

SENTENCE ADMINISTRATION AMENDMENT BILL 2017

Second Reading

Resumed from 17 May.

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [2.54 pm]: I would like to make a contribution to the debate on the Sentence Administration Amendment Bill 2017, which is before the house. I was hoping that the opposition spokesperson may be on his feet to make a contribution, but —

Mr P.A. Katsambanis: I haven't heard which bill we're on.

Mr D.A. TEMPLEMAN: The member was not listening to the Clerk. We are on the no body, no parole bill, member for Hillarys, and I assumed the member would be speaking. That is the second time I have saved the member today! I saved him earlier on. Now I will have to make a contribution, but I will make a brief contribution.

I want to highlight the importance of this bill. Obviously, I am not the lead speaker; that speech is given by the Attorney General. I want to highlight to members a very important matter about the no body, no parole bill. I expect that we will continue debate on this bill into next week. It is very important to remember the history that lies behind it. I think it is also important to highlight the initial response by members opposite to the proposal for this bill, particularly the previous Attorney General and the member for Scarborough, as Minister for Police, while we were in opposition. Early last year, I tabled in this place —

Mrs L.M. Harvey interjected.

Mr D.A. TEMPLEMAN: I will come to the former Minister for Police! We remember what she said about Mrs Dodd. We remember what the member said and what the former Attorney General said. If the member wants to keep interjecting, I will bring it up! I tell you what: I am on my feet; this is my speech, not the member's. If the member keeps going, I will remind the house what the member and her colleague in the upper house said when she was the Minister for Police and he was the Attorney General. It was disgraceful behaviour and disgraceful language about a family who has suffered for over 19 years because of the loss of their daughter. I will not talk about that family or that matter because it is about to come before the courts.

Mrs Dodd and her husband, Ray, are the parents of Hayley Dodd, a young woman, 19 years of age, who very tragically disappeared near Badgingarra a number of years back. Like many families who have lost loved ones, they have never been able to put them to rest because their bodies have never been located, but of course, we know that they have met a tragic end. Along with a number of other families in this state and in other parts of the country, the Dodd family continues to suffer as the remains of their loved one have not been found so they have not been able to put them to rest. Mrs Dodd and Mr Dodd, and a big group of people who support them and other families who were highlighted in the Attorney General's second reading speech earlier this year, have suffered enough. Last year, Mrs Dodd circulated an online petition, which I presented in this place. Initially, there were 20 000 signatures, but, of course, the petition did not comply with the standing orders of this place because it was in an electronic form. I think as parliamentarians we need to address that and find a way for an appropriate petition that otherwise conforms to standing orders but is in electronic form can be accepted as a legitimate petition in this place. It had over 20 000 signatures and an additional 20 000 signatures were presented to this place in the intervening months before Parliament rose and was prorogued.

It was disgraceful, member for Scarborough, that when Mrs Dodd made some public comments about the need for and the importance of no body, no parole legislation, she was dismissed by the words of the then Attorney General. The words he used to her were along the lines that this was simply a mother grieving and a stunt. Following the uproar from those comments, he did retract them somewhat, but it demonstrated to the people of Western Australia how out of touch the former government had become with the important issues that affected many people in Western Australia. The course of history shows that the people of Western Australia delivered their verdict on the former Attorney General and his colleagues on 11 March this year. They did that. It is important to remember that already in other states of Australia no body, no parole legislation has been progressed. For some reason, Western Australia, once again in many respects with important legislation, seems to drag its heels, but under this government, this new Attorney General took to the election a commitment to ensure that no body, no parole legislation would be introduced as a priority piece of legislation for the McGowan Labor government. We have delivered that piece of legislation to this place, because we believe that those families in Western Australia have suffered immeasurable trauma because of the loss of a loved one and we have not been able to locate their body so that those family members can give those loved ones a dignified rest. When members of Parliament like the former Attorney General dismiss the actions of those people as stunts in the way that he did, it reflects on the sort of person he is and on the sort of people on the other side. It was

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a bad reflection on members of the former government. The leader of the government at the time, the Premier of the state, should have been the first person to rebuke the Attorney General, but that did not happen. That was a very disgraceful situation in which we found ourselves.

