that this is the sort of work that the Legislative Council of the Western Australian Parliament was set up to do. We are a house of review and a member of this place, Hon Alison Xamon, has moved that this legislation should be referred to the legislation committee. I fully concur with that motion and I support it. Having said those few words, I support the motion.

HON SIMON O'BRIEN (South Metropolitan — Minister for Transport) [7.55 pm]: I absolutely defend Hon Ljiljanna Ravlich's right to make the points she has just made in this place in pursuit of what she clearly holds as the best interests of a section of the community; she also believes that she is acting in the best interests of the house in contributing to the scrutiny of a bill. I do not think she needed to take as long as she took to make that contribution.

Hon Ljiljanna Ravlich: There were 19 recommendations.

Hon Ken Travers: Clearly, she watched and learned from the master—yourself! There were not quite as many clichés, but not a bad effort!

Hon SIMON O'BRIEN: If the honourable member will put a sock in it for a minute, I am going to introduce him to a new concept I have learnt since being on this side of the house—that is, brevity!

Hon Ken Travers: I don't think you have learnt it that well!

Hon SIMON O'BRIEN: Give me a chance to have some practice then!

It is interesting to view this debate from the perspective I have; I am not in charge of the bill but I have a very big interest in it. It is the case that, for some reason, the opposition thinks that if it talks about this at very great length, then it will somehow be some sort of victory for its point of view. I do not understand how it reached that conclusion. So we have had the unedifying spectacle of a couple of Labor members talking just now so enthusiastically about how this matter has to be referred to a committee, and yet when they made their own contributions they never bothered to move that motion themselves. Now, Hon Alison Xamon has moved a motion, and that is what we are considering.

Hon Alison Xamon's pseudo colleagues must be awfully cross with her, because when an opposition tries to waste time—this is what the state Australian Labor Party members have been doing—members all talk at length during the second reading debate, and then the last speaker —

Point of Order

Hon KATE DOUST: Point of order, Mr Deputy President.

Hon Simon O'Brien: There is no point of order, and you know it.

The DEPUTY PRESIDENT: It does not matter; a point of order has been called.

Hon KATE DOUST: I question the relevance of the minister's contribution to the debate. He should be talking about his reasons for supporting or opposing a referral. He is simply trying to give lessons to members in the chamber as to how they should conduct their business, and that is not relevant to this debate.

Hon Simon O'Brien: I have been going for two minutes.

The DEPUTY PRESIDENT: Member, that is quite a valid statement, but I, rightly or wrongly, gave a great deal of latitude a little earlier, so I am trying to be balanced in what I am doing while I am in the chair. As the minister has quite correctly said, he has been on his feet for a short period of time; I will call the minister to order if he does not get to the point.

Debate Resumed

Hon SIMON O'BRIEN: Mr Deputy President, I assure you that you will not find yourself required to do so. The point I was making, Hon Alison Xamon, is that the idea is that the final speaker in opposition to the bill then moves that the matter be referred to a committee, and that way everyone can then have another go and keep wasting time. Hon Alison Xamon has upset the equilibrium by putting in her two bob's worth to what is currently before us. Hon Alison Xamon's Labor colleagues now have to up the ante by embracing her motion with enthusiasm.

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Hon Ken Travers: Do you know what our real technique is? To get you to speak, because you delay the debate—it works a treat every time!

Hon SIMON O'BRIEN: But I am only going to be a few minutes, as you will see, Mr Deputy President.

Hon Ljiljana Ravlich: Yes, but it seems a lifetime!

Hon SIMON O'BRIEN: Good! I hope the member suffers exquisitely.

My point is that, ultimately, we are seeing time wasting, and it should not take as long as it has to make the several points that have been repetitively made, with respect, and I think Mr Deputy President has already shown great patience with that.

Hon Ken Travers: Give us at least one cliché.

Hon SIMON O'BRIEN: I will, I will.

The one thing that has struck me and has compelled me to make a brief contribution to this debate is this: in all the gum-flapping resulting in time wasting that we have heard from members opposite, one thing that has been lost in all the talk about vulnerable people is that not one of them has addressed the question of the vulnerable people this legislation is designed to protect.

Hon Alison Xamon: Because it doesn't work!

Hon SIMON O'BRIEN: The vulnerable people who are the victims through fear and intimidation by people engaged in continuous and recidivist antisocial behaviour.

Hon Ken Travers: Why don't you do something on the railway lines if you're worried about people being attacked? Do something as the minister!

Hon SIMON O'BRIEN: There has not been one reference from the several members who are now so enthusiastically pushing this line, that this bill now needs to be shunted off. It is the people —

Hon Ken Travers: Where's the increased police presence on the railway lines you promised, minister, if you care about victims of crime?

The DEPUTY PRESIDENT (Hon Max Trenorden): Members, just a bit of peace and quiet.

Hon SIMON O'BRIEN: The member is getting all upset, is he?

Hon Ken Travers: Yes, because you come in here and spout all this rubbish and you don't do anything to actually stop crime. You watch it go by.

The DEPUTY PRESIDENT: Hon Ken Travers, you have had a good run.

Hon SIMON O'BRIEN: The direction this debate is taking is clear; it is going to take some time for those opposing this bill to have their say, and that is their right and prerogative, while others in this house will have to sit here and listen to them and wish that we were doing more constructive things. That is just the nature of this place sometimes, but what needs to be on the public record, as Hon Ljiljana Ravlich would put it, is the complete disregard that the opposition has for the right of people to go about their ordinary, peaceful business without being harassed and intimidated by thuggish behaviour. Those opposite have not uttered a word in condemnation of that sort of behaviour, and that shows what their agenda really is. I do not see why they do not just get on with voting against this bill, if that is what they want to do, so that we can, as those opposite insist on saying over and again, let the Parliament work it out.

HON LINDA SAVAGE (East Metropolitan) [8.02 pm]: I also would like to speak in support of Hon Alison Xamon's motion to refer the Prohibited Behaviour Orders Bill 2010 to a committee. Initially, I did not think I would speak, but having had the opportunity to listen to some of what has been said this evening, I decided —

Several members interjected.

The DEPUTY PRESIDENT: The member has the floor and she has been speaking for only 30 seconds; let her at least say something.

Hon LINDA SAVAGE: Having had the opportunity to hear some of the debate this evening, I decided that I would speak. In the short time that I have been in Parliament, I have seen the very good work that committees do, and I have seen how that process has improved the legislation that has come into this Parliament. In fact, chief amongst the functions of the Legislative Council is its scrutiny function—a function that is performed not only in the Council chamber but also by its committees. I believe that a strong and active committee system is an asset to parliamentary democracy. Some would argue that it is one of the few justifications for a bicameral

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Hon Norman Moore; Hon Lynn MacLaren; Hon Kate Doust; Hon Jon Ford; Hon Ljiljana Ravlich; Deputy President; Hon Simon O'Brien; Hon Linda Savage; Hon Ken Travers; Hon Michael Mischin; Hon Philip Gardiner; Hon Dr Sally Talbot; Hon Adele Farina

system with an upper house such as this. I am not cynical about the committee process; I think it is extremely important that we explore this matter, and I certainly believe that a bill such as this is exactly the type of legislation that should be referred to a committee. There are a number of reasons why I think the legislation should be referred and why I think it would benefit from the detailed scrutiny that a committee could give it.

By way of a few more general comments, anyone who has practised as a lawyer would know that since World War II, particularly in the past decade or two, an enormous amount of legislation has passed through Parliaments, and in some ways, drafting legislation is now seen as a means of solving our problems. If, indeed, that is the answer to it all, we presumably would no longer need to continue doing so. However, if we are going to draft bills and continue to pass the amount of legislation that we do, it is incumbent upon us to seriously attempt to make the legislation understandable and fit for purpose in a form that will address the concerns and policy behind it.

This bill is a particularly poor example of legislation, and I would like to talk about a couple of the reasons why I think it should be referred to a committee. When we read the explanatory memorandum, or hear the comments made by the Attorney General, or even the comments made tonight by Hon Simon O'Brien, it appears that the government believes this legislation to be directed at continuous recidivist offenders with relatively low-level antisocial behaviour. In fact, that is not what is contained in the bill. Clause 8 of the bill provides for one offence, another offence within three years, and the likelihood of a further offence being committed. That is not the continuous recidivist offender that has been described. In support of having this legislation referred to a committee, I refer to what was said by the Attorney General in the other place on 11 August 2010 —

Who do we seek to target with this legislation? I spoke this morning on the radio with the member for Mindarie, and I take the view that there are people out there who deserve to be the subject of these orders; they are serious repeat offenders at the low grade of antisocial behaviour who make life a misery for people residing in our electorates. In developing this policy and this legislation, we went through a quite detailed actuarial process of the top recidivist offenders in our court system. We worked out that from 2006 to 2009, 20 adults in the adult court system each committed and were convicted of 20 separate offences.

