

MISUSE OF DRUGS AMENDMENT BILL 2023

Second Reading

Resumed from 20 June.

HON DR BRIAN WALKER (East Metropolitan) [5.12 pm]: I have to recap just a little to point out that it may be somewhat surprising that I oppose a bill which, on its face, is entirely sensible. I will explain the reason for that in a short while. I mentioned that the act that we are seeking to amend—the Misuse of Drugs Act 1981—is much out of date and needs a lot of work done to it. As pointed out by Hon Wayne Martin, that work would require a complete rewriting of the Criminal Property Confiscation Act 2000 and a substantial rewrite of the Misuse of Drugs Act.

What do we mean by poisons? We are looking at the scourge of methamphetamine, which is undoubtedly a nasty drug. This bill does not just relate to dealing with methamphetamine at the border, but all prohibited illicit drugs. Although the wording is very much related to methamphetamine and I very much support the intent, my point is that it is related to all aspects of illicit behaviour, which is maybe not a bad thing, but will this be of any benefit to our society? Hon Peter Collier made some very cogent points, which I support, about the reduction of the presence of drugs in society. I will have some points to make about that.

During the speech that I began yesterday, I focused on the nature of illicit drugs and the description of an illicit drug. We basically determine that something should be illicit if it has the potential for harm, if it damages our societal values, if it is against our economic interests or, indeed, if it is against international agreements. One of the primary reasons for rendering a substance illicit is the protection of public health and safety. That is an eminently valuable thing to do. Substances, particularly psychoactive ones, such as narcotics and hallucinogens, can have deleterious health effects, including addiction, physical harm and the well-known mental health issues. Two examples of the very powerful drugs that are currently freely available, which I have repeated ad nauseam, are alcohol and tobacco. They are both perfectly legal but also perfectly dangerous, with their well-documented detrimental health experiences.

Some drugs are banned because of their high potential for misuse or dependency, such as heroin. Methamphetamine certainly belongs there. Their destructive effects on users and, indeed, on communities are widely recognised. Part of the problem we have with those drugs is the damage they cause to societies, either by the effects on the individual who has misused or, indeed, on those who are seeking to gain profits to buy more drugs, which they do by engaging in criminal activities. That can be a scourge. Certain areas are overrun by the damage caused by such needs. This underscores the need for good effective action to reduce the burden of the misuse of drugs and the misuse of illicit drugs on society.

Before I go on, I wanted to ask why cannabis was described as illicit. It is important to understand the whole process of describing these products as illicit to be banned and not recommended for use. Cannabis was never banned because it was medically unsound, nor was it declared illicit to protect the population. In fact, it was introduced as a weapon of oppression. The banning of cannabis was used as a method of oppression, as xenophobic racism and oppression of a large segment of the population. I put it to members that this is an example of why we should reverse that nefarious policy.

We can also look at the illicit drugs in our society. Do we want to declare them as illicit or controlled? It could be for profit protection. The opioid scourge in the United States is driven by the potential for profit by certain companies. It is absolutely unacceptable that people's health is damaged for corporate profits. We are seeing this throughout our society. It would require us as a community to look at the broader picture of how we are being abused by corporate bodies to our detriment. This is less about protecting individuals from potential harm and more about preserving economic interests and, to some degree, upholding the law as well because we have declared this to be a lawful act. I look at OxyContin, for example, as a problem I have encountered. People come to me in pain, asking for a repeat prescription of OxyContin and oxycodone. I have found that there is a street value for each tablet. They may not use all the tablets but they can certainly sell them for quite a handsome profit on the streets. It is one of our problems as doctors. How do we know what is being used is being properly used and how much is being diverted, perhaps even using standover tactics?