This legislation that has been introduced by the McGowan government and championed by the now Attorney General will do a number of things. It will allow, through due process, when someone is accused and found guilty of the murder of loved ones, recompense for the victims' families; and, if that person should ever end up serving out their sentence and be eligible for parole, there will be a simple question: tell us where our loved one is so that we can have an opportunity to lay to rest that loved person. In the case of Hayley Dodd, she is a loved one who has not been with her family for 19 years. She would have been in her 30s now. She never had an opportunity to become a mother, to have a career, to play a meaningful part in her community or to lead a fulfilling life. She never had that opportunity, so why should a person found guilty of her death not be made accountable? That is what this bill does.

I am proud to know Margaret Dodd, Raymond Dodd and the Dodd family. I am proud to know of their active participation in seeking justice so that their family and many others—a number of them mentioned by the Attorney General—can have justice served. This is important stuff for this place. This is about people. This is about families. This is about justice. I am proud to be part of a government that is seeking to deliver justice to those families and, ultimately, to those loved ones who have been lost.

I hope that the opposition will support this bill and that when members opposite make their comments on this bill, it will be done in a respectful way, because there are people listening. There are people in the gallery today. There are people out there who know and are hanging on every word that is said in this place about this piece of legislation, its intent and why it is so important for those families and for families who, tragically, may face this terrible trauma in their lives in the future. I ask the opposition to support this bill and its intent, and that we make sure it passes this place as quickly as possible with good interrogation, as it should have, and that we make this piece of legislation law.

MR P.A. KATSAMBANIS (Hillarys) [3.06 pm]: I rise to speak as the lead speaker for the opposition and at the outset put on record that the opposition supports the Sentence Administration Amendment Bill 2017 and wishes it a speedy passage through this place. The opposition recognises that a group of people in our society are hurting when they should not be hurting. They are hurting because a loved one of their family has been taken away, not by illness or disease and not by reaching the end of their natural life, but by a heinous act by somebody else—a murderer, a killer—who has deprived that family of their loved one, deprived them of the opportunity, as the Leader of the House said, to watch that loved one grow and thrive in society. They are hurting for another reason as well. They are hurting because they have not been able to properly farewell their loved one. They have not been able to properly grieve and they are not properly able to commemorate the life of their loved one in the way that they want to do. Each person in each culture has different ways of doing that, and we recognise that. They cannot do it because the body of their loved one is nowhere to be found. Despite the best endeavours of police and everyone involved in searching for that body, they have not been found. The killer or killers have not only taken the life of a person, but also left an entire family and set of loved ones around that person in limbo, unable to properly grieve, to properly commemorate and to move on. The opposition recognises that, which is why we wish speedy passage to this bill. I will talk about the operation of this bill in a minute.

The one thing that we differ from in the comments made by the Leader of the House is that we hope this bill is not delayed unduly. I do not want to see this bill kicked down into next week. Let us deal with it now. Let us deal with it today so that we can get this into law as quickly as possible.

What this bill does is euphemistically summarised in the term this bill will colloquially be known as forever and a day—the no body, no parole bill. We know that in our justice system when a murderer is caught, charged, goes to trial, gets convicted and is sentenced, they get sentenced to jail for a very long time—for the term of their natural life with a non-parole period. This Sentence Administration Amendment Bill provides that when eventually that murderer, that killer, is due for parole, if the remains of the victim have not been found—the family of that victim has not been able to obtain the remains of their loved one—they ought not to be given parole. They need to have cooperated with the authorities and gone to the effort of working with the police to assist in the location and identification of the remains of the victim so that the family can at last rest at ease, knowing where their loved one is, and can appropriately commemorate the life of their loved one. That in itself is sensible. The opposition will not stand in the way of that at all.

However, we want to highlight the fact that the bill itself will offer a little bit of comfort to grieving families, but it will not be a panacea. The passage of this bill cannot guarantee, of course, that any murderer will reveal the location of the body. It can assist by guiding that person to understand that they will never be released unless they reveal that. I do not know what drives a person to murder someone, dispose of the body and continue to

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obfuscate and lie and to not reveal the location of the remains of a body. I am not sure whether this bill will motivate such people to become better citizens to at least, right at the end, reveal the location of a body. But it gives comfort to those families, some of whom have been mentioned. The Dodd family, obviously, is grieving the disappearance of their loved one. Like the leader of government business, I do not want to say too much about the case because it is going through the courts. Clearly, that family wants to know where the body of their loved one is. I hope to goodness they find out soon. The Puddy family is looking for the body of their loved one who was murdered by Mr Mansell. Mr Mansell has been convicted and is serving a 18 year minimum sentence, non-parole period. Let us hope that this bill will encourage Mr Mansell to, even at the last minute, do the right thing, and encourage whoever is ultimately convicted of the murder of Haley Dodd to do the right thing and assist the families who are grieving. My heart goes out to them. I cannot put myself in that position, nor can most or all of us in this chamber. I hope as few families as possible are in that position in the future; I really do. As I said, the bill cannot force anyone, especially a nasty person, to suddenly have some sort of road to Damascus moment and reveal the whereabouts of a person's body, but it should not stop us from passing this legislation.