A similar process was carried out to look at juvenile offenders.

I am concerned that this bill, if it is passed, will have to be interpreted and applied by magistrates and judges, and notwithstanding what has been said about continuous repeat offenders with a string of convictions, the legislation does not provide just for such offenders. A committee would be able to examine the legislation to find out—I would be very interested to find out—whether there is some intention here to pass legislation with the express expectation that it will not be interpreted and applied as it is intended to be. That is a matter of very great concern, and something that would bring this Parliament into disrepute.

The next issue in support of the motion to refer the legislation to a committee is to ascertain what offences we are talking about. The legislation refers to antisocial behaviour and makes reference to a range of fairly low level—the term that has been used to explain this bill—antisocial behaviours. However, we have recently been provided with a list, which has been referred to by other members, of antisocial behaviours that could be captured by this bill. One that has been referred to previously is dangerous driving causing death and injury. I do not see a connection between that offence and the types of low level antisocial behaviours that have been talked about by government members in reference to this bill. On the basis of that alone, I think this bill needs to be considered by a committee because there is such a glaring mismatch between what the bill provides and the definitions that the government has recently provided us with.

There is a third matter in support of the motion—I am sure there are others—that I would like to refer to in my brief time; that is, the effect that the use of the internet in naming and shaming will have on 16 to 18-year-olds. As I commented when I spoke to the bill earlier, my experience of living in London for all of 2006 was that anti-social behaviour orders became a badge of honour for offenders. Worse than that, for many young people growing up in council estates in the UK, in circumstances that many of us would find very hard to envisage because we do not have such ghetto areas in our cities, having an anti-social behaviour order was a requirement, at times for their own protection, to be part of the community of young people, which was their peer group and the only group with which they identified.

For some young people it may well be a source of pride to have their name on the internet. Bear in mind that this bill, notwithstanding what the government says, is aimed at serious recidivists who may well have committed one offence, committed another three years later, and are then deemed likely to commit another. That is what the bill says. That is what judges and magistrates will be looking at. That is what prosecution lawyers will be looking at. It is incumbent on the government to provide some evidence to reassure us that it has taken into

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account the effect it could have on a young person to have his or her photo and details published on a website. It would not be just now, it would be forever. I think that that is not too much to ask.

The Attorney General made the point during the debate in the other house that he thought prohibited behaviour orders would apply to perhaps 60 to 80 people. We are talking about a relatively small number of people. I do not think that this is going to change things drastically. I do not actually believe it will have any effect anyway, but I think it is incumbent upon us to take the time to address those issues. We know, anyone who has dealt with young people knows, anyone who has children of their own knows, and anyone who once was 16 or 18 years old—that is, all of us—knows that a young person may be a vulnerable person. A young person might want to appear tough; he or she may have fallen out of line a couple of times by their behaviour, and naming and shaming is something that could tip that person over the edge. I do not think it is too much to ask this Parliament to look at the effect, to look at the evidence, and to really carefully consider what we are doing with this bill. As I said, I do not think this is time wasting. I think it is wonderful that Hon Alison Xamon has moved this motion. I wish I had thought of it myself.

Hon Michael Mischin: It could not have been much of a concern then, could it?

Hon LINDA SAVAGE: This is not about point scoring; it certainly is not for me. That is not the way I see my role in this Parliament. I think this is the most serious legislation that has come before me. We are talking about young people. Therefore I would like to support and commend Hon Alison Xamon for moving this motion to refer this bill to a committee.

HON KEN TRAVERS (North Metropolitan) [8.13 pm]: I want to assure the Minister for Transport that I was not intending to speak on this debate tonight. Every one of my colleagues can assure him that today, during our meeting, when I was asked whether I intended to speak on the Prohibited Behaviour Orders Bill, I made it very clear that I did not intend to speak on the PBOs.

Hon Simon O'Brien: I am glad I have been able to tease the member out of his shell!

Hon KEN TRAVERS: That is right, because I think that is what the performance of the Deputy Leader of the Government was all about. I do not know why the government wants to provoke the debate and prolong it, but that was the intention. We are happy to take the debate. I have stood to make my contribution to this debate after listening to the tripe that came out of the mouth of the Minister for Transport. He somehow professed that this is a government that cares about victims of crime and that members who sit on this side of the house do not care about victims of crime. The Minister for Transport has sat and overseen an increase in assaults —

Point of Order

Hon MICHAEL MISCHIN: There is a question of relevance. This debate has nothing to do with what the minister may or may not have said.

The DEPUTY PRESIDENT (Hon Max Trenorden): Parliamentary secretary, that is right, but I point out that Hon Ken Travers is actually a bit over a minute into his remarks. There is some leeway given. I will give some leeway for a short time.

Debate Resumed

Hon KEN TRAVERS: Thank you, Mr Deputy President. Can I say that I am glad to see the A-380s are grounded and the Deputy President is back in Perth for a while!

I also point out that I have not previously spoken on this debate. I am both speaking to the motion, honourable parliamentary secretary, and substantively to this —

Hon Michael Mischin: It still has to be relevant.

Hon KEN TRAVERS: If that is the case, why did the parliamentary secretary not take a point of order on the Minister for Transport when he was making the same comments that I am now rebutting? Why did the parliamentary secretary not take a point of order then? Why did he not take it! The reality is that the Minister for Transport tried to suggest that this bill is a sign that this government is being tough on law and order. I am about to prove the case that this government does not care about law and order and came in here to make allegations about this side of the house.

Point of Order

Hon MICHAEL MISCHIN: I recall that on a previous occasion I was admonished for pointing my finger at a member, addressing a member directly and making accusations rather than talking through the Chair. I would appreciate the same consideration being given in this case.

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The DEPUTY PRESIDENT: It is not really a point of order. I think Hon Ken Travers will take the point of view that he should temper it a bit. You have the floor, member.

Debate Resumed

Hon KEN TRAVERS: Thank you. My apologies, diddums!

I will make my comments to the Deputy President about the Minister for Transport and the position he put to this house earlier that somehow this government cares about victims of crime. The Minister for Transport has overseen an increase in violent behaviour on our trains and an increase in assaults and robberies between 2008–09 and 2009–10. That is what the Minister for Transport has overseen—an increase in those sorts of violent assaults on the public transport system that he administers. This is a minister who promised, through his policies before the last election, to put additional police onto the public transport system. What has he done? On 1 July 2008 there were 96 police officers—the authorised strength on public transport in WA—for the public transport division. As of 1 March this year it had decreased to 90. This is how much the government cares about law and order. This is the culmination of the package of law and order measures this bill is supposed to represent. The government has actually taken police officers off the public transport system after we have seen an increase in violent and antisocial behaviour on our public transport system. The minister has the audacity to come here and try to admonish the opposition for its behaviour and talk about whether we are concerned about victims of crime. What did the Minister for Transport say 12 months ago when he was last put under pressure about the problems of antisocial and violent behaviour on our public transport system? The Minister for Transport put out a press release with the Minister for Police in which he said that he had told the Public Transport Authority to go away and work with the police department of Western Australia to come up with mechanisms to improve security in our public transport system. They were to come back with how they could improve security, including looking at the option of a better combination of police and public transport security services.

In May this year I asked this same minister, who says the PBO bill that we are dealing with today is a sign that this is a government that cares about law and order and victims of crime, where those discussions were up to between the PTA and police. He said: they are progressing well and a position is imminent. This is the minister who told us a few moments ago in this debate that he cared about victims of crime. In May of this year he was about to make an announcement as a result of the discussions that he told his department to have in August of last year —

Point of Order

Hon MICHAEL MISCHIN: The honourable member has now been talking for five minutes and I still have not heard the words “Prohibited Behaviour Orders Bill” or —

Hon Ken Travers: The parliamentary secretary is not listening because I said it about 30 seconds ago!

The DEPUTY PRESIDENT: My understanding is that the member is actually making a second reading speech contribution.

Hon Michael Mischin: It still has to be relevant, with respect.

Hon KEN TRAVERS: On the point of order, Mr Deputy President: if the parliamentary secretary had been listening, I mentioned PBOs probably 20 seconds ago.

The DEPUTY PRESIDENT: That is not the point. My understanding of the standing orders is that if a member has not spoken during the second reading debate, it is actually to be seen as his contribution to the second reading debate, which means he has the right to wander far and wide. Hon Ken Travers, the floor is yours.

Debate Resumed

Hon KEN TRAVERS: If the parliamentary secretary was listening—it is a worry that the person in charge of the bill is clearly not listening—he would have heard that I had mentioned PBOs.