What is happening now to manage this bigger picture? We are not hearing much of a sound at all. We need laws that balance the need to prevent misuse and the legitimate needs of industries and consumers. There is a moral and an ethical dimension to this. We are talking about this in the bill. Is it moral and ethical to make these changes? This comes from cultural and religious or, indeed, societal norms. They dictate what is considered acceptable behaviour. For example, we can look at what happens with prohibition. If we find it is unacceptable, we prohibit it. The example of alcohol prohibition in the US is a classic example of what can go wrong. Members have heard me speak about alcohol. It is a dangerous drug, although I do enjoy a gin and tonic. There are huge health risks. In America, there is a large moral crusade, backed by religious groups, to stop this substance perverting the minds of

the younger generation and leading them into temptation, making them worshippers of Satan, if people believe that. The same prospect is given as the reason for banning psychedelics. It is a moral concept about not wanting people to look at or experience things differently. They do not want people to use this drug because they will see things that they themselves cannot understand. I could talk for hours about the psychedelic approach. Indeed, we ought to look at psychedelic-assisted therapies. They should be more available because of the eight or nine suicides a day. I firmly believe the science and the research show that good things can happen, but it is banned because people find psychedelics morally unacceptable and dangerous. In fact, people do not die from this, but we are banned from using these drugs because they are perceived to be improper—illicit. I could go on for a long time about this.

I am not going to really bother about the details of prohibition, except to ask this question: when has prohibition ever worked in our recent history? Is there any example from anywhere that prohibition works without any adverse consequences? I have to add that coda to this question, because although prohibition might reduce the amount of available drugs for a time, there is a price to pay. In America, the price for the prohibition on alcohol was a rampant increase in crime. The Mafia was created during that time. Its tentacles reach into America's crime-ridden society today, because the bodies that were formed then persist now. They may not run alcohol, but they certainly run other illicit substances. The amount of crime that arose and the number of deaths that occurred were enormous. Has anything worked with prohibition? For example, we could say that barbiturates were prohibited. Actually, they were supplanted. The barbiturates that could be used in voluntary assisted dying to end someone's life are used in veterinary medicine to euthanase animals, but they have been replaced because they were so deadly in our society. It is easy to overdose on barbiturates. They were not so much prohibited as supplanted by other medications, particularly benzodiazepines. There are now huge problems with addiction to benzodiazepines. People's lives have been destroyed. Even now, one of the favourite ones we can prescribe is alprazolam, which is enormously difficult to recover from. Addiction to alprazolam can cause immense problems, but it was seen as a safer option than barbiturates, which frequently ended in death. There are other examples. For example, leaded petrol was prohibited. However, it was not actually prohibited; it was supplanted by unleaded petrol. There was another option. I searched the web intensely for examples of prohibition actually working, but I have not found one example. There is always a caveat—a problem that can be bigger than the original problem.

What is the intent behind declaring something illicit? It is a health, moral, economic and political decision. It is us who create the definition of what is illicit. With that background, I now come to methamphetamine, which is the main thrust of this otherwise excellent bill. As I have mentioned before, it is a horrible, evil drug. I vividly recall the words of my colleague and friend Hon Martin Pritchard about the scourge of methamphetamine and how it is a nasty drug. I listened to his contribution and thank him for his very clear description of the evils involved with that drug. I support him wholeheartedly, as, indeed, I support the intent of the speech given by my colleague Hon Peter Collier yesterday. Those members gave excellent reasons for wanting to banish this scourge. I agree with the intent to reduce drug use or eradicate it if possible, but the question I have is whether this bill will achieve that intent. This is an important question: will this bill achieve that intent? If it is not the intent of the bill to do that, what else should we do? I would support the intention to reduce the use of drugs if that would reduce crime, improve health and improve society. If this bill was going to reduce crime, improve health and improve society, I would be 100 per cent behind it and be the first to stand and support it. However, am I that naive to believe that this bill will achieve that? The declared intent is not to reduce crime, improve health or improve society; it is to detect, deter and reduce the importation of illicit drugs into WA.

Hon Kate Doust: Which will hopefully achieve all the aims that you have just talked about.