A similar bill was introduced into this place last year that the leader of government business alluded to in his contribution. At the time, it was introduced by the opposition, the government now. I was not in this place, so I did not get an opportunity to make a contribution on the bill. It was pointed out at the time by the people in this chamber that the then government, today's opposition, supported the principle but believed that that bill, as introduced at the time, did not achieve the intended purpose. We can argue about who was right and who was wrong but we should not. This is too important to argue about it, but I point out that the bill we are considering today is substantially different from that bill. That is good. I have looked at this bill in some detail and, as I said, it cannot force anyone to reveal something that they do not want to reveal, but it works; it is inherently consistent. Whenever it needs to come into operation, I think it will definitely work to make our law better. That is why the opposition supports it. It is substantially different for a particular reason. This is not a reason that is simply applicable to the former opposition, the now government; it is applicable to all oppositions. Sometimes the resources of government and a department can assist in better framing legislation—not always, but sometimes. That is one of the points that was lost in the debate last year. I watched the debate from afar. I was not here; I did not get the opportunity to participate in it. The bill contained flaws that perhaps purported to do something that would not be achieved. Anyway, we are not considering that bill now; we are considering this bill. We do not have any fundamental problems with it, although, admittedly, we have some questions around it because it is a new type of law. It is unique to Western Australia in that the Western Australian parole board is not the final arbiter on whether a murderer gets parole; the parole board makes a recommendation to the Attorney General. I have no knowledge of any situation in Western Australia in which a murderer has been due for parole, the body has not been found, the person has not cooperated in assisting people to find the body and that person has been paroled. I imagine that even in the absence of this legislation, there would never be an Attorney General—not the previous one, not the current one nor any future one—who would consider that a murderer who is due for parole should get parole when that person has done nothing to assist the family of their victim get some solace, even in their grief. There would never be a circumstance in which that person would get a recommendation for parole anyway, or an Attorney General would accept that recommendation or pass it on to the Governor. We are unique in that sense, I believe. I know that Victoria does not have that extra check and balance. I am not sure about the Northern Territory and South Australia, two other jurisdictions with similar no body, no parole legislation. I am acutely aware of what happens in Victoria, where its version of the parole board has the power to make an ultimate decision on parole. Perhaps that is a distinguishing factor between our legislation and Victoria's legislation. As I said, it does not matter that there is an Attorney General to act as a backstop.

This legislation is good. It gives a clear guide to the parole board or the Prisoners Review Board—I am sorry to use more colloquial terminology than its official title; I do not mean that with any disrespect. The legislation gives a clear guide to the Prisoners Review Board, the community and the murderers, and provides some solace to the family of the victim, who are victims themselves. Let us make no bones about that. The family of the murdered person are just as much victims as the murdered person and they are living with their own life sentence. There are not many of these people. The people whom we have mentioned are about the totality of the people affected, so if they are asking for this legislation and we think the legislation works, we are not going to stand in the way of it.

As an opposition we have some issues with how the legislation will operate in practice. The other overriding concern, to take Mr Mansell as one example, is when in the process any cooperation will kick in. We will pass this bill, and Mr Mansell will continue to sit in prison waiting for that 18-year non-parole period to expire. Will Mr Mansell reveal the whereabouts of Mr Puddy's body today, next month, next year or a few months before that 18-year non-parole period expires, or will it be after that period? We cannot ever guide that. All I can say is that I hope that there is that road to Damascus. I hope it happens today. I wish it would happen without this bill.

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I wish the same in the case of anyone who is ultimately found guilty and convicted and sentenced for the awful things that happened to Hayley Dodd and the experiences of her family. That is a rhetorical question and one we cannot answer, but it proves that we can only do our best in this place. We cannot make these people tell anyone where the body is, but we can make their life tougher if they do not. As I said, I hope that no Attorney General would ever deem such a person worthy of parole even if this bill were not passed. But it is one more extra tool in the armoury of the Prisoners Review Board, and the board can implement it.

