



WESTERN AUSTRALIA POLICE FORCE
**OFFICE OF DEPUTY COMMISSIONER
(SPECIALIST SERVICES)**

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Hon Dr Sally Talbot MLC
Chair
Standing Committee on Legislation
Legislative Council
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Dr Talbot

**RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION TO THE STANDING COMMITTEE
ON LEGISLATION, INQUIRY INTO THE SENTENCE ADMINISTRATION AMENDMENT BILL
2017**

On Wednesday, 11 October 2017 myself, Acting Assistant Commissioner Scanlan and Mr Ric Sims, Principal Legislative Project Manager, appeared before the Standing Committee on Legislation, Inquiry into the Sentence Administration Amendment Bill 2017.

At the hearing, WA Police Force attendees undertook to provide the Committee with the following additional information on-notice. Furthermore, attached for your information is Commissioner Dawson's response to Justice Robert Cock's letter requesting information on the prisoners' cooperation to locate the remains of the deceased victim in Operation Beachlands.

Details about the coordinating unit within WA Police Force who would be responsible for putting together the Commissioner's report under the new proposed section 66C – the information requested was the name of the unit, the number of FTEs in the unit, an itemisation of the resource implications for the unit arising out of the Bill (if it becomes law) and whether the one person currently in that unit has other duties to perform as well.

The Offender Review Unit (ORU) is managed by one FTE Western Australia Police Force (WAPF) member, two 0.8 FTE Police Axillary Officers (PAO), seven casual PAO employed on a needs basis. All PAOs are extremely experienced having attained the rank of Superintendent or Inspector, before their retirement.

The roles and responsibilities of the ORU are:

- The ORU represents the Commissioner of Police on the Prisoners Review Board (Adult) and the Supervised Release Review Board (Juvenile). It is responsible for WAPF services being delivered in a continuing and professional manner.
- Both Boards have two Chairpersons: His Honour Judge Robert Cock QC (Adult) and His Honour Judge Michael Murray QC (Juvenile) and three Deputy Chairpersons.

- The designated Commissioner Representative compiles a report and detailed notes to present to the Board. Board members are required to:
 - make decisions on initial applications for parole from eligible prisoners throughout the State;
 - suspending parole; and
 - cancelling parole and re-applications for parole.
 - for the life/indefinite sentenced prisoners, the Board considers a parolees inclusion in Re-Socialisation Programs prior to being released or recommended for release.
 - consideration of complex issues before making recommendations to the Attorney General.

The WAPF Homicide Squad (HS) will be responsible for preparing the Commissioner's report under the proposed section 66 of the Bill, as they are the subject matter experts in relation to homicides and are responsible for their investigation State-wide. The HS have ready access to all of the relevant material required to prepare the report and their Review Officer (Detective Senior Sergeant) will be tasked to complete it. Officers from the ORU represent the Commissioner at the parole hearing and would submit and or table the report as required. (A copy of a recent request from Justice COCK is attached for reference).

Should the Bill provide for a prisoner to cooperate in giving both, the location or last known location, of the remains and where the remains may be found (taken from the Victorian and Queensland legislation)? Can the officers explain the difference?

The Western Australia Sentence Administration Amendment Bill 2017 (the Bill) requires the Board be satisfied the prisoner has cooperated with a member of the Police Force in the identification of the location, or last known location, of the victim's remains. The Victorian legislation expands on this, requiring their Board to also be satisfied the prisoner cooperated in the identification of "*the place where the body or remains of the victim of the offence may be found*".

South Australia, Northern Territory and Queensland also have legislation requiring their Boards take into account certain things when considering the early release of a prisoner convicted of murder. However, this legislation does not include the additional requirement contained in the Victorian legislation, that the Board be satisfied the prisoner cooperated in the identification of "*the place where the body or remains of the victim of the offence may be found*".

The WAPF have formed the opinion the proposed amendment would serve no purpose, as the Board is required to assess the extent of the prisoner's cooperation, which must be detailed in the Commissioner's Report and the inclusion of this amendment would be of little benefit to the WAPF.