Hon Dr BRIAN WALKER: I thank Hon Kate Doust for that. This is about prohibition; it is about the war against drugs. We know from every example that we have had in the past that the prohibition approach fails. There is not one example where it has worked. I challenge members to give me one example of where it has worked without detriment. This bill is more about the police force and crime statistics. It is about enhancing the powers of the police force. It is about looking good in the papers: "How many arrests have been made?" It is about law and order. I am going to give a spray to both sides of the house. What we are dealing with here is not law and order but "Laura Norder", or Mrs Norder if we like. There is a perception that the bill will enhance law and order, but what we are in fact doing is listening to Mrs Laura Norder talking over her garden fence about how to manage the problem. For example, a little while back the Barnett government decided to reverse the changes that the Gallop government had made to cannabis laws, on the premise that it was for law and order reasons. Did that result in crime going down? It did not. Did it reduce cannabis consumption? It did not. Has it made it worse? It has indeed. The ostensible purpose of this bill is to achieve law and order. If we use the old way of doing that, we will simply be talking to Laura Norder and decreasing law and order. Trying to do the same thing again and again and expecting a different outcome is madness. This law is not about health; it is not about harm minimisation; it is not about protecting the people. This law is about giving the police more powers to search, detect and, as Hon Peter Collier mentioned, reduce the amount coming in. Will that stop criminal activity? It will not.

Hon Kate Doust: What's your solution, then, member? I have listened to you for 33 minutes and I am not really sure whether you are supporting or opposing the bill. What is your solution if you are not supporting this?

Hon Dr BRIAN WALKER: The solution is that we need to think in different ways. I am glad the member mentioned this. One example is that the government in Portugal decriminalised all drugs. The member might say, and the population would probably agree, that that would increase deaths due to drugs, increase violence and increase crime, but the fact is that the very opposite happened.

The war on drugs is a decades-long international campaign to curtail the use and supply of illicit drugs. The societal impact of the war on drugs is that it has increased crime. It has had health impacts. The people who need help have been criminalised rather than medicalised. There have been negative health impacts. The number of deaths has increased. The number of overdoses has increased. It has had a financial cost. The US alone has spent over \$1 trillion on drug law enforcement since 1971. Has it worked? It has not. Recent reforms have highlighted the need for there to be a reassessment of the war on drugs. What I am calling for here, Hon Kate Doust, is that we look at things with new eyes.

Hon Kate Doust: You are not going to get that in this bill. This bill is quite narrow in what it seeks to achieve. It has a specific purpose. It has a broader goal. All the things you are talking about are big-picture schemes that are not going to be resolved by this bill. They are trying to fix another issue, leading to a solution.

Hon Dr BRIAN WALKER: I thank Hon Kate Doust for that. The point I am making is that this bill will have the opposite effect to what the government intends. The war on drugs does harm to society. It has health risks and financial costs. The bottom line will be clear: there will not be a reduction in crime, and I will explain why in a moment. The war is not winnable. It is absolutely not winnable. It has not been won since it was declared. It is a lost war and everyone involved in this will tell us that this is the way it is. It is a losing war. It is a lost war.

We are going to look at the law of unintended consequences. Let us look first of all at the consequences to the police force. It is designed to give more arrests and more success to the police in a continuing losing battle in the war on drugs. If we are in the Army and on the losing side and we are constantly fighting to achieve something and we are losing all the time, our morale goes down. Those honourable members of the police force will find themselves demoralised and depressed and withdraw from the force. Who will replace those police officers? It will be those police officers who like force and like to be the boss—"I will command you, I am in charge. I am the law." We will have people coming into the police force who are more forceful. With that will come a perception that the police, rather than being protective, are abusive. We have seen this on occasions when police have overstepped the limit and beaten up people. This kind of person is not welcome in the police force, but that is the kind of person whom we will attract because morale will go down; good-hearted officers will find themselves other jobs. The numbers in the police force are going down. Why are officers leaving? Are they not finding fulfilment in the job? Who will find fulfilment in the job? It will be someone who gets pleasure from power. Do we want that police force?

In Portugal, the police force changed. It turned away from becoming prohibitive and prescriptive to looking after the population—"You have a problem, my friend. Let us get you to a doctor. Let us help you with this." The number of deaths has gone down, the number of suicides has gone down, mental health has improved and gross domestic product has improved. Do I want to live in that society? Yes, I very much do. We are looking for a difference. We ought to look at changing our approach to managing drugs. In the short term, this bill may need to go through, but I ask that we look beyond this current law at how we can fundamentally change our approach to the drug problem we will be getting.