Some of the other questions are about the way that the legal framework works and the form of the report that is required from the Commissioner of Police to the board when it is considering parole. Ultimately, I am concerned about the form that would be deemed at law to be acceptable and the amount of cooperation that would be acceptable. The problem that I see is that because this legislation will not be used very often at all—hopefully, it never has to be used, because, hopefully, at the end of the day, everyone will comply and reveal the remains of their victim—every case that is ever considered under this legislation will be highly contentious. I have no doubt that someone who does not want to reveal the whereabouts of their victim's remains will litigate every step of the way. They will litigate the form and content of the Commissioner of Police's report. They will litigate the level of cooperation required and it will require judicial oversight and some form of judicial interpretation if that person continues to be mendacious and nasty and fails to reveal the whereabouts of the victim. That is no reason, as I said, not to support the bill, but I am pointing out that, in practice, because these things will be litigated so few times, the litigation will get very sharp and very pointy. Unfortunately, the risk is that if the person continues to want to be very nasty and to not reveal the whereabouts of the victim, it will elevate the concerns and the problems and the impact on the family of the victim. We cannot control that. That would be the case anyway if we did not pass this legislation. Whenever a person does not want to comply, we are going to have that problem anyway.

Another issue that comes up is that some nasty people, murderers—let us call them what they are; they have been convicted of homicide—may get a bit of a free kick through no effort of their own. I know the police do not sit around on these cases and wait and wait for a confession. The police continue their efforts because they really care. Many of them get very, very emotionally involved; the families would also know that. Through the continual efforts of the police or simply a stroke of luck, someone may come across the remains of the victim. In that case, when the murderer comes to have their parole reviewed, through no action and no good intent of their own, this legislation will not apply. I hope that in those circumstances the existing limb of protection that I spoke about will be used to not give them a free kick. I hope that at the first instance the Prisoners Review Board would still use as a paramount consideration the fact that these people have given no cooperation whatsoever and that they do not get a free pass. I also hope that the Attorney General of the day would also take that into consideration. When we look at things when parole is being reviewed, aspects of remorse are paramount and ought to be paramount. They ought to be taken into consideration, and I would argue very strongly that the first step to remorse is for someone, firstly, to recognise what they have done and, secondly, to completely fulfil their obligation to reveal the whereabouts of the body and at least provide that level of satisfaction to the family of the victim.

We would like to see other minor issues in practice. As I said earlier, we recognise that because this legislation will be used so rarely, there will not be this great guiding precedent in the operation of the Prisoners Review Board or in the Commissioner of Police providing the report or in the courts when they are looking at it. All this will get very pointy whenever it comes to fruition. Hopefully it never does. Hopefully, for the Dodd and Puddy families, the remains of their loved ones are found soon. Whether they are found through cooperation, a stroke of luck or continued hard work and police efforts, I hope they are found. I hope the families get the opportunity to say a final farewell to their loved one, commemorate their life, memorialise them in whichever manner they wish, and get closure on that particular chapter. I know it will not be solace enough and will not bring their loved one back, but it will give them closure on this particular aspect.

As the lead speaker for the opposition, I said earlier that I do not want to slow the passage of the Sentence Administration Amendment Bill 2017. I do not want to add to the grief of the families. I actually want to assist them by getting through this bill as quickly as we can. I even commit to not putting the bill in for consideration in detail. I know Hon Michael Mischin, my colleague in the other place, has some questions he will probably ask when it eventually gets into that place, so there is no point in repeating the process. I hope the Attorney General takes that as a sign of good faith.

I wish we never had to consider anything like this. I wish the Dodd and Puddy families, and all other families who will be impacted by this bill, had their loved ones with them. But we do have to consider a bill like this. Will it magically make those people come back? No. Will it magically allow for their bodies to be found? No. We are still relying on the good conscience of people who have been convicted of being of very, very, very bad conscience. But hopefully even they can look into their hard hearts and the grief of the Dodd and Puddy families and do the right thing.

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With this contribution, we wish this bill speedy passage, and we wish those families all the very best. We know they will continue to grieve their loved ones, but we hope what we are doing today will help bring a little closure to that part of their family life—that is, the recovery of the remains of their loved ones.

MR S.A. MILLMAN (Mount Lawley) [3.33 pm]: I rise to speak on the Sentence Administration Amendment Bill 2017. I will start by thanking the member for Hillarys for his contribution to the debate, and the indication that the bill will be supported by the opposition. I also commend the Attorney General for all his outstanding work and advocacy on this issue—an issue for which he has been a tireless advocate over many months, possibly years. It is great testament to the strength and power of his advocacy that this bill has come before the house in its current form. I pay my respects to Mr Attorney General, and I congratulate him on all the work he has put in.