Anyway, what did we have? In May this year the government said it was imminent that it would bring in these prohibited behaviour orders and that it would finalise the legislation and come back with a decision. Then the issue about antisocial and violent behaviour blew up again. I am sure that the parliamentary secretary will assure us that that behaviour will be covered under the PBO legislation that we are dealing with tonight and that this legislation is all part of the mechanisms for resolving that issue. I point out to the parliamentary secretary that the real work that needs to be done to deal with crime, which he claims will be dealt with through this legislation, is not actually being done by his government. The government brings in sloppy bits of legislation to try to put a media release together to pretend that it is doing something, but it is ignoring the real work. I am making these points because as part of this debate the Minister for Transport tried to come into this chamber and tell us that we

Extract from Hansard

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did not care about crime. I am pointing out that same very minister has been negligent in his duties in caring about the victims that the government professes that this bill will help.

A couple of weeks ago it was revealed that in 2009–10 there had been an increase in the level of antisocial and violent behaviour. What line did the government trot out? It had the Public Transport Authority and the police working together to come up with a mechanism for better security and crime prevention in our public transport system. Over 12 months later, more than six months after the government told us that a decision was imminent, there was still no decision and now, a couple of weeks later, we still have not heard about it. Has the government finished that? Has it actually got a result from them?

Hon Simon O'Brien: I think you've got a very curious recollection of what you're talking about in relation to figures; but anyway, it is your speech, you get on with it and enjoy yourself!

Hon KEN TRAVERS: This is one of the problems. I know what the minister alluded to in that interjection. When the figures were released, the minister hid behind his department and did not have the guts to come out and front the people of Western Australia and own up to the figures. He sent his department out to try to argue that the figures were not right and that they related only to minor level antisocial behaviour like spitting, swearing, robberies and assaults. Would those issues be covered under the PBO legislation?

Hon Simon O'Brien: Not robberies and assaults.

Hon KEN TRAVERS: They are! Go and have a look at the figures, minister. He should go and have a look at the figures because the minister does not realise that robberies and assaults have gone up on buses and trains. They have gone up! The figures are there; figures that the minister himself provided to this Parliament show that robberies and assaults have gone up. I think robberies on buses have gone up from 72 to 132. That is the problem. The minister pretends that there is not a problem when there is a problem. If there is not a problem, why is the government bringing in PBO legislation? Because there is a problem! However, the PBO legislation will not fix the problem because when we want to deal with the law and order issue, it is not about simply bringing in a piece of legislation to try to give the illusion that the government is doing something. It is actually a complex issue.

The first thing the government has to do is to try to prevent the crimes in the first place. That means a whole range of measures need to be put in place. The government needs to put in deterrents and it has to ensure that there are things like a police presence, which this government has not done. What about the 500 extra police officers that the government promised at the last election it would bring in to deal with law and order in this state? The first thing the government did was to cut it back from 500 to 350. The government broke its promise almost within days of arriving in government. The government promised 500 extra police officers and it is delivering 350. Therefore, where the real work needs to be done, the government is not delivering. However, the government will bring in a piece of legislation such as this to try to create the illusion that it is doing something. Prevention also goes to dealing with the social issues. The member for Warnbro talked about justice reinvestment and all of those sorts of issues that are about trying to prevent crime because that is the best option. The first thing that we should always try to do is prevent crime.

If crime is committed, the next thing we need to do is ensure that we catch and arrest people quickly. This is a government that has not put money in that area either. The conversation we just had earlier was about the fact that this minister has overseen that his department was told to go away over 12 months ago and come up with proposals with Western Australia Police. In May he told us that was imminent and over six months later we are still waiting for a result. That is the priority that this government places on law and order. That is the priority the minister places on it; nothing has happened even though we were told it was a priority. We were told that by a press release because it became an issue in the same way that we were told this PBO legislation was going to be the panacea for all problems in solving law and order issues in this state.

The final thing we must do is that once we have arrested people for crimes, if they are found guilty, they must have proper punishment. Some people would argue that this PBO legislation fits into that category and that it is about dealing with the proper punishment. But that comes at the very end of dealing with the problem; it does not deal with the first two parts of the problem—namely, prevention and ensuring that people are arrested quickly.

What we get from this government is a number of pieces of legislation that try to create the illusion that it is dealing with the proper punishment end of that cycle. It does nothing for the other two parts of preventing crime; it deals only with trying to pretend it is doing something about punishment. What do we get from the government consistently? Legislation that is ham-fisted, clearly pulled together very quickly and has flaws throughout. Members might accept the policy of this bill; I know that many members on this side of the house do

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not. Amongst my colleagues I have some sympathy for PBOs but not in the format that this government purports; however, I think that there can be a limited role. As the Minister for Transport would know, he has a form of PBO within his own portfolio, which he has never implemented. The minister has never taken advantage of the PBOs that are available to him under the Public Transport Authority Act. He has never taken advantage of it. I do not have a problem with the PBOs that are in place within the Public Transport Authority Act that this government has never taken the opportunity to exercise. Did the parliamentary secretary know that?

Hon Michael Mischin: Carry on.

Hon KEN TRAVERS: The parliamentary secretary does not want to interject now! He does not want to make a comment now, does he? No. Therefore, this is the problem that we have; the government gets this poorly and shoddily drafted legislation brought in. Even if members accept the policy of it, what we have consistently seen from this government is that when it comes to law and order legislation, and because it has been sitting around dithering for months, when the problem blows up again, it suddenly races in a piece of legislation to try to pretend that it is doing something to fix the problem. This is another example of that sort of legislation. Remember the hoon legislation that the government brought to us? Remember that? Everybody in the Parliament told the government, "There are holes in the hoon legislation; this will happen, that will happen and it will be a disaster." What happened? It did not take long. The first Lamborghini that was pulled over highlighted flaws contained within the legislation that the government brought into this Parliament, rammed through and asked this house of Parliament to deal with.

The parliamentary secretary himself chairs the Standing Committee on Legislation of this Parliament that we sent the government's last bit of sloppily drafted legislation to. We managed to get that legislation referred to a committee and what the parliamentary secretary's committee came back with is that there is a whole range of flaws in the legislation. Some committee members accepted the policy of the bill and some did not. It is always very hard to know which members of the committee did because some of the members of the committee were seen to be too embarrassed to put their names to any recommendation. When we read through that it makes for a fascinating report—we can see all the members who opposed things but we cannot actually find the names of the members who supported things.

Hon Michael Mischin: You can see the publicity hunters!

Hon KEN TRAVERS: Are they publicity hunters by putting their names to a recommendation in a report? I must say that it was a fascinating report to read. I assume that on a number of occasions in which Hon Alison Xamon, Hon Mia Davies and Hon Sally Talbot were in the majority that the parliamentary secretary and his colleague Hon Helen Morton had agreed to the motions that recommended some changes to that legislation. Even the parliamentary secretary accepted that the legislation required some changes. Even though he might have accepted the principle and policy of the bill, he knew that some changes were required because the bill was sloppily drafted. That is a living testament of what can happen when this Parliament and the committee chaired by the parliamentary secretary work well. Even if members opposite accept the policy of this legislation, why not allow it to be sent to that committee so that it can be put under the microscope to see whether it needs to be improved and redrafted? The national Leader of the Opposition recently referred to something being in the DNA.

Hon Michael Mischin: If you felt so strongly about it, why didn't your side refer it to the committee instead of waiting for the Greens to do it?

Hon KEN TRAVERS: Does it matter who refers it? We can share. Talk about the glory seekers! It is not about who moves the motion but what one does about it.

Hon Michael Mischin: You hadn't thought about it beforehand.

Hon KEN TRAVERS: Yes. Who knows what would have happened as the debate went on? We were waiting for people like the Minister for Transport to make an inspired contribution to provoke the debate along.

Hon Kate Doust: It certainly did, didn't it?

Hon KEN TRAVERS: It certainly did.

The members of cabinet who sign off on the legislation that comes before this house have it in their DNA to introduce sloppy legislation.

Hon Nick Goiran: Even if that were true, it must be contagious from the Labor Party. You are an absolute joke. Your previous Attorney General was a specialist in providing absolute rubbish to this place time after time. Here you are trying to stand up and defend that. What a joke!

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Hon KEN TRAVERS: I hope Hon Nick Goiran is going to seek the call after me. I am glad Hon Nick Goiran has accepted the premise that his government has it in its DNA to bring in sloppy legislation, which he claims was inherited from “Father Jim”. That is what he is suggesting. The honourable member’s government has it in its DNA to bring in sloppy legislation. The member should name a piece of law and order legislation that has been brought into this house by this government that has not been discredited before a committee of the Parliament —

Hon Nick Goiran: You can’t address the issue, can you? You were too busy sitting on the back bench with your mouth closed and not bothering to deal with your own members.

The DEPUTY PRESIDENT (Hon Max Trenorden): Order, members! Let us get back to the member who has the floor.

Hon KEN TRAVERS: I assure Hon Nick Goiran that I never sat on the back bench and kept my mouth closed. I have never done that.