How many prisoners are being held who were convicted of manslaughter and the body hasn't been found, so that this legislation would apply to them?

Does WAPOL believe that manslaughter should be included in the definition of "homicide" offences, alongside murder, wilful murder and infanticide? If not, why not?

The WAPF HS have identified two prisoners who have been convicted of manslaughter where the victim's body has not been located. The WAPF support the inclusion of manslaughter in the definition of "homicide" offences, alongside murder, wilful murder and infanticide.

The following list details those prisoners who have been convicted where the victim's body has not been located and details when their parole is due for consideration, which involves nine cases, and 14 prisoners who were convicted of murder or manslaughter. Also included for reference are other matters where the victim's body was not located where a murder conviction was not upheld or the prisoner is detained in another jurisdiction and not subject to the Bill.

Could the Committee have the details of any prisoners who are coming up for parole soon that would be affected by these provisions. Have any reports been written to the Prisoners Review Board in anticipation of these prisoners coming up for parole?

Could the Committee have a breakdown of the cases mentioned by Acting AC Scanlan at the Committee Hearing. Please detail the actual number and type of these cases, and what the actual convictions were for.

Operation ALTUS

Victim: EDGE

Accused 1:

Sentenced: 07-04-2017 - MAX: 06-04-2029 - Manslaughter

Earliest Eligibility Date: 06-04-2027

Accused 2:

Sentenced: 04-10-2017 – Life (For Murder)

First Statutory Review Date: 05-10-2040

Accused 3:

Charged with Murder; convicted of Manslaughter on 5 April 2017. Earliest release date 28 February 2021. Currently subject to appeal.

Accused 4:

Sentenced: 28-10-2015 MAX: 27-10-2024 (Accessory After the Fact)

Earliest Eligibility Date: 27-10-2022

Summary: On 25 April 2015, the victim, was lured to house in Clarkson by Accused 1 where he was assaulted by Accused 2 and Accused 3. The victim died in a rear bedroom of the premises. Evidence is that the victim was taken to the back shed at the premises and left for approximately 24 hours. Accused 1 and Accused 2 later took the deceased to sand dunes in Eglington and left the body there for approximately 24 hours. The following night Accused 2 and Accused 4 took the victim out to sea using a borrowed dinghy. To date the body of the victim has not been located.

Parole: None of the accused have appeared before the Parole Review Board at this time.

Note: Accused 3 was originally charged with Accessory after the Fact. The Office of the Director of Public Prosecutions (ODPP) recommended a charge of Murder, which was upgraded by the Homicide Squad. The ODPP accepted a Guilty plea by Accused 3 to Manslaughter. Accused 3 is currently appealing her sentence, therefore no early review date can be provided.

Operation ZUNI

Victim: DUNN

Accused 1:

Sentenced: 16-01-2017 – Life (For Murder)

First Statutory Review Date: 16-06-2028

Accused 2:

Sentenced: 12-01-2017 - Life (For Murder)

First Statutory Review Date: 16-06-2037

Accused 3: *Charged with Conspiracy to Defeat Justice; not incarcerated.*

Summary: On 19 May 2015, the victim, was lured to the address of Accused 1. At the address the victim was beaten to the head and body by both Accused 1 and Accused 2; the victim died as a result of the injuries. After the assault, the victim's body was disposed of by Accused 1 and Accused 2 at an unknown bush location. On 17 June 2015, Accused 1 and Accused 2 were arrested and charged with the Murder of the victim.

Parole: Accused 1 and Accused 2 have not appeared before the Prisoners Review Board at this time. As per the above, the earliest parole review for Accuse 1 is 2028 and Accuse 2 2037.

Note: Accused 2 was removed from prison by Homicide Squad Detectives in an attempt to locate the body of Dunn without success.

Operation ALDEDO

Victim: MACK

Accused:

Sentenced: 25-01-2013 – Life (For Murder)

First Statutory Review Date: 25-08-2030

Summary: On 6 August 2010 the deceased's family contacted Police and reported her as a missing person. Police attended and spoke to the accused, who was the victim's son. The accused told Police his mother had moved out just before Christmas 2008 and wanted nothing to do with her family. He refused to supply any details to allow Police to contact the deceased.