There will be a number of government speakers on this bill, a lot of whom will, I suspect, echo what the member for Hillarys said about the devastating psychological and emotional circumstances the families of victims of crime experience. If I may, I wish to illuminate the house on a couple of relevant principles of law and legal issues, including taking the house through the purpose of parole, an accused's right to silence and how this bill will fit in with those rights, the situation in other jurisdictions in the commonwealth of Australia and how this bill will bring the state of Western Australia up to speed with other jurisdictions.

As the bill will be supported on a bipartisan basis, it is completely unnecessary to engage in any partisan debate. I note that in the time that has elapsed since the Attorney General brought forward his private member's bill, similar bills have also secured passage in South Australia and Victoria. It is great to see that Western Australia is joining those jurisdictions in putting an emphasis on ensuring that there is proper justice for victims of this most heinous crime.

I start by addressing one of the concerns raised by the member for Hillarys in his address. On my reading of the bill, the basis is “no body, no parole”. It will not be the case that if there is a body, someone will therefore get parole. Section 5A of the Sentence Administration Act, which includes all the considerations and matters that the Prisoners Review Board needs to take into account before determining whether a prisoner is eligible for parole, will continue to apply. I place that on the record as a representation to the member for Hillarys that all the other protections currently in place will not be impeded by the operation of this legislation once it receives royal assent.

The purpose of parole is to recognise that the criminal justice system is incredibly nuanced and finely balanced. Parole plays an important part in that balance, but it has never been a right. Parole has always been a privilege that must be earned by a person who has been convicted of an offence. Parole might be deemed appropriate in numerous circumstances. Once a person has been charged and convicted and the court has determined the sentence, the court is entitled to take into account whether an order for parole is appropriate. All relevant sentencing principles would apply at that time, including, as was referred to earlier today, circumstances of aggravation or mitigation. There can be no debate that a mitigating circumstance in determining an appropriate sentence or whether parole is an appropriate order is the extent to which the prisoner has cooperated with authorities. Parole, therefore, needs to be reflective of remorse, contrition, rehabilitation or a capacity to sensibly and properly re-enter society.

I will, if I may, borrow from some of the language used by the member for Hillarys. These people have committed some of the most heinous crimes. These people have shown complete disdain and disregard for the suffering of their victims and for the suffering of their victims' families. These are not people who would readily be eligible for parole. In balancing all the participants of the criminal justice system, we need to rebalance the scales of justice towards justice for victims. That includes justice for the families of victims—people who, as the Leader of the House said, are suffering incredible emotional trauma and incredible pain as they endure the loss of a loved one and all of the experiences that might have been shared. The chance to get married, have a family and have a career—these are all gone as a result of the terrible crime that has been committed by the prisoner. The prisoners know that this is the pain they are inflicting on these victims and on the families of these victims. If the prisoners express any contrition, any remorse, any indication that they have been rehabilitated or any indication that they can re-enter society, they must take that critical first step of cooperating with and assisting the authorities. They can do that by advising the authorities of the place of the victim's remains or the last known whereabouts of the victim's remains. Upon doing so, they will have taken an important first step in demonstrating to society and to the Prisoners Review Board that they are on the path to rehabilitation. At that point, the privilege that is parole becomes a potential option for them. Until they reach that point of contrition and cooperation, they should not be entitled to parole. That is exactly why this legislation has been brought forward and why the Attorney General has campaigned so assiduously and tirelessly to bring this legislation before the house.

Some may say that if an accused person who is before the criminal justice system is required to identify the location of the body, they are in fact giving themselves up and abrogating that long-established common law

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right that is an integral part of our criminal justice system in the common law world—the right to silence. To those people I would say, “Sorry, but you are incorrect.” I would say that an accused is entitled to all the rights and privileges of our criminal justice system until the point at which they are convicted. Once an accused is convicted of this most dreadful crime—murder, homicide, infanticide—they are no longer an accused. The rule of law has applied, our criminal justice system has done its job and that person is now a prisoner. Once that has taken place and once they realise their predicament, it is open to them to say, “Well, Your Honour, I will now cooperate with the police and identify the location of the remains.” If they do that, that is a relevant consideration to be taken into account by the court. If they have been convicted and sentenced and are serving their custodial term and reach that point of enlightenment, contrition or remorse at which they can say that they need to clear their conscience even just a tiny bit for the disgraceful, terrible act that they have committed and they identify to the police where the remains of their victim are, they will open the door to achieving parole. At that point, the privilege is enlivened.