As I mentioned in a previous speech, there is a risk premium for the criminals providing drugs. That risk premium is dependent on how much someone will lose with police activity. If someone finds that their stash has been stolen or taken by the police or discovered elsewhere, their costs will go up. Who will bear the cost then? It will not be the state. It will be the individual buying the drugs. The price will go up. Once the supply of drugs goes down, even temporarily, the risk premium will go up. The costs will go up for the individual. Where will the drug users get their finances to pay for the drugs they crave? They will be involved in burglaries and crimes. We will find that crime increases. The unintended consequence of this will be crime increasing. Because we are not medicalising but criminalising, domestic violence will increase and more people will be accused of criminal activity to feed their habit. More people will end up in prison, unable to support themselves or in social distress. Homelessness and poverty will be exacerbated and violence will increase. The youth—the young ones who are more at risk of criminal activity—will be drawn into this. I foresee a time when, if we take no action now, youth crime will increase. It will be predictable. Although it is well meaning to reduce the amount of drugs in our society, an unintended consequence will be that things get worse.

In that case, we need to take a good, hard look at how we can improve this outcome. We need the government to be aware that the process right now is not helpful. It will make things worse. We need to get new thinking on the management of illicit drug use. People who use illicit drugs are not determined to become criminals or drug addicts.

They are treating their own health or mental health problems. We need to medicalise what is going on—not criminalise what is going on. There is an international lesson to learn from this—the lesson on the war on drugs. The prohibition approach has failed. It has always failed in the past. It always will fail. We need to look more at what we can do to fix this problem at the very foundation—that is, to take it out of the hands of the police and put it into the hands of the medical fraternity. We need to fund more in the way of wellness and mental health. As a government and as a nation, we need to decriminalise drugs. I know it sounds counterintuitive, but the international experience is that by decriminalising, we improve wellness. By decriminalising, we reduce drug dependency. By decriminalising, we reduce deaths. By decriminalising, we reduce suicides. By decriminalising, we improve the return to our community.

I am going to oppose this bill, not because it is a bad bill, but because it is not going to achieve the intent for which it was set up. There is no point in putting into power legislation that will achieve the opposite of its declared intent. If the opposite is achieved, this bill will cost us money and effort and wellness in society. As such, I vociferously oppose this bill.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [5.35 pm] — in reply: I acknowledge and thank the two previous speakers. Hon Peter Collier has indicated that the alliance is supporting the bill. I thank him for his comments and, indeed, his contribution. Of course, I acknowledge Hon Dr Brian Walker's contribution too, and I acknowledge he has indicated he will vote against the bill. Obviously, I disagree with him and his reasoning. However, it is, of course, his right to do that.

I appreciate Hon Peter Collier's support for the bill and its intent of preventing the scourge of drugs getting on our streets. As raised by the honourable member, this bill is underpinned by real evidence. The COVID hard borders came down on 5 April 2020 and began to slowly lift from 14 November 2020. For the quarter ended December 2020, burglary decreased by over 50 per cent compared with the five-year average. Property crime decreased by over 40 per cent compared with the five-year average. Stealing decreased by over 40 per cent compared with the five-year average. Research has shown that these crime types all have a correlation to methylamphetamine use. The member raised that he would like some information on the locations of the border search areas, potential locations for others and how they can be extended. I will address those when we get into committee. I think that is the best way to do it.

Again I note Hon Dr Brian Walker's comments and the fact he is opposing the bill. The bill has a strong evidence case and is based on what we witnessed during the COVID border closures. We saw not only a significant drop in illicit drug usage and crime, but also a significant drop in drug-related hospital admissions. Meth-related hospital admissions dropped by almost a third when the borders closed, with the media reporting that medical staff were delighted by the decrease in drug-related presentations.

I thank the honourable member for observing that the goal of reducing illicit drugs in the community requires more than a single approach. I point out that the intent of this bill is twofold. It is about reducing the amount of drugs in the community while also disrupting serious and organised crime groups. The bill is part of a broader suite of recent legislative reforms targeted at disrupting serious and organised crime, including the Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021, which is targeted at disrupting outlaw motorcycle gangs, and the Firearms Amendment Act 2022, which provides police with the tools to prohibit dangerous people, such as members of serious and organised crime groups, from being in possession of a firearm through creating firearms prohibition orders.