Inquiries were made with all government departments with whom the deceased had contact, as well as business contacts. No person had seen or had direct contact with the victim since late 2008. Immigration has no records of the victim departing any Australian port.

On Thursday 26 August 2010, Detectives from Major Crime Squad and Western Suburbs executed a search warrant at the victim's address. No evidence of the victim being present was located. The accused was interviewed at length, would only say that his mother was alive, and refused to give details of her location.

It was alleged that on an unknown date between the 17 December 2008 and 6 August 2010 the accused murdered the deceased at an unknown location by unknown means.

The evidence gathered proved that the accused systematically provided false information and documentation to give the impression his mother was alive and making all decisions relating to her business dealings and financial matters. This deception was to enable the accused to access her bank accounts and withdraw large amounts of money.

The accused was removed from Prison on three occasions by Homicide Squad Detectives in an attempt to locate the deceased's remains without success.

Operation LUCERNE

Victim: SCHULTZ (Hoddy)

Accused 1:

Sentenced: 21-04-2017 – Life (For Murder)

Earliest possible release date 15-06-2034. Subject to appeal.

Accused 2:

Charged with Murder, however the brief was dismissed by the Office of the Director of Public Prosecutions (ODPP) prior to being committed to the Supreme Court.

Summary: In June 2006, Accused 1 sold an unlicensed handgun to the deceased through Accused 2 for \$2000.00.

Accused 1 and Accused 2 became involved in a dispute with the deceased after he refused to pay for the handgun. Accused 1 and Accused 2 formed a plan to abduct the deceased and assault him in retribution for refusing to pay. During the evening of 4 August 2006, Accused 1 and Accused 2 lured the deceased to an address in Ocean Reef where he was physically assaulted. After the assault, the deceased was restrained and placed into the back of Accused 1's work vehicle.

Accused 1 and Accused 2 drove with the deceased, still in the rear of the vehicle, to another address where they picked up a third person (not charged) to assist them.

Accused 1 and Accused 2 and the third person formulated a plan to drive the deceased to a bush location, assault him and leave him to walk home.

During this time the deceased threatened all three with physical harm by persons he was allegedly were affiliated with (Outlaw Motorcycle Gang members). Believing the claims to be true, the deceased was driven to a bush location approximately 40 kilometres south of Armadale where they left the bitumen road and travelled approximately 800m along a bush track.

At that location, the deceased was removed from the vehicle and struck to the head at least two times, with what is believed to be a wooden weapon, causing severe head trauma. The deceased was dragged to a shallow clandestine grave, his body set alight and then buried.

Parole: Accused 1 has not appeared before the Prisoners Review Board at this time.

Operation MONTARA

Victim: PUDDY

Accused:

Sentenced: 08-NOV-2011– Life (For Murder)

Earliest possible release date 25-05-2028. Subject to appeal.

Summary: At approximately 11:30am on Monday 3 May 2010, the victim was heard at his residence, engaged in a telephone conversation with the accused. This conversation involved an argument over payment of rent by the accused to the landlord for the business premises and money missing from the business safe.

At approximately 6:30pm, that evening the victim's mother departed the victim's residence, at which time the victim stated he had a meeting later that night. At approximately 10:15pm that night, a text message was sent from the victim's mobile telephone to a family friend to the effect that the accused had met the victim at his house and had presented a cheque for \$750,000.00 for the purchase of the victim's boat. The accused and complainant had argued previously over the accused's failure to secure the sale of the boat to an unidentified syndicate.

Since that time the victim has not been contactable or seen by any person known to Police and was reported missing by family members at 11:00pm on 4 May 2010.

A forensic examination of the victim's premises, found the presence of blood staining in the kitchen. The blood has since been confirmed as being the victim's. A bloodstain pattern analysis in the kitchen indicates that the victim was struck several times with an unknown object.