The reason it is a privilege is that, as I said earlier, the criminal justice system is finely balanced. It must be balanced, because so much is at stake—the liberty of a citizen of Western Australia and the rights of the victim of the crime that they have committed. When the courts pass judgement on an accused and they become a prisoner, that is the point of extinguishment of so many rights. Equally important as that, and possibly more important, is the rights of the victims and their families. This legislation rebalances the scales of justice and provides fairness, compassion, thoughtfulness and understanding for those victims of crime. It says that despite the fact that they have committed this heinous crime, they have an opportunity to make amends and to say to those people, “Here is your opportunity to bury your loved one for closure and to say goodbye.” It is a recognition of everything they have been through and allows the families of those victims some modicum, some tiny degree, of respect and compassion for the circumstances they have been put through.

I am very proud that, as well as being an important election commitment of the government, this legislation well reflects community attitudes. The Leader of the House has already articulated in excellent terms precisely how deeply and widely held were the views of the community on this legislation. There was an unprecedented number of signatories to a petition calling for this legislation to be introduced. We have not only that overwhelming community interest on our side, but also the examples that have been set by South Australia and Victoria. I can also advise the house that the Queensland government introduced legislation that went before the Parliament and has now been referred to a law reform commission. All the analysis that needs to be done on this legislation has been done. Again, I thank members opposite for their indication of support for this legislation, because the sooner we can get this legislation passed through the Parliament, the faster we can start to deliver thoughtfulness and compassion for the families of the victims of these crimes.

People may ask: What happens if the wrong person is convicted of a crime? What happens if they are innocent and that is the reason they cannot advise authorities of the location of the body and thereby enliven their entitlement to parole? People may say that that acts as an infringement on the rights and liberties of those prisoners—and I use the term advisedly. To those who would make that suggestion, I would say this: parole has never been a hedge against conviction. Parole is always a tool of the criminal justice system for people who have been convicted. As I said in an earlier debate, we are strong adherents to the rule of law. We are strong believers in the way the justice system operates. That means that if someone has had all the advantages of the criminal justice system and all the benefits of a trial before a judge and jury and they have been convicted, they have been convicted—they are no longer an accused but a prisoner. Parole should never operate as a hedge against conviction. If someone has been wrongly convicted, they should enlist the support of a fearless, tireless advocate and have that conviction overturned. One example immediately springs to mind of which members of the house, and particularly the Attorney General, would be well aware.

But my point is this: parole has never been a hedge against conviction. Parole is always a privilege that must be earned by prisoners who have already been convicted, and it works in many ways in our prison system. It encourages good behaviour and participation in rehabilitation and reform programs; it encourages active engagement and working with prison officers; and it creates and fosters a good environment within our prison system. Parole serves an important purpose, but it is, always has been and will always remain a privilege for people who have been charged and convicted; it is not a right. These people must work to earn that privilege. They must show their remorse and contrition and show that they are ready to re-enter society as rehabilitated people. The very first step on the path to being able to demonstrate that they have done that is by cooperating with authorities and alleviating the pain and suffering of the families of the victims and identifying where the remains are, where the last-known place was, and allowing closure and fairness. I commend this bill to the house.

MR R.R. WHITBY (Baldvis — Parliamentary Secretary) [3.51 pm]: I rise to support the Sentence Administration Amendment Bill 2017. It is a bill that I think has the support of the vast majority of

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Western Australians. It is a simple proposition that if a murderer wants to be released on parole, they must reveal the location of their victim. Too many killers hide their evil secret. Too many families are left to cope with the pain, year after year, of not knowing where their loved ones are, of not being able to bring them home, and of not finding that eternal peace, or a place where they may rest in peace.

Our government is a government that listens to the community and responds to community concerns, and there is an overwhelming desire for this legislation. In fact, the house will recall that our now Attorney General and former shadow Attorney General previously attempted to pass this very legislation. It appears that in the intervening period, other jurisdictions around the country have got on board with this very sensible change and have advanced it more quickly than Western Australia has. At last we have an active and activist Attorney General, in stark contrast to what Western Australia has had in previous years.

We have read and seen the gut-wrenching stories of families who had been left not knowing about their loved ones. In fact, in a former life I can remember reporting on many tragic stories involving the murder of often young victims who were torn away from their loved ones, and the absolute anguish of their families' uncertainty. The uncertainty begins, of course, with not knowing what has happened with loved ones, what their fate has been, and what the circumstances of their disappearance were. Often, an accused is charged and even convicted, but still their victim's fate and the location of their remains is a mystery that is never answered for their loved ones.