Hon Nick Goiran: And the quality of the legislation was so good thanks to your contribution.

Hon KEN TRAVERS: A lot more legislation was referred to committees under the last Parliament than under this Parliament. Hon Nick Goiran should use some of his time productively by going away and reading *Hansard*. It would do him a world of good.

Hon Nick Goiran: It would be great professional development on what not to do.

Hon KEN TRAVERS: I can understand why Hon Nick Goiran is interjecting on me; he is trying to prevent me from getting to my next point. I would be embarrassed if I were a lawyer sitting on the government’s back bench and having to put up with sloppy legislation coming in. I am sure that Hon Nick Goiran is not consulted on the legislation. I have some respect for Hon Nick Goiran. I have looked at the reports of the Joint Standing Committee on the Corruption and Crime Commission, which Hon Nick Goiran chairs. I have some sympathy with the views that his committee has expressed on law and order matters but which have been overridden and ignored by the Premier. I have very strong views, many of which are in common with those of Hon Nick Goiran. I understand his frustration. He has a brilliant legal mind and it is being wasted on the back bench because the government refuses to allow him to have input. Instead, the government brings legislation into this house that is sloppy in the extreme. I suspect that if the government sent the legislation off to a committee of backbenchers chaired by Hon Nick Goiran, it would probably be in a better state by the time it got to the chamber than it is currently. Instead, Inspector Clouseau in the other house comes up with his brainwave ideas, sits around with a couple of friends to draw up a piece of legislation and then brings it into the Parliament. He rammed the Prohibited Behaviour Orders Bill through the other place and now expects to ram it through this place. I put out the challenge to members on the other side to name a piece of law and order legislation that has come into this Parliament that has not been discredited either by a parliamentary committee or in the public arena once it was implemented.

Hon Michael Mischin: Mandatory sentencing legislation has been pretty successful, hasn’t it?

Hon KEN TRAVERS: Except for people with mental illness.

Hon Michael Mischin: How many instances of those are there? It has dropped the number of assaults against police officers by 37 per cent in a year. It worked.

Hon KEN TRAVERS: The parliamentary secretary —

Hon Michael Mischin: But do go on; make up a few more figures.

Hon KEN TRAVERS: No. The parliamentary secretary knows the flaws in the mandatory sentencing legislation. They have appeared a couple of times already and will continue to appear. I will give this tip to the parliamentary secretary: we will be considering amendments to the mandatory sentencing legislation before too long, because a high-profile case will get into the media and people will then see some of the injustices contained in that legislation. I recently read an article in *The West Australian* about how that legislation got into the house and how members on the other side were forced to support it despite wanting to give proper scrutiny. Members opposite recognise that there are flaws in that legislation that will need to be corrected at some point. We will have to do that job. Why not save that process on this occasion? Why not cut out the middle man—that is, of the media having to discredit the legislation once it is implemented—by sending the bill to a committee to find those flaws, as the parliamentary secretary did with his committee on the legislation for —

Hon Michael Mischin: The government referred that one, remember.

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Hon KEN TRAVERS: Yes, but only because the backbench required it to.

Hon Michael Mischin: Hardly.

Hon KEN TRAVERS: The referral of that bill to the committee was one of the few occasions when, for a moment, I started to believe that this was an alliance government and not a coalition government. The parliamentary secretary went through that legislation with a fine toothcomb. We cannot be sure which recommendations he did and did not support because his name is not attached to them, but we can make some pretty good assumptions about the ones he supported and the ones he was clearly too embarrassed to put his name to but still wanted to get up. We can see the flaws that even the parliamentary secretary has identified in that legislation. If the mandatory sentencing bill had been sent off, the same would have happened. If we send the PBO bill to a committee, I am sure that the parliamentary secretary and Hon Helen Morton will sternly defend the government line but that they will also bring any glaring errors and fatal flaws in this legislation to the attention of the clowns who put it forward and who sit mainly in the other place. The parliamentary secretary will do his best. I know how it works. The parliamentary secretary does not have any input into the drafting of the legislation, so he can fix it only at the very end of the process.

What we have here is another instance of the government trying to be seen to be doing something about law and order by issuing press releases and introducing sloppily drafted legislation. That is what this debate is about. It is not a debate about who is tougher on law and order. We could have that debate. The minister who earlier stood up in this debate has overseen an increase in public transport violence and antisocial behaviour. Over 12 months ago, when antisocial behaviour on our buses became a hot topic, I released a five-point plan. I am glad to say that the government eventually picked up that plan, with the exception of one of those points, which was my suggestion that there be a parliamentary inquiry to identify the underlying causes of the increase in antisocial behaviour on public transport and come up with real strategies to address it. If the government actually cared about victims of crime, it would have taken up the offer from members on this side of the house to work with it on a bipartisan basis to come up with solutions to the antisocial behaviour engulfing our public transport system. Instead of looking for solutions, the government prefers to create a piece of legislation to which it can attach a press release. It is using smoke and mirrors to create the illusion that it is doing something about law and order without doing the hard work that is needed to determine what is driving the increase in antisocial behaviour and violence. I wanted to have an inquiry into the increase of antisocial behaviour and violence on our public transport system. However, such an inquiry could be expanded to determine what is driving antisocial behaviour and violence in the broader community. If we come up with a road map for the public transport system, such a road map could be applied in other parts of society. The government has chosen to introduce legislation that its conservative colleagues in the United Kingdom have said is flawed. The federal Leader of the Opposition thought it was more important to talk to those people than it was to talk to our troops in Afghanistan. It was more important that he talk to the Liberals' conservative buddies in the United Kingdom—the same people who have said that this legislation is flawed. The government does not want to send the bill to a committee because it does not want us to understand its big law and order picture. If the legislation is passed, I suspect that it will not be used too often because using it often will only highlight its flaws. As Hon Linda Savage said, the kids who will wear a prohibited behaviour order as a badge of honour will be lining up. People will be subjected to crime because kids will want to get their badge on the wall. That is why the government does not want to send the bill to a committee. In his speech, the Minister for Transport tried to invoke fear in the community. It was the classic conservative speech that served to arouse fear in the community and to create the illusion that the government is trying to fix the problems. The government is trying to take political advantage. It is not about solving crime nor is it about doing anything that will make people safer on our public transport system. The government hides when it is under pressure. The figures show that despite all the chest beating and the media releases, this legislation will change nothing.

Hon Sally Talbot: It is all hat and no cattle!

Hon KEN TRAVERS: It is all sausage and no sizzle! I am good with clichés.

If the government were serious about this issue, it would agree to refer this legislation to a committee. I put my offer to the Minister for Transport back on the table: if the minister indicates his support, I am prepared to work with him to set up a parliamentary committee.

Hon Simon O'Brien: You've never raised that with me. You've only ever raised it in the media.

Hon KEN TRAVERS: I have raised the issue with the minister and with members of the government. The minister must have read the five-point plan that I released 12 months ago on how to improve safety on our buses because he implemented four of the five points in that plan. He knows my position. I have put it to him before. I

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will do so again on the record in the house. I know that the minister likes it like that; he likes to be formal. Let us work together to set up a parliamentary committee that will do something about finding a solution to the law and order problems that are engulfing our public transport system. Hopefully, if we find a solution to public transport system, we can apply that solution to other sections of the community. Let us do the hard yards. Let us do the serious work. The government must also fulfil the promises it made during the last election. There must be more police on the beat. It should honour its commitment for 500 extra police officers. It should not try to fudge the situation with smart words and clever ideas. It should deliver extra police and it should deliver extra police on the public transport system. It should not reduce the authorised strength of police officers on the public transport system. Finally, it should get on with providing the full complement of 320 transit security officers on our public transport system instead of the 220 officers we now have. They are the ones who will prevent crime and who will arrest those who commit crimes. That will do more to solve our antisocial problems than will this legislation if it is passed. The reality is that if those who commit the crimes are not caught, they cannot be served with a PBO. I would be surprised if many members on the other side of the house support the detail of the legislation because they know of its flaws, especially those government backbenchers with fine legal minds. They know that this legislation will not mean anything if the police do not catch the kids who commit crimes on our public transport system. That is the solution. It is not an easy job. The government cannot address the situation with press releases and sloppy legislation. It has to invest money and it has to work hard to find solutions, to develop road maps and to implement those road maps. The government made a range of election commitments, many of which it has failed to implement. The Liberal Party has deliberately broken the solemn commitments it gave to the people of Western Australia. That is a disgrace. Despite that, I am still happy to sit with the Minister for Transport to develop terms of reference that will lead to a road map that will solve the problems. This shoddy and sham legislation is like a Paul Briggs fight!

Hon Simon O'Brien: You had money on him, didn't you?

Hon KEN TRAVERS: No, I did not. I am upset about it because it was a sham. It was a flawed process from day one.