I note the honourable member raised the review by Hon Wayne Martin on the Criminal Property Confiscation Act 2000. I encourage the member to raise any questions he has on this topic through questions on notice to the Attorney General's portfolio. However, I have noted the member's contribution that the bill does not contain things that he wanted it to contain, but as Hon Kate Doust said, this is a very narrow bill. It does not deal with those issues. However, the member may well get another chance in the future to have his issues addressed in appropriate legislation.

With those comments, I understand that we will go into the Committee of the Whole for a period. Again, this is an important piece of legislation from the government's perspective, and I acknowledge that Hon Peter Collier and the alliance agree with that.

I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Stephen Pratt) in the chair; Hon Stephen Dawson (Minister for Emergency Services) in charge of the bill.

Clause 1: Short title —

Hon PETER COLLIER: I am quite prepared, with the minister's indulgence, to do this again; I have a series of questions that we can deal with under clause 1 if the minister would like, which makes it easier for everyone. They are on specific clauses but, dare I say it, unfortunately, they are not going to bring down the government.

Hon Stephen Dawson: By way of interjection, I am very happy to deal with it like that.

Hon PETER COLLIER: Thanks for that, minister. At the outset, to reaffirm the alliance's commitment to this bill, as I said yesterday, we see it as part of a holistic approach to drug reduction. In isolation, of course, it is not going to eliminate illicit drug usage in Western Australia. I spent a fair bit of time yesterday talking about the role of our education system and the role that education plays in making our young people prepared for, or at least aware of, the scourge of drugs. That is one part of the battle against drugs. This bill, in isolation, will not do it. In isolation, this bill will not prevent the importation of drugs into Western Australia. However, I am very convinced from the evidence we have seen—anecdotally but also specific, concrete evidence that exists—that drug importation into Western Australia has been significantly reduced as a result of the closing of the borders. In addition, drug consumption in Western Australia has significantly reduced as a result of the borders. No, it is not going to be the panacea but it is one more vehicle to assist in the process—that rich tapestry of everyone working together, or else we could just put up our hands and go fishing. That is not going to solve the problem at all. Having said that, I take on board the point made by Hon Dr Brian Walker, but I am not naive enough to assume that this bill is going to resolve the drug issue in Western Australia or globally. That is just not going to happen. It is a scourge that is out there but it does not mean we tap the mat. It does not mean that we go home early and assume that it cannot be done. We are going to do all we can and that is why we are supporting the bill. As I said yesterday, as a firm anti-drug advocate, I am very supportive of this bill. I repeat that I am very much unqualified to deal with it as I have never had an illicit drug in my life.

On the amount seized and the amount consumed, I have one question about the Western Australia Police Force annual reports. WAPOL started reporting the amount seized in 2018. It was not reported in 2017 but the amount consumed was 1 547.3 tonnes according to the Australian Criminal Intelligence Commission's wastewater drug monitoring program. Then, in 2018, as per the WAPOL report, 260 kilograms was seized, plus the 1.3 tonnes that was seized in Geraldton; remember that one?

Hon Martin Aldridge: Was it in the Abrolhos Islands?

Hon PETER COLLIER: Yes, that is right. It was the Abrolhos Islands. It was massive. However, the amount consumed in that year was 1 416.8 tonnes, so the amount consumed went down, although the amount seized increased significantly. In 2019, 314 kilograms was seized and 1 482.7 tonnes was consumed. In 2020, 292 kilograms was seized and 1 186.2 tonnes was consumed. Do not worry about the figures. I am just making a point for *Hansard* to reinforce the points I made yesterday. Then, in 2021, at the start of the closed borders, the amount seized was 416 kilograms and the amount consumed was 966.9 tonnes, so the amount consumed declined appreciably. It shows that it was working. In 2022, the amount consumed was 944.8 tonnes according to the ACIC wastewater monitoring program. That reinforces the points I was making yesterday about the amount consumed and the amount seized. The question I have on those figures is that in 2022, in the police annual report, the amount seized was not reported for the first time. That is a shame because it would have been compelling and further evidence of how it is working. Is there any reason that in the 2022 police annual report, the amount seized was not reported?