There are a number of high-profile cases in Western Australia that are currently before the courts or will come before the courts, so I am not at liberty to comment on those cases, but there are some on which I can comment, and I will get to them in a moment. I remind the house that recently one of the biggest petitions in this state's history gathered some 40 000 signatures. It was a very simple petition that called for legislation to prevent the release on parole of convicted murderers who fail to reveal the location of the remains of their victims. I remember being in Forrest Place with the then shadow Attorney General and then Leader of the Opposition before a very large crowd of people who had taken to the streets on a wet, wintry Saturday or Sunday afternoon to hear a procession of speakers, including people who had lost loved ones and still did not know where their remains were located. It was a very big turnout. I remember joining the rally and walking through the city centre. I might be wrong, but I cannot remember seeing any members of the Liberal–National government of the time. Can the Attorney General recall?

Mr J.R. Quigley: No.

Mr R.R. WHITBY: No. I do not know whether the former Liberal–National government was represented or had much interest in what was happening, but it certainly had the interest of us in opposition at the time. I think Senator Derryn Hinch also attended, as well as many others. We marched through the city down into Elizabeth Quay and we were presented with a very large pile of paper representing those 40 000 signatures on the petition.

I can speak about one of the families who have been involved in the move for this legislation, the family of Craig Puddy. This was probably one of the most high-profile murder cases in this state's recent history. It involved a very wealthy, successful young 45-year-old businessman who, I must say, had everything to live for. He worked in his father's family business and was about to move interstate to set out upon a new era in his life. It involved a \$3 million mansion in, I think, Applecross or Mt Pleasant. It involved a burnt out four-wheel drive that was later found in bushland north of Perth, and it involved a wheelie bin that police suspect was used to transport the body of Mr Craig Puddy from that mansion. It involved the flight of a business associate of Mr Puddy, Cameron Mansell, who escaped to Queensland while on bail and had to later be brought back from Queensland. It was a very high-profile case that captured the imagination of the state. Eventually, Cameron Mansell was brought to trial and was convicted and sentenced to 18 years' jail for the murder of Craig Puddy.

Cameron Mansell qualifies for parole after 12 years. I have not done the maths to update how many years remain, but at the time of conviction and sentencing, he was sentenced to 18 years' jail and could be released on parole after 12 years. The fact is that the location of Craig Puddy's body has still not been revealed, and Cameron Mansell remains in prison in Western Australia without ever having revealed the location of the body of his victim. At that trial, after the conviction, Craig's father, Laurie, said —

“We still don't know where our son is. This is just the first step, there is no closure yet.”

These are real situations that continue to haunt loved ones across Western Australia. Since the conviction of Cameron Mansell, no fewer than four other cases have been through our courts in which people have been convicted and the location of their victims is unknown. This is an issue that occurs and needs addressing. I go back to those four cases. That is an estimate. We have ascertained that number from the sentencing remarks of judges. We could actually find that it is greater once we work through the database.

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I can also speak about other infamous cases that have gripped the attention of the nation because of missing bodies and convicted killers who refuse to speak about where their victims lie. I raise the tragic example of English backpacker Peter Falconio and his killer, Bradley Murdoch, who has refused to say where his victim lies. This continues to cause trauma to Peter Falconio's family and loved ones. It continues to result in speculation, which we saw recently in the media, about where the body could be. Until these issues are resolved, it continues to be a very sore wound for the families involved.

I will speak for a moment about the legislation that our Attorney General has brought before the house and the way it operates. My colleague the member for Mount Lawley touched on this previously, but it is worth repeating that this legislation involves people convicted of homicide-related offences. It is wider than a direct responsibility for murder; it can include an indirect responsibility. Homicide-related offences mean: counselling or procuring the commission of a homicide offence; inciting another person to commit a homicide offence; becoming an accessory after the fact to a homicide offence; or conspiring with another person to commit a homicide offence. These are all homicide-related offences in which people with knowledge of the location of a victim of murder will have their parole blocked or stopped in the event that they do not cooperate with police regarding the location of their victim's body.