Hon Simon O'Brien: It was not the government that did it.

Hon KEN TRAVERS: That is the problem with the minister. The government may not have caused the problem but it is up to the government to fix it. Lots of problems arise when a party is in government, and that party has to fix those problems. The government has failed to fix the problem that occurred with the Paul Briggs fight. This is about law and order; indeed, PBOs are about trying to fix law and order. From what the Minister for Sport and Recreation said today, he is happy to send the message—this is the sort of law and order message the government is happy to send—that one can participate in a sham fight and still walk away with \$125 000 in the pocket. What other ageing fighters sitting around the back blocks of Queensland will suddenly think to themselves that they could get into the ring for 25 seconds, take a dive, pocket \$125 000 and live happily ever after on the Gold Coast? Who would miss that opportunity?

Hon Simon O'Brien: How much was he fined?

Hon KEN TRAVERS: That is an interesting point. I thank the minister for his interjection. He has not been fined anything. He is required under section 47(5) of the act to repay —

The DEPUTY PRESIDENT (Hon Max Trenorden): Order, member! The member has been fairly good up until now. He is now far removed from the core of the bill. I ask him to continue with his second reading contribution. It is a little extreme to refer to the fight process during debate on the bill before the house.

Hon KEN TRAVERS: I was distracted by the interjection. Mr Deputy President, I appreciate the reminder to focus on the bill before us.

The government says that it is tough on law and order and that it wants to send a strong message to those who engage in illegal activity that they will suffer the appropriate punishment. I contrast that with the other messages that it is sending. It is a shame that Hon Helen Morton and Hon Peter Collier are not here because they understand what happens when government agencies send mixed messages. Using sloppy legislation, the message the government is trying to send with the PBOs is that it is tough on law and order. At the very same time that we are attempting to pass this legislation in this place, in the other place and out in the public domain, the government is sending the message that it is okay to take \$125 000 from participating in a criminal act. I go back to the earlier treatise I put that we have to prevent crime and arrest and charge people so that they get into the court system. Paul Briggs has not been charged, so he has not been fined anything, and will not be fined unless he is charged. The minister made a very good point—Paul Briggs has not been charged yet. In fact, a penalty has been applied that was included in the act to ensure that nobody profited from illegal activities such as

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engaging in a sham fight. I am sure this PBO legislation is also intended to ensure that people know there will be punishments. In the boxing example I am using as an analogy —

The DEPUTY PRESIDENT: You might be taking a dive shortly.

Hon KEN TRAVERS: I have almost lasted the full 12 rounds, I think, at this rate! If we want to continue to follow that analogy for a few more seconds, Mr Deputy President —

Hon Kate Doust: Do you want an extension?

Hon KEN TRAVERS: No; it is all right. The intention of section 47(5) of the Professional Combat Sports Act was clearly to stop people from profiting from crime, such as engaging in a sham fight and walking away with money in their pockets. This government has tried to turn it into something it is not. The minister has the power to direct the commission, so even if he says that the decision is one for the commission, he can override that. That is what constantly happens under this government. I know that you have a soft spot for the Minister for Sport and Recreation, Mr Deputy President, and I do not want to be too harsh on him because he is a top bloke, but sometimes he is just not strong enough to take the tough decisions. This is one of those occasions when we need a minister to take the tough decision to set the right example on law and order matters —

The DEPUTY PRESIDENT: Hon Ken Travers, this is the third time I will suggest you get back to the bill. Whether the minister is a friend of mine has little to do with the argument. You have strayed considerably from the bill and I ask you to return.

Hon Liz Behjat: I think he is punch-drunk!

Hon KEN TRAVERS: If I ever go before the Professional Combat Sports Commission, it will never know what is wrong because it will never make me go and get an MRI to find out, and I will be able to pocket the money for coming in here and engaging in a sham debate and walk away with money in my pocket, Hon Liz Behjat. But I do not want to be diverted anymore. I want to get back to the topic of the prohibited behaviour orders legislation, Mr Deputy President.

The DEPUTY PRESIDENT: That would be good.

Hon KEN TRAVERS: I am making the point about a government that is not prepared to take the tough decisions on law and order. Instead, it serves up this rubbish legislation to this house and expects us to pass it, when in its very DNA the government has considerable form of consistently and unashamedly introducing legislation that is very quickly discredited when it has been sent to a parliamentary committee. If it is not sent to a parliamentary committee, when it is finally put into operation on the streets of Perth it will be shown to be a sham—to continue the analogy for one last occasion! With those comments, I urge the government to seriously address law and order issues. Stop sending out mixed messages to people in organised crime organisations that they can bet on dodgy fights and make money out of it. Do not let dodgy fighters get the money; come up with some real legislation. One of the ways to do that is to send this bill to a parliamentary committee. I would be happy if this inquiry had broader terms to not only look at this bill, but also come up with a real solution for how to make people safer and to provide safety to members of the community. What we are getting from this government is sloppiness.

I made the point with the analogy that at the same time as pretending to be tough on law and order, this government is letting someone who has engaged in a sham contest walk away with \$125 000. If the Minister for Transport wants to talk about sending a strong message about victims of crime, he should do something about that.

HON PHILIP GARDINER (Agricultural) [8.54 pm]: This will be a quieter start than the one we have just had. I am speaking against this bill being referred to a committee. I recognise very seriously how important committee work is in this house. I strongly endorse Hon Linda Savage's comments. In my view, even though the Prohibited Behaviour Orders Bill has some flaws, it does not need to be referred to a committee. It is a bill that has relevance. Whereas Hon Ken Travers agrees that this bill has relevance, he took a different direction from the one I will take. I think it has relevance but it has shortcomings in some parts of its implementation. I will refer to those shortly. I see this bill also as being part of a work in progress. That may seem odd to everyone in the chamber, but I have a view that, in the long term, we can really make a change to the quality of our social wealth. We have not even started to do that yet. People have talked about the change we have to make because we have to get to the core of the problem.

Hon Ken Travers: Hear, hear!

Extract from *Hansard*

[COUNCIL - Tuesday, 9 November 2010]

p8264c-8291a

Hon Norman Moore; Hon Lynn MacLaren; Hon Kate Doust; Hon Jon Ford; Hon Ljiljana Ravlich; Deputy President; Hon Simon O'Brien; Hon Linda Savage; Hon Ken Travers; Hon Michael Mischin; Hon Philip Gardiner; Hon Dr Sally Talbot; Hon Adele Farina

Hon PHILIP GARDINER: The core of the problem, I believe, has to be a community-based solution with accountability down to local government authority areas, if we like, or local leadership areas. It has to be generational—much more than three or four years of a parliamentary term. This has to be a 20-year plan, beginning at the time the mother gives birth, minus six months. That is at least where it begins. If we get it wrong in the first couple of years, we have lost 80 per cent of it. We have to get it right at that point and as we come through at least the first eight years of our lives, and then it has to have different stages, so it has to be a comprehensive program. That is the generational aspect.

I see this bill plugging what I call the amelioration phase. In our society heaps of us are in the same group carrying baggage that we have carried from the time we have come through our own social development. But there are some whose baggage causes difficulties with social dysfunction. We need an amelioration package to deal with and to assist or somehow embrace those people in a meaningful corrective phase, if we like, of their lives. That is what I think comes to be part of an amelioration solution. I also want to make some distinction about something that I think we might be getting confused with. We are not talking about mandatory sentencing in this bill. We are talking about prohibited behaviour orders that are administered by the judiciary. The judiciary will take into account the different circumstances, the different ages and how something occurs. It is not as if a sudden fault happens and someone gets slammed in jail. I am dead against that, as all members know. While there is meant to be some improvement of 35 or 37 per cent, or whatever the rate is, in assaults on police, I worry about the other 63 or 65 per cent of lives that might have been damaged—not all, but some—as a result of a mandatory form of that justice. But this is not a mandating bill. This bill is laced with consideration of the circumstances. That is a good reason for which I think this is a bill of relevance.

Do we need this? Regional towns are small, and fairly self-contained, although there are influxes every now and then. In these towns young children are led by older youths who do a lot of petty criminal activity. When I say “a lot”, it is all relative, I know. They undertake petty criminal activity. If petty criminals want to get into a house that has a small bathroom window, the older youths get the young kids to break the small window to get in, and they let the older youths into the house to do their petty theft for a bit of cash. It is not serious crime in the big scheme of things, but the people who live in the home, of course, feel very affronted, and if they are aged they are seriously affronted. One of the reasons for having something such as a prohibited behaviour order is to stop those youths aged 16 and upwards committing petty theft. I am not unhappy about prohibited behaviour orders being imposed from the age of 16 because there is a problem at that level. Elderly people feel threatened by those offenders, and community support is necessary for the administration of the prohibited behaviour order system. I will turn to that in a minute.