Hon STEPHEN DAWSON: We do not have that information. I am not sure why that is the case. As the member pointed out, it was not reported in 2017 either. Obviously, I will not get the member an answer this evening but I am happy to ask that question of the minister or through the agency to see whether we can get an answer for the next time we sit.

Hon PETER COLLIER: I would like that. The first time it was reported was 2018; it was not reported in 2017 but the amount consumed was reported. Then it was reported for the next four years. Interestingly, the amount consumed was reported in 2022 but the amount seized was not reported. That is what I want. I can pursue it further in estimates if the minister likes or if he cannot get a response but I would like to think that WAPOL would include the amount seized in its annual report from here on in and that it was an aberration.

Hon STEPHEN DAWSON: I am not sure why, honourable member. If I can get an answer for tomorrow, I will. I will certainly give the member an undertaking. Obviously, I represent the Minister for Police in this chamber and I will be doing the estimates next Thursday. I will advise the department and the minister's office that that question will be asked if we do not have an answer by then. We will have an answer for that session.

Hon PETER COLLIER: Thanks for that.

Hon TJORN SIBMA: I have just a few questions on an operational level. Perhaps this is the best clause to put them.

Hon Stephen Dawson: I am happy for the member to ask them here.

Hon TJORN SIBMA: Splendid. Forgive me if I have missed this information being presented previously. Very basically, does the standing up of the 22 named border search areas place any operational or resourcing demands upon the Western Australia Police Force that will require supplementation or is this going to be dealt with under the existing headcount?

Hon STEPHEN DAWSON: No. Additional resources are not necessary, I am told, as police can choose when they want to activate a border search area. Then they can utilise the related powers. The reporting requirements will be achieved through an in-house data capture system similar to the system used to meet the reporting requirements of vehicle search authorisations. The serious organised crime division will be the division responsible for border search areas. The previously named target development team has been realigned with this legislative change in mind to become the border operations squad. That will ensure police have suitably trained staff to undertake BSA operations to assist with reporting obligations to the CCC. There will be no extra resourcing. It will be done out of the existing resources, but obviously it will be monitored. I imagine if it was monitored and it was decided that extra staff were needed in this area, it would go through the budget process and the case would be made to the Expenditure Review Committee of cabinet.

Hon PETER COLLIER: I was going to ask exactly the same question, but I want to follow-up on that a bit. I appreciate that there are not going to be 22 BSAs activated at one time; we would definitely need more police. Having said that, I am surprised to hear that there will be no increase in personnel, given the current pressures on the Western Australia Police Force. With that said—I guess I am probably pre-empting the response here—is there an anticipated number of border search areas that will be activated at any one time?

Hon STEPHEN DAWSON: The short answer is no. It is a tool that police will be able to use, but we do not know how many will be activated at any one time. It will depend on the intel we get; it will depend on the circumstances at the time. The answer is no, but as I said to Hon Tjorn Sibma, this will be monitored, the data will be kept and tracked, and if it looks like extra resources are needed in the future, a decision can be made by government to allocate that resource.

Hon PETER COLLIER: Just to finish off on this topic, that was another question I had, and I appreciate Hon Tjorn Sibma asking it. I sought some views from the WA Police Union and WAPOL on the situation. There is a concern out there that the limited resources will put added pressure on the operating structure of WAPOL, particularly —

Hon Stephen Dawson: Sorry; I am just trying to guess what your question might be.

Hon PETER COLLIER: That is all right. I am saying that because the BSAs will be in some of the sparsest areas of the state, in areas I assume on the Eyre Highway right through to the north and in some of our border facilities, firstly, they are going to be areas that will be very hard to staff. Secondly, if a multitude of them are going to be operational or activated at any one time, that will put added pressure on WAPOL. The minister has given his response and I appreciate it. What I will say is that we are dealing with sinister creatures. They are not going to stop because we have 22 BSAs. They are going to find wonderful and wild ways to get around this system, I can promise the minister. I can foresee a situation whereby if more than half a dozen BSAs are activated at any one time, that will put enormous pressure on WAPOL's already very stretched resource base. Having said that, I take and respect the minister's response. This will be a watching brief over the next few years.