Two plastic 'wheelie bin' rubbish bins were missing from the victim's house. One bin was located outside a house in Attadale that contained items belonging to the victim. The other bin was located in bushland in Yanchep, on 30 May 2010. This bin contained traces of the victim's blood.

On 25 May 2010, the accused was arrested in Queensland and was extradited back to Western Australia on the charge of Murder.

Parole: the accused has not appeared before the Prisoners Review Board at this time. An appeal against his conviction was dismissed on 15 May 2013. Media articles link the accused to considering a second appeal.

Operation CYGNET

Victim: RINALDI

Accused:

Sentenced: 13-09-2002 – Life (For Murder)

Statutory Review Date: 12-09-2025

Summary: In this instance the accused is 55 years of age and the estranged husband of the deceased. They separated in 1996. Divorce proceedings and property settlement were still proceeding through the Family Law Courts, although an order was made for the accused was to hand over an amount of \$98,000.00 on or prior to 1 September 2002.

At approximately 4.30pm on 2 September 2002, the victim departed her employers address and was last seen alive at her residence a short time later. Following the sighting and over a two-day period family members and a number of other persons attempted to contact the victim, by telephone to no avail. Having welfare concerns and at approximately 9.15am on 4 September 2002, the victim's daughters attended her address and searched the premises before calling Police.

Over several days, Police forensic officers carried out an examination of the scene. During the course of the examination Police located a spent .22 Calibre cartridge case, traces of blood in every room, traces of blood on brick paving at the rear of the victim's premises and also in the driveway area.

Following the examination of the victim's unit and during the course of investigations Police seized the accused's motor vehicle and executed a 711 *Criminal Code*, Search Warrant at his home. A forensic examination of the accused's vehicle located traces of blood in several different positions. A forensic examination of a firearms bag, seized from a garage at the rear of the accused's premises found further traces of blood.

The located blood staining in all these locations was matched the victim's DNA profile.

Police alleged the accused wilfully murdered his wife at her residence between 4.30pm on 2 September 2002 and 9.15am on 4 September 2002, at which time he removed her body from the premises.

On 13 September 2002, the accused was charged with Murder without making any admissions or disclosing the whereabouts of the deceased. The victim's body is yet to be located and recovered.

Parole: the accused has not appeared before the Prisoners Review Board at this time. An appeal against his conviction was dismissed on 7 March 2007.

The WAPF has not provided submissions to the Parole Review Board in relation to any of the above matters at this time.

Operation BEACHLANDS

Victim: COTIC

Accused 1:

Sentenced: 13-09-2002 – Life (For Murder)

Earliest Release Date: 05-12-2013

Multiple Reviews

Last Review: 24-02-2017 – Board recommended to AG to advise the Governor in Executive Council to approve RSP

Next Review: 18-11-2019 OR sooner of receipt of returned report from AG

Accused 2:

Sentenced: 06-12-1996 – Life (For Murder)

Earliest Release Date: 05-12-2013

Multiple Reviews

Last Review: 15-09-2017

Next Review: 10-11-2017 and 08-11-2017

Accused 3:

Sentenced: 06-12-1996 – Life (For Murder)

Statutory Review Date: 05-12-2021

Summary: Accused 3 solicited Accused 1 and Accused 2 to murder the victim for \$10,000. The victim was due to give evidence in Court against Accused 3 in September 1996.

On 28 August 1996, the victim and Accused 2 purchased heroin from an associate and returned to the caravan of Accused 1 & Accused 2 where it was injected by all three parties.

Accused 2 picked up a hammer and struck the victim twice to the rear of the head. Accused 1 & Accused 2 tied the victim's hands behind his back using electrical cord. Accused 3 attended a short time later and the three accused, loaded the victim's body into the rear of Accused 3's vehicle.

Accused 3 departed the incident scene and disposed of the body in an unknown location. At this time, the body of the victim has not been located.

In October 2017, at the request of His Honour Judge Robert Cock QC, the Chairperson for the Prisoner Review Board, sought WAPF comment on the cooperation of Accused 1 and Accused 2 in identifying the location of the deceased victim, who was murdered by them on 28 August 1996.