I would also like to talk about other examples of the impact on loved ones when killers do not reveal the truth about where they have hidden their victims. Given that I do not want to comment on cases before the courts in Western Australia, I want to take members to Queensland and the case of Timothy Pullen, who was murdered in 2012 over a drug debt and whose body has never been found. Timothy Pullen's family had to face quite a gut-wrenching choice. They were told by the prosecutor in Queensland that if the prosecution did a deal with the accused for information on the location of the body, the accused would agree to an offer of a manslaughter charge rather than murder. The family took some time to agree to this, but eventually they did. When Timothy Pullen's mother, Leanne, and the family made their decision to opt for the prosecutor to pursue a lesser charge in a bid to locate the body of their son, a report in *The Courier-Mail* quotes Leanne as responding —

“I wasn't even interested in justice.

“I just wanted to know where Tim was. They discarded him like a piece of rubbish and it broke all our hearts.”

The Pullen family had agreed ... They would take the deal.

Leanne, Timothy's mother, went on —

“It felt like we had made a deal with the devil,” ...

Despite that, four people were charged over Timothy's murder, and police were eventually taken on a three-hour drive to a location where the body was apparently dumped, but it was never found. Despite that angst, it did not result in the location of Timothy Pullen's body. The location of his body remains a mystery to this day.

I heard the member for Hillarys make the comment earlier that this bill has bipartisan support, and I welcome that. I do note, however, that the now opposition had eight and a half years to consider these laws, including the private member's bill that was brought before the house. At the time there was a claim that that bill was not good enough. In January this year, the acting Premier at the time, Liza Harvey, member for Scarborough, dismissed Labor's policy announcement as, I quote, “laughable”. She said that it lacked detail and was full of “motherhood statements”. That was the position of the opposition when the same bill was presented to the house last time. I guess it is one more indication that it was a government that did not listen to the people—it did not listen to those people who had signed a 40 000-signature petition—and now finds itself a small rump on the opposition benches. But I am glad that the opposition will now support this bill, and I welcome that.

The other issue that the opposition had at the time was with the honourable member from the other place, the former Attorney General. I will just divert briefly because I have numerous colleagues in the legal fraternity, and people in public life tend to get a bit of feedback from people from various other professions. The feedback I often received, and I am sure I am not alone in this place, is that the former Attorney General was somewhat lazy and a do-nothing Attorney General.

Point of Order

Mr C.J. BARNETT: It is quite appropriate to speak to the substantive notion of the bill, but it is unparliamentary —

The ACTING SPEAKER (Mr T.J. Healy): What is the point of order?

Mr C.J. BARNETT: The point of order is that it is unparliamentary, in the standing orders, to reflect on members of the other house.

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The ACTING SPEAKER: A reflection on a member of the other house is unparliamentary. Would you please keep your comments within parliamentary terms.

Mr R.R. WHITBY: I will, Mr Acting Speaker.

Debate Resumed

Mr R.R. WHITBY: The point I was making was that the circumstances in the previous government were apparent to me and were very clearly the reason many things were not being done in this place. That was an observation I had received. For the purposes of continuing the discussion, I will move on.

I will speak in different terms of the new Attorney General. We have a very different Attorney General. We have an Attorney General who is part of a progressive government—one who listens to community concerns, one who gets things done and one who has brought legislation to this place very early in our first term. We have an Attorney General who can be described as both active and activist, who brings legislation to the house in a very prompt manner. The difference between the two Attorneys General is very stark.

[Member's time extended.]

Mr R.R. WHITBY: It is important to see this legislation progressed. It is something that must be and should be done for the families of victims of the worst possible crime. It will not bring loved ones back, but it will bring them home. I urge the house to carefully consider this bill and eventually to support its passage through this house.

MRS R.M.J. CLARKE (Murray–Wellington) [4.11 pm]: I would like to speak on the very important Sentence Administration Amendment Bill 2017. As a mother, I can only imagine what another mother would feel knowing that their child had gone missing at a very young age, and over a long period not knowing what happened to that child, then when finding out what possibly happened to that child, still not being told where that child could be located. It would be the most heart-wrenching part of a mother's life that I could ever imagine. In saying that, I know the mother in question, Margaret Dodd. I met her last year, but I have been following her story and that of Hayley Dodd for many years. Margaret and Raymond live in my electorate, and listening to them and hearing how passionate they are around this no body, no parole legislation, I could not believe that any state government or any parliamentarian would not listen to them and act on their request for this legislation to come into power. It was gut-wrenching to watch what Margaret Dodd went through over the past 12 months to two years, with all the protests, petitions and everything that she needed to do. She did everything within her legal right to get this legislation up, only to be ignored by the previous government.

I am pleased to say that the McGowan government has listened, as it listened in opposition. The new Attorney General worked very closely with Margaret Dodd to ensure this legislation became part of the Labor Party's platform and that when we got into power it would be looked at and