I have mentioned generational and amelioration strategies. We have to change from going top-down, which is the way our societies and communities work, to solutions coming from the bottom up. Communities know their problems. Places such as Perth or Canberra do not know the problems of the suburbs of Perth or the regional towns; they do not have a clue. In my experience, each community has different requirements and different nuances, and there has to be a suitable package for each community to make a difference. It is no good for Perth and Canberra to try to dictate to communities; the communities must take the leadership.

Out in the regions it has all been about physical infrastructure: historically roads, and then buildings, and so on. In fact, if members go on the main highways now they will see the signs before a lot of the towns: Tammin or Kellerberrin, for example, may be RoadWise towns; they are physical towns. How would members like to see “Tammin: a Social Wealth Town”? That is the cultural change that we have to work towards to bring about a change in the way we deal with our social dysfunction in a meaningful and sustainable way. It is no good just having bits and pieces of a plan; there must be an integrated and comprehensive plan to deal with the different parts. As an example, a young woman who may be expecting a child and may be living in a socially dysfunctional home may have a social worker or psychologist who comes to help her clean the house, help her to budget, and then, after she has given birth, help her bond with the child and work with her for the first couple of years by going out to the home—not staying in the office. But then let us say this young woman, who may be aged 16 or 18, may have a partner who is long-term unemployed and comes in boozed and kicks things or smashes things; what will that do for the bonding of the child with the mother or for the child’s upbringing? It will damage it.

A system is only as good as its weakest point, like any road system. If one part is allowed to deteriorate, that will clog the rest of it up. We need a solution that embraces all these things together. The baby bonus, I believe, was a terrible policy, because when I went through much of Geraldton, Albany, Kellerberrin and Moora—members can name other places—I saw much social dysfunction in those cities and towns as a result of young women giving birth. It can also be seen in the statistics, although the statistics, by the way, do not record it all; they only record bits and pieces of it. That policy has created, in my view, a storm cloud on the horizon. The baby bonus

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began, I think, in about 2004; those children are now about six years old and the petty crime will begin in a few more years because they will almost all be in dysfunctional homes—almost entirely. It was most interesting that when I visited those places and cities house by house—I did a lot of doorknocking—I could not find one person, be they Indigenous, Caucasian or Asian, who agreed with the baby bonus. It is the people in the so-called middle-income areas who are in favour of the baby bonus; that is just an incidental observation. But if we are going to have that storm cloud on the horizon of these children with these socially dysfunctional attributes getting older, then we will need something like a prohibited behaviour order system to try to deal with them because we have missed the boat on capturing them at the age of zero to six months. That is the generational part of the plan. The amelioration part of the plan is to actually put in stopgaps to try to help and improve what we have.

I can agree with a good deal of parts of the Prohibited Behaviour Orders Bill 2010. Hon Linda Savage asked how dangerous driving could be regarded as antisocial behaviour, and I briefly thought the same. But then I recalled, from the doorknocking I did in Geraldton, that a lot of people in the small suburbs said to me, “Can you stop these cars speeding down our road?” If that is the same as dangerous driving and the police can catch that person, they can impose a prohibited behaviour order on him or her. I can see how PBOs could apply in the areas listed, although I do not have the full list that Hon Linda Savage had.

Clause 8(2) states that —

Grounds for making a PBO exist if —

- (a) the person —
 - (i) committed and was convicted of a relevant offence; and
 - (ii) during the period of 3 years after that conviction again committed, and was convicted of, a relevant offence;

If the person reoffends during the three years after conviction, then a PBO can apply.

I will not go through all parts of the bill, but let me get to the implementation of it. I would envisage the ideal implementation for this bill being at the community level, so that the people of the community could stop the person under the PBO from going where he or she should not go. This bill refers to someone seeing something happening and then telling the police, and then the police get involved. But it is even worse than that, because the real weakness—on which I would like to hear the parliamentary secretary’s remarks—is that once people are caught, according to this bill they are either fined an amount that none of these people will be able to pay, or they will go to jail. I thought one of the benefits of this legislation was that it would reduce the number of people going to jail. The community needs to take on the role of exercising its own, in a sense, policing; if they see the chap who has a PBO going into the grog shop, they should say, “Joe, you shouldn’t be going into the grog shop; get back out. You shouldn’t be doing it.” I see the community having a role because as the Greeks or whoever said, it takes a community to bring up a child. That is what I see as being the long-term goal, and we should be trying to do that through this legislation, but it is whether the implementation can work to that extent so that the community or those people affected can be involved.

The idea of having photographs on a webpage seriously worries me, and I would like to hear the parliamentary secretary’s comments about that. I do not want to have people branded for life. I am happy to have people branded for the duration of their PBO, be it one month, three months, or whatever it is. They would not be able to go down a particular street because that is where they were caught shooting at lights, or that is where they were caught doing something else bad, or they should not be going into a store because that is where they were caught shoplifting. In my view, there should only be a physical photograph around the areas where the offence was committed, not spread across the world on a website—not that everyone knows the offenders, of course, but I do not want them to have to carry that on their backs. However, I want to have photographs up for people to see around the area of the offence. They will then know to send the offenders off or speak to them harshly or firmly to try to change their behaviour to make sure that they are held to the PBO. As I said before, once it goes to the police, it is all over. I do not want the jail population rising as seriously as I can see it possibly rising under the way this legislation is currently structured.

In summing up, I am against this bill going to a committee. I am in favour of the bill, with qualifications, because I think the implementation needs to be applied at the community level. I suspect that in the United Kingdom it was not brought in at the community level. I also suspect that when offenders were caught, they went to jail. I am not sure about that, but I suspect that that could be one clear reason for the failure of ASBOs.

I would like to have a complementary effort, which is not in the bill; that is, the implementation of a mentor to assist the chap or woman who is under a PBO to change his or her behaviour to be socially acceptable. I would

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like to have the PBO publication restricted to a physical publication only, and for it to be distributed to only those areas that were impacted by the crime or the activity of the person under the PBO. Finally, I would like to hear the parliamentary secretary's views on the punishments that are given out when offenders are caught breaching the PBO, and what he thinks the implications are for that aspect.

HON SALLY TALBOT (South West) [9.13 pm]: I am very glad that I am speaking at this point in the debate following Hon Phil Gardiner, who I thought made a very thoughtful contribution and raised a couple of very important points. More particularly, though, I am very glad that Hon Ken Travers felt moved to make his contribution to the second reading debate at the moment that he did, in support of this motion by Hon Alison Xamon to refer the bill to the Standing Committee on Legislation. It gives me the chance to pick up on a couple of themes that were raised by the two previous speakers about whether this bill will actually achieve what it sets out to achieve. It is through the referral, in the consideration by committee and the production of a report, that we can get some answers to those questions. We could also get the chance to raise the issue about whether there is a better way to achieve the outcomes set out in the second reading debate. The divergence between the stated outcomes in the second reading speech and what the bill is likely to achieve is something that we are seeing more and more from the government. It seems to me that the context of a committee inquiry, in which the committee is empowered to call in witnesses from the community, stakeholders and expert witnesses, is the place that the claims can be tested. It is crucial that the second reading speech should have the integrity that our system requires, because it is the second reading speech that is referred to when laws that we pass in this place are tested in courts. Judges and advocates will often go back to the second reading speech to work out the precise intent of the bill. I think that that is something that is well worth testing; it is well worth proving the accuracy of those claims. The Standing Committee on Legislation is an ideal place for doing that.

I am pleased to speak in support of the referral motion for a couple of other reasons, too. In relation to the list of issues that I raised at the beginning of my contribution to the second reading debate—I did not get the chance in those 45 minutes to examine all of them in detail and I certainly do not intend to do that now—it seems to me that each of those points would be very much worthy of scrutiny in the context of a committee inquiry. Indeed, I go so far as to say that it is only in that context, in which the committee has the power, the authority and the time, even though this is a relatively short referral period, that we can get to the bottom of some of these very difficult and complex questions.

I am confining my remarks in this debate, as I did in my contribution to the second reading debate, largely to the question of how this bill will affect children and young people. I am wearing my hat as the shadow Minister for Youth as I make these comments.

I remind honourable members of the issues I raised at the beginning of my contribution to the second reading debate. They were as follows: the definition used for “antisocial behaviour” in the bill; its symptoms-based approach to antisocial behaviour; and its criminalisation of otherwise lawful behaviour, which was the point at which I finished my contribution to the second reading debate. Each of those—I hope honourable members are following my reasoning—could form a substantial part of a committee inquiry. I also raised the harsh penalties for breach of an order and the low standard of proof used in prohibited behaviour order proceedings. I point out again that this is a question that I have not really taken up in the amendments that are standing in my name on the supplementary notice paper. That is because whether the criminal standard of proof should apply to PBO proceedings or whether some lower standard of proof should apply is a very complicated issue. As honourable members who have studied the bill know, the bill currently sets out that the lower standard of proof applies. It has been pointed out to me by stakeholders representing groups in the Youth Advisory Council that this is not a satisfactory state of affairs.