This was done in the context of the proposed amendments to the *Sentence Administration Act 2003*, with the inclusion of Section 66C(3)(a) and others, in relation to Accused 1 and Accused 2's cooperation as described in Section 66B(1)(a) of the Act.

A letter in response was provided to His Honour outlining Accused 1 and Accused 2's cooperation, in particular:

- I. the nature and extent of the prisoners cooperation;
- II. the timeliness of the prisoners cooperation;
- III. the truthfulness, completeness and reliability of any information or evidence provided by the prisoners; and
- IV. the significance and usefulness of the prisoner's cooperation.

Operation N/A (1993)

Victim: HARDING

Accused 1:

Charged with Murder – Acquitted

Accused 2:

Charged with Accessory After the Fact – 3 years' probation

Summary: The victim was reported missing in April 1993. Despite two trials, no one has been convicted of his murder.

The victim's former partner, Accused 2 claimed that she paid Accused 1 \$10,000 to kill the victim. Accused 1 told Accused 2 that he had shot the victim. Accused 2 believes the body was taken away in Accused 1's van and then dumped.

The Coroner found that despite Police not finding the body of the victim, he was satisfied beyond reasonable doubt that the victim had been murdered.

Operation N/A (1989)

Victim: STUBBS

Accused:

Sentenced: 06-02-1998 – Life (For Murder)

Earliest Release Date: 05-02-2013

Multiple Reviews – No recommendations for participation in RSP or ROP

Next PRB Date: 18/01/2019

Summary: In the early hours of 26 March 1989, the victim was abducted by several men outside a pizza bar in Kalgoorlie, tied up and violently beaten before being dumped in a mine shaft near Menzies.

His remains were never found. The accused was convicted of wilful murder in 1998, but refused to name his accomplices at a Coronial Inquest in 2000 — two other men are thought to have been involved.

The accused made admissions to tying up the victim, beating him to death and then dumping his body down a mineshaft.

"It was the Crown's case at trial that at between 1am and 1:30am on the Sunday morning of the Easter weekend of 1989, Thompson, driving his Ford vehicle and in company with an associate abducted Stubbs outside a pizza bar in Kalgoorlie. Thompson and his associate allegedly took Stubbs to an abandoned mineshaft a fair distance from the town. Thompson tied and blindfolded Stubbs and then cut his throat. Stubbs was pushed down the mineshaft, a fire was lit, and the hot coals were thrown down on top of him."

Operation N/A (1988)

Victim: ELMORE

Accused:

Charged 30-05-1988 with Murder

The accused was released into the custody of the United States Navy. The accused was convicted of premeditated Murder by general court martial and sentenced to life imprisonment.

Summary: The accused was stationed in Exmouth as a member of the United States Navy. Prosecution alleged that the accused murdered his wife and threw her into shark infested waters off the Gulf of Exmouth.

OTHER RELEVANT INFORMATION:

The below are reference terms which may prove beneficial when interpreting parole and review dates.

Life Term

First Statutory Review Date (SRD) – The Board is required by current legislation to review a sentenced prisoner two years prior to the First SRD, (three yearly thereafter). This review is initiated by the Board receiving documents from Corrective Services advising if the prisoner is suitable for participation in an RSP (Re-Socialisation Program). Corrective Services can facilitate an RSP, moving forward, any recommendations by the Board for participation on an RSP have to be approved by the Attorney General (AG), who then forwards the recommendation to the Executive Council, who have the final approval.

EED – Parole Term

Earliest Eligibility Date (EED) – Prisoner is reviewed by the Board anywhere from a month to two weeks prior to the EED. The matter is automatically listed & reports requested. The Board determines whether to release to a parole order. No AG involvement.

Please contact my office or Mrs Andrea Hancock, Director, Executive Services on 9222 1276, should you require any further information on this matter.