Hon TJORN SIBMA: Following on from the matter of resourcing, which has been canvassed, I draw the minister's attention to some statements made by the previous Premier on some of the motivation for this legislation. He compared the onerous nature of the existing regime for conducting these kinds of searches with the application of quarantine or biosecurity hazard management in this state. He compared the ease with which an officer can stop a vehicle and search for an offending banana with that of stopping and searching to prevent the trafficking of methamphetamine or methamphetamine precursors, and I thought that was a reasonable comparison to make. But in operational terms, can the minister please give us a sense of the governance arrangements for the activation of a BSA? Sorry, I will try to use the language. How long might that take in an administrative sense, to give us a sense of how flexible this instrument will be in responding to, say, real-time intelligence on persons of interest, compared with what the state can apparently already do with offending fruit?

Hon STEPHEN DAWSON: I am told that it could be activated quite quickly. A person with the rank of inspector or higher within WA police will be able to activate it. However, if an inspector activates it, a more senior officer will have to sign off on it within 24 hours. I am told that if we were to get advice that somebody was potentially going to go through the Eucla border in five minutes, it could be responded to quite quickly.

Just turning back to Hon Peter Collier and the resourcing issue, I take the member's point, but we have police now stationed at Eucla, for example, who are quite close to the border. That may well be an area of keen interest if some of this stuff comes in from the east coast. Obviously, the other BSAs that we are aware of—I think the member knows the names; I have not been asked to put the names on the record just yet—are ports and, indeed, airports. For those areas, most likely, if we do not already have police stationed there, they could be stationed there quite

quickly. At the port of Port Hedland, for example, we have the Port Hedland Police Station itself, which is within five minutes of the port, and the South Hedland Police Station is probably 15 to 20 minutes away. In particular, I have to say, the Port Hedland Police Station is often less busy than the South Hedland Police Station. The resourcing intensity of this issue might not be as demanding as we think; however, it will be monitored.

Hon TJORN SIBMA: I have one final line of questioning for this evening. Obviously, the 22 border search areas identified in this bill include airports and ports and there will potentially be some sort of conjunction or coordination or incoordination of effort between the relevant federal and state agencies. I am just attempting to understand: is there a perceived—I will use this phrase probably ill-advisedly—bleeding of the trafficking of methamphetamine or precursor chemicals through, for example, Perth Airport security that the Australian Border Force or the Australian Federal Police are not picking up that has led to the inclusion of those areas as potential BSAs? I am attempting to understand the jurisdictional coordination that will go on.

If possible, can the minister provide an overview of the intelligence or information that might be shared between the AFP and WAPOL, for example, in the conduct of a joint operation, or does this infer that joint operations are not being considered or this mechanism will not be used in a joint operation between, for example, WAPOL and the AFP?

Hon STEPHEN DAWSON: The Australian Federal Police and the Australian Border Force are certainly aware of this. It would be our intention to have joint operations with both of those agencies, depending on which agency is the most appropriate at the time and place—the BSA. We would also be able to work with them. They could assist police officers with the carrying out of preliminary drug detection testing or vehicle searches. We would work in tandem with them. We will be the first jurisdiction in Australia to have such a scheme. I imagine police forces or agencies across the country will watch with interest to see how successful this might be.

Hon PETER COLLIER: I have a few more things. It is very handy to have the BSAs in the schedule; mind you, it is probably a light beam to the sinister little creatures to say, “Go to these areas”. It is very good information to have. Firstly, why were the BSAs restricted to 22 sites given the expanse of Western Australia? It was alluded to in the second reading speech, but why were those 22 areas chosen? I have a third question. The minister can do them all at once if it is possible for him. Why was Karratha not included?

Hon STEPHEN DAWSON: The list of 22 BSAs was put forward by the Western Australia Police Force to the government for consideration. Those are certainly the major entry and egress points. We are aware that illegal activity has previously taken place —

Hon Peter Collier: So historically, they are the main avenues for drug importation?

Hon STEPHEN DAWSON: That is certainly my understanding. In saying that, looking at the list it does seem that Karratha was an omission. It has not been included for now based on history. Could it be included in the future? Absolutely. Obviously, there are 22 BSAs in the schedule, but changes to that list could be made in the future depending on intel, feedback or whatever we have.