Other issues I raised were the requirements for explaining a PBO to an affected individual; the lack of exemption for children under the age of 18 years; the publication of a child's identity; and the final point that I listed was the degree of retrospectivity in the bill. Hon Sue Ellery quite eloquently summarised the point that, much to the parliamentary secretary's lack of enthusiasm, the retrospectivity contained in the bill effectively makes 13-year-olds, or at least the behaviour of 13-year-olds, subject to punishment by a prohibited behaviour order. I think that all those points would be very worthy fodder for a committee inquiry.

My next point directly picks up on what Hon Ken Travers was talking about regarding a better way to achieve the bill's outcomes, as articulated in the second reading speech. That process is through adequate funding, and support and serious recognition given to diversionary programs. I draw the attention of the house to a number of these. I would think that a committee inquiry would want to call representatives, or at least people with experience, of some of these schemes—if not all of them, because a couple of them relate to experience overseas. This would enable the committee to find out exactly how those programs are working and the extent to

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which they might be directly applicable to the situation that the state government says it is trying to address with prohibited behaviour orders. The Western Australian programs pointed out to me that I think are particularly worthy of recognition are the Killara Youth Support Service; juvenile justice teams, which I am sure many members of the government are familiar with as they have been around for quite some time and have a considerable degree of success; and regional community conferencing. I noticed we had some people in the public gallery earlier from down Rockingham way. The Rockingham Police and Citizens Youth Club runs a program called Weld to Life; it is run by one of the senior constables from the Rockingham Police Station. The HALO Leadership Development Agency runs various programs throughout the state. Hon Robyn McSweeney, who is not in the house at the moment—she is obviously on urgent parliamentary business—will be familiar with the excellent program, the Juvenile Action Group, in Albany. In Queensland, the Mackay Crime Prevention Partnership ran a preventing crime through employment program. Again, in Queensland, there is the youth and community combined action program. We will not be given the chance to examine programs of that kind in any detail in debate in this house. It may be that individual members of this house have direct experience with some of those programs, and will perhaps use the Committee of the Whole stage of debate to inform us about some of those programs, if this motion is unsuccessful and the bill is not referred to the legislation committee. However, if that is not the case, it saddens me greatly that we might hurtle down the path of enacting this legislation without the benefit of looking at some of these programs. I will refer to a couple of other programs, which are perhaps even more relevant than the ones I have just named because I have some information about how these programs have been evaluated. I think honourable members will agree with me that it is pretty impressive. Again, I make the point that a referral to the legislation committee would enable the committee and therefore this house to see exactly how these schemes might be implemented throughout the state of Western Australia and how they might better achieve the objectives set out in the second reading speech than will the proposed PBO system.

The first of these is a Western Australian program from the Kimberley called the Yiriman project. It deals with Indigenous at-risk young people aged between 14 and 25. The program is Aboriginal owned and led. A cultural diversionary program, it offers a range of activities to reconnect Indigenous young people with their families, communities and culture, and includes cultural bush trips, leadership programs, skills development and training, a family work program and a bail support program. This is exactly the sort of thing that Hon Philip Gardiner referred to when he talked about the need to intervene early, intervene hard and to do the best not to punish.

Members will remember that I started my contribution to the second reading debate by remarking that this is a bill for the vindictive; it is a law for the vindictive. These diversionary programs are absolutely the opposite of that. They aim to restore young people, particularly Indigenous young people, to some kind of meaningful life in which they can live better. Why would we, as a Parliament, not want to support those kinds of programs? The Yiriman program aims to create new leaders within communities. What better objective could there be in an Indigenous youth diversionary program than to create new leaders within communities, build intergenerational relationships, provide pathways to employment, and create resilient individuals with a range of opportunities? Imagine the benefits of that sort of program. Imagine how we could bring about real meaningful lasting change to some of the most disadvantaged in our community. Instead of that, as various members on this side of the house have pointed out, if PBOs come into effect those people will be even more disadvantaged than they are now. The Yiriman project has been evaluated and received a silver award at the National Drug and Alcohol Awards in 2007. The Education and Health Standing Committee of this Parliament recommended the government support this project and that it be extended across the state. It was identified as best practice in intergenerational programs by the National Youth Affairs Research Scheme report titled “Community Building Through Intergenerational Exchange Programs”. Even if this bill was not referred to the committee on which I serve, I would like to see a similar program examined in the light of the second reading speech that goes with this bill, to see whether the objectives would be better serviced by putting the money, the resources and the support into such a program.

I now briefly refer to two other programs that I think would be well worth looking at. I assure honourable members that in speaking about programs in Glasgow and New South Wales, I am not necessarily advocating more committee travel—although I think it would be well worth having a close look at a program called Community Initiative to Reduce Violence, which is running in Glasgow. Its target group is gangs and disengaged youth. That is surely something the parliamentary secretary would welcome. It is in the heartland of where this bill is supposed to be targeting problematic behaviour. The program details are as follows: it aims to deter young people from gang involvement by offering them an alternative lifestyle; and it works to engage young people from gangs who would normally not use services—that is, people who find themselves outside the parameters of the resources that are offered to those not alienated from their communities. It uses the structure of the gang to ensure compliance from individuals. A very interesting evaluation point relates to that. I will just

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repeat that: it uses the structure of the gang to ensure compliance from individuals. Any member who offends under the CIRV gets the whole gang in trouble. It involves the coordination of many services operating in Glasgow, including legal, employment, training, education, sporting, housing, social work and community-based services and organisations.

Hon Michael Mischin: It gets the whole gang in trouble?

Hon SALLY TALBOT: I will share the evaluation with the parliamentary secretary in a moment so that he can make his own assessment.

Hon Michael Mischin: Collective responsibility.

Hon SALLY TALBOT: I would like to hear him address this, because he has not spoken yet on this referral motion.

Hon Michael Mischin: I have not had a chance.

Hon SALLY TALBOT: I cannot see how there could be a problem in embracing a study of a program of this kind and in evaluating it.

Hon Michael Mischin: How long has it been going?

Hon SALLY TALBOT: I am not sure but I can give the parliamentary secretary the website, which is www.actiononviolence.co.uk.

Hon Michael Mischin: The idea is that there is some kind of collective responsibility. One person gets into trouble and the rest of them are punished. That is what you are advocating.

Hon SALLY TALBOT: I said that I would come to that in a moment in the evaluation study.

Hon Michael Mischin: I think it is a great idea, but I am not sure that the public would think it was fair.

Hon SALLY TALBOT: Through you, Madam Deputy President, that is exactly the point I am making. I have even awakened the interest of the parliamentary secretary.

Hon Michael Mischin: I am fascinated that the ALP would support a collective responsibility provision where everybody is punished for one person's default.

Hon SALLY TALBOT: I think the parliamentary secretary is trying to distract me. It is a conversation that I am more than happy to have with him at another time, but that is not directly relevant to what I am trying to do here, which is to support the referral to the committee motion. I am glad that he is showing such interest. I would welcome the opportunity to pursue these topics in more detail with him in the Standing Committee on Legislation, so I hope that he is supporting the referral.

I will just continue on the program details. The last one is that police intelligence is used by CIRV caseworkers to infiltrate the gang and to approach members. That might sound a bit sinister, but we all know that that is one of the standard ways in which people working on the street with alienated people have to work. I now come to the evaluation, which I think is all we have been waiting for. There has been a 42.9 per cent reduction in violent offending by gang members engaged with CIRV within the first year. That is a magnificent outcome. Why would we want to pass up the opportunity of working out how we could run such a program? This picks up on part of the points that Hon Ken Travers raised. The government is all froth and no beer on this stuff; all the rhetoric is there but none of the action. If the government wanted to take action, why would we not be looking at very successful diversionary programs that are stopping exactly the kind of antisocial behaviour that the government professes to be so concerned about? The second point of the evaluation, which is the bit that the parliamentary secretary might be interested in, is an 18.5 per cent reduction in offending by those gang members not engaged with CIRV, proving the program has an additional knock-on effect on other gang members who are not yet engaged. That is money well spent indeed. I do not know why we want to pass up the opportunity of having a similar program here.

The final program I want to refer to is one from New South Wales, called Pasifika Support Services. It targets at-risk Pacific young people and it is a multi-systemic approach to preventing offending and antisocial behaviour. It focuses on empowering Pacific young people and their families so that they make positive choices and it aims to increase the capacity of families and communities to support at-risk young people. Again, picking up directly on the points raised by Hon Philip Gardiner, this is precisely the kind of program that a committee inquiry could evaluate and assess in a Western Australian context. Surely that is what we should be setting as one of our main objectives in considering a bill of this kind. The program also engages community-based workers and leaders

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with a Pacific background to develop culturally relevant programs and service delivery, and it helps to set goals for young people across 13 broad areas and helps them to achieve those goals.