Yours sincerely



STEPHEN A BROWN APM; M.St (Cantab)
DEPUTY COMMISSIONER
(SPECIALIST SERVICES)

20 October 2017



WESTERN AUSTRALIA POLICE FORCE

OFFICE OF COMMISSIONER OF POLICE

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Detective Superintendent Peter De La Motte

His Honour Judge Robert Cock QC
Chairperson
Prisoner Review Board
GPO Box C127
PERTH WA 6839

Dear Justice ~~Cock~~ *Robert*

**COOPERATION OF CERTAIN PRISONERS REGARDING THE IDENTIFICATION
OF THE LOCATION, OR LAST KNOWN LOCATION, OF THE REMAINS OF A
DECEASED VICTIM**

Thank you for the opportunity to comment on the cooperation of Mr Steven Norman Southam and Mr Paul Zaghet in identifying the location of the deceased victim, Mr Richard John Cotic who was murdered by Mr Southam and Mr Zaghet on 28 August 1996.

A review of the investigation into Mr Cotic's murder, Operation Beachlands, has been conducted by Major Crime Division and identified that both Mr Southam and Mr Zaghet cooperated with police post their arrest on 6 December 1996

Pursuant to the proposed amendments to the Sentence Administration Act 2003, with the inclusion of Section 66C(3)(a) and others, the following information is provided to assist with your determination in relation to Mr Southam and Mr Zaghet's cooperation as described in Section 66B(1)(a) of the Act:

i) the nature and extent of the prisoners cooperation;

On 6 December 1996, Mr Zaghet provided police with a statement extricating himself in the physical murder of Mr Cotic, while at the same time implicating Mr Southam and co-accused Mr John Wayne Hobby in the disposal of the victim. Mr Zaghet admitted assisting Mr Hobby in placing the victim's body in Mr Hobby's vehicle and disposing of key exhibits. Mr Zaghet assisted police in the recovery of those key exhibits but was unable to assist in providing the disposal site of the victim.

The assistance and cooperation of Mr Southam, post his arrest on 6 December 1996, was in the form of full admissions to police regarding his involvement in the murder of Mr Cotic and the roles of Mr Zaghet and Mr Hobby in the murder and disposal of the victim's body, the murder weapon and other key exhibits.

Mr Southam later gave evidence for the prosecution at Mr Zaghet and Mr Hobby's trials and Mr Zaghet's retrial, which greatly assisted in their subsequent convictions.

ii) the timeliness of the prisoners cooperation;

Prior to their arrest both Mr Southam and Mr Zaghet provided police with a number of false statements asserting they last saw the victim when he left their premises at the Separation Point Caravan Park, Geraldton on 28 August 1996 and denying any knowledge of the victim's whereabouts. Post their arrest on 6 December 1996, both Mr Southam and Mr Zaghet cooperated with police however, both were unable to assist police with the location of the victim's body because it had been disposed of by Mr Hobby.

iii) the truthfulness, completeness and reliability of any information or evidence provided by the prisoners;

Whilst both Mr Southam and Mr Zaghet initially provided false statements to police prior to their arrest, it is believed the assistance they provided to police post their arrest was truthful, complete and reliable.

iv) the significance and usefulness of the prisoner's cooperation;

The cooperation of Mr Southam in particular was significant in the prosecution gaining convictions against both Mr Zaghet and Mr Hobby.

Mr Zaghet's initial statement led police to Mr Southam and ultimately Mr Hobby. Mr Zaghet also assisted in the recovery of critical exhibits that had been disposed of after the murder of Mr Cotic.

After careful examination of the evidence gathered by police during the investigation, and the evidence provided by Mr Southam and Mr Zaghet, the Western Australia Police Force is of the view that both Mr Southam and Mr Zaghet do not know the location where the victim was disposed.

At this time, no member of the WA Police Force knows the location of the remains of Mr Cotic.

Mr Hobby, who was sentenced to life imprisonment, remains in custody at Casuarina Prison with an earliest eligibility date (for consideration of release) of 5 December 2021.

Yours sincerely



CHRIS DAWSON
COMMISSIONER OF POLICE

17 October 2017