Hon PETER COLLIER: I have a few questions about operational things to conclude. When is it anticipated that the BSAs will be operational after royal assent?

Hon STEPHEN DAWSON: It will be operational the day after royal assent. Back to the member’s question about Karratha, the port of Dampier is actually the port that services Karratha and it is actually one of the 22 BSAs. They could potentially be a presence in Karratha, albeit at the local port of Dampier.

Hon PETER COLLIER: I appreciate that it is operational the day after royal assent, but when does the minister anticipate that the first BSAs will be operational?

Hon STEPHEN DAWSON: Sorry, I misunderstood the member’s question. We do not know that at this stage. There are no predetermined operations or areas where a BSA might be used. However, the tool will be available a day after and it will be based on intelligence.

Hon Peter Collier: So from that day forward, you can expect to see a BSA emerge.

Hon STEPHEN DAWSON: I expect that a BSA could emerge from that day forward.

Hon Peter Collier: Throughout the bill, a term used quite regularly by WAPOL is “reasonable grounds”. What is the definition of “reasonable grounds” in the eyes of WAPOL? It is used quite consistently throughout the bill.

Hon STEPHEN DAWSON: “Reasonable grounds” is used throughout the bill. On page 6 of the bill, it states —

(8) The Minister must be satisfied that —

(a) there are reasonable grounds to suspect that the area comprising the proposed new BSA is being, or is likely to be, used for the transport into the State of any of the following —

(i) a prohibited drug;

- (ii) a prohibited plant;
- (iii) a controlled precursor;

...

In that sense, it would be based on intel. I think the current commissioner would go to the Minister for Police and say, “We have got some intel. We think this is going to happen”. Based on the provided intel the minister would then make a decision on whether there were reasonable grounds.

Visitors — Elena, Imogen and Phoebe Pratt

The DEPUTY CHAIR (Hon Stephen Pratt) [6.05 pm]: Before I give the member the call, I acknowledge my wife, Elena, and daughters Imogen and Phoebe in the President’s gallery this evening.

Committee Resumed

Hon PETER COLLIER: As I said, it is used quite regularly throughout the bill. I have a couple more quick questions. If the driver of a vehicle is required to stop in a BSA —

Hon Stephen Dawson: Sorry, ask me that again. I beg your pardon?

Hon PETER COLLIER: If, for example, the requirements of this legislation required the driver of a vehicle to stop in a BSA, what would happen if he refused and left the BSA? It is only five kilometres.

Hon STEPHEN DAWSON: Under offences in proposed section 20W, the failure to comply with the requirement of an authorised officer is explained. There is an associated penalty of \$3 000 or three years’ imprisonment.

Hon Peter Collier: That was my very next question.

Hon STEPHEN DAWSON: Was it?

There might be other offences captured by that, too, but that would likely be the main one.

Hon PETER COLLIER: That was my very next question associated with that very point. The proposed section states that an individual commits a simple offence when they fail to comply with the exercise of powers conferred on an authorised officer under section 20U(2)(a), (e) or (f). If an individual leaves and the conditions surrounding the BSA become null and void, it would only be considered a simple offence. Would their maximum penalty be a \$3 000 fine or a three-year imprisonment? That is an issue that has been raised to me by some in the policing sector.

Hon STEPHEN DAWSON: I will go back to the fact that we might have intelligence that a particular car or type of car —

Hon Peter Collier: Reasonable grounds.

Hon STEPHEN DAWSON: That would be reasonable grounds to stop them. They would have obviously driven through the BSA. If they have failed to stop in the BSA and we have the intel saying that a car like it is likely to have drugs, powers under the Criminal Investigations Act would be used to arrest and deal with the issue and drugs at hand.

Hon Peter Collier: Will the penalty still be \$3 000?

Hon STEPHEN DAWSON: It will be different. It will be under the Criminal Investigation Act as opposed to this legislation. That would not preclude fines being issued as a result of a breach of the order to stop under this legislation, but there will be other penalties that could be used against a person who infringes or does not stop.

Clause put and passed.

Clauses 2 to 17 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by **Hon Stephen Dawson (Minister for Emergency Services)**, and passed.