Again, I will refer to some evaluation criteria that have been applied to the Pasifika program. Twelve months after participating in Pasifika, 65 per cent of young people had not reoffended. Do members know why that figure of 65 per cent sounds vaguely familiar? It is because 67 per cent is the breach rate for anti-social behaviour orders in the UK. We are being offered an alternative intervention program that has a 65 per cent success rate for young people not reoffending. Why would we want to pass up the opportunity to examine some of these schemes? It beats me; I just cannot understand it. In further evaluation criteria, 100 per cent of Pasifika's clients would recommend the program. The final criteria will be of particular interest to members on the government side of the chamber: cost-effectiveness. The cost of the Pasifika program is \$2 500 per case, with the duration of each case normally three to six months. That compares with a cost of imprisonment over the same period in New South Wales of between \$18 630 to \$37 260. If that is not a good, solid, sound cost-benefit analysis, I do not know what is. Even if we just wanted to look at the financial bottom line, we should be examining programs of this kind.

All the government's rhetoric during this debate has suggested to me and other members on this side of the chamber that the government is simply unaware of some of these alternatives. That is not a good basis on which to proceed. Referral to a committee will give us a chance to look at those alternatives and consult with people who are running diversionary programs and other people. I know that organisations like the Youth Affairs Council of Western Australia and the Aboriginal Legal Service will welcome the opportunity to come and work with the committee to test some of the assertions that are being made in this debate by the government. The question is: Is there a better way? Will this bill do what the government says it will do? Even more importantly, if the bill does what the government says it will do and the second reading speech is shown to be sound—I put it to honourable members that we will know that only if we can put it to the test in committee—will the price we pay for having such legislation be worth it?

I do not think that we can test all those assumptions; I do not think that we can find answers to all those questions in this context. Even if we go into committee and spend hours going over every clause, I am not confident that we will find answers to all those questions, and that is why I, like other members of the Labor Party, will support this referral motion.

HON ADELE FARINA (South West) [9.35 pm]: I rise to support the motion and to oppose the Prohibited Behaviour Orders Bill. I also foreshadow that I will be moving an amendment to the motion.

A number of members have raised serious concerns about the bill, in particular how the bill will impact on young people and people suffering from mental health problems. The government has failed to make its case. The government has failed to justify the need for the bill, and how the bill will correct or address the mischief that has been identified; that is, antisocial behaviour. As has become standard practice for this government, it is not listening to the concerns that have been raised. It is not interested in passing good legislation. It is not interested in bringing about real results. It appears that the government's only interest is that it be seen as being tough on crime, regardless of whether the legislation really does what the government says it does, and regardless of whether it will achieve its stated objectives. As has become standard practice with this government, the government is arrogantly relying on its numbers in this place to push this legislation through. The government is so determined on this path that the parliamentary secretary does not even pretend to have any interest in the issues and concerns that have been raised by members.

This house is a place of review. Our primary responsibility is to review legislation in detail to ensure that we make good laws that can be implemented as intended for the good governance of this state. The Leader of the House, when he was Leader of the Opposition, frequently reminded the house of the importance of its review function. He frequently reminded the house about how committee work, in particular committee inquiry into legislation, is critical to the functioning of this house, because it provides the house with a better understanding of legislation and of the unintended results of legislation, and it gives the house a better opportunity to draft and recommend amendments to a bill than is available in Committee of the Whole. The Leader of the House, when he was Leader of the Opposition, stated time and again that committee inquiry into a bill results in better legislation. However, now that the Leader of the House is sitting on the government benches, he has changed his tune. I question why the Leader of the House is not confident that government legislation can withstand close scrutiny by a committee.

Hon Ljiljana Ravlich is correct when she says that in two short years there have been numerous examples of poor laws that have been pushed through by this government. The antihoon legislation is just one example of that. The Prohibited Behaviour Orders Bill is very broad in its application and provides little guidance to those

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p8264c-8291a

Hon Norman Moore; Hon Lynn MacLaren; Hon Kate Doust; Hon Jon Ford; Hon Ljiljana Ravlich; Deputy President; Hon Simon O'Brien; Hon Linda Savage; Hon Ken Travers; Hon Michael Mischin; Hon Philip Gardiner; Hon Dr Sally Talbot; Hon Adele Farina

who will be tasked with applying it. That is always a bad sign. This bill will enable a court to impose a prohibited behaviour order on any person over the age of 16 years who is found guilty of an antisocial offence and has within the past three years been found guilty of another antisocial offence, not necessarily the same offence, and who the court believes is likely to commit another offence if not constrained. The PBO will be in addition to any other penalty the court may impose at law for the offence. It is, therefore, a double whammy. Part of the justification for the bill provided by the Attorney General is that antisocial offending is at the lower end of the spectrum of seriousness and is therefore often not appropriately dealt with by the courts. The Attorney General argues that even if perpetrators have committed a substantial volume of offences, they rarely receive sentences of imprisonment for the antisocial offences that are targeted by the bill. The bill, however, does not specify what those antisocial offences are. The parliamentary secretary provided a list of offences that would have a PBO applied to them. That list is far more extensive than has been suggested by the Attorney General. In fact, a large number of those offences are at the middle to high end of the seriousness spectrum, not at the low end, as has been indicated by the Attorney General. For most of the offences specified on the list provided by the parliamentary secretary, there is a capacity for imprisonment. That raises serious questions about whether the application of the bill is beyond the policy of the bill as outlined by the Attorney General.

No evidence has been presented by the government in support of the bill to demonstrate that prohibited behaviour orders will reduce antisocial offending or that existing laws cannot be used more effectively to achieve the alleged benefits of PBOs. In fact, based on the United Kingdom experience, there is evidence that PBOs do not curb antisocial behaviour. No evidence has been presented to support the proposition contained in the bill that publishing the names and personal details of people who have been issued with a PBO will reduce antisocial behaviour. No evidence has been provided in support of the bill.

As has been stated by other members, the implications of naming and shaming offenders is far reaching, particularly for young offenders. The impact such publication could have on the lives and opportunities of young people could in fact be counterproductive to rehabilitation and could, in some circumstances, be tragic. Naming and shaming goes against the principles that this state has always embodied and maintained in laws in relation to young offenders. It goes against United Nations policies on the treatment of young people and young offenders. It is extraordinary that the government would propose naming and shaming any offender guilty of an offence at the lower spectrum of seriousness, as the Attorney General states the bill targets. It is even more extraordinary that a government would introduce legislation that provides for the naming and shaming of young offenders found guilty of an offence again at the lower end of the spectrum of seriousness. No evidence has been presented to support the view that the publication or the likelihood of publication will serve as a deterrent. If these offenders are not deterred by the actual penalties that are attached to these offences, and in some cases very serious penalties, then it is unlikely that they will be deterred by the publication of their PBO. Let us not forget that we are talking about, in the words of the Attorney General, offences that are at the lower spectrum of seriousness.

Members may be aware of a situation that is being played out in Bunbury. I want to raise the situation by way of comparison and to contrast how this government deals with these sorts of issues. A rapist has been released from jail to live in Bunbury. Details of his release and where he was living were made public. Understandably, neighbours were very concerned that a convicted rapist was living next door. Someone distributed a flyer throughout the whole area to notify the community of the location of the rapist. The sister at whose home the rapist was living was subjected to the media camping on her doorstep. The police became very concerned about vigilante action. Neighbours, some of whom were women living on their own, contacted my office, the newspapers and police, expressing concern for their safety. The police provided a duress alarm to one of the immediate neighbours, clearly having established a view that the convicted person presented a risk significant enough to justify the issue of a duress alarm. When the issuing of a duress alarm was made public, other neighbours also called through requesting a duress alarm to be provided to them. However, only one neighbour was successful in securing a duress alarm. The area where the sexual offender was living has a high number of Homeswest houses. Many of these residents, learning that the rapist was living amongst them, contacted Homeswest asking to be relocated because of a genuine fear for their safety. Eventually Homeswest, as I understand it, decided to relocate the rapist. They have now done this. The neighbours at the new location where the rapist is living have expressed outrage that he has been relocated to live among them. They were not notified and no government agency, including the Attorney General, will confirm the rapist's address and current location. The neighbours believe that they have a right to know if a rapist is living amongst them for their own personal safety.

According to media reports, when the Attorney General was contacted and asked to explain why government agencies and his office would not provide these details to give the community the comfort they were seeking, the

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Attorney General expressed the view that the offender had served his time, that the courts had clearly decided the offender no longer posed a risk, and that the offender should be allowed to get on with his life.

Debate adjourned, pursuant to sessional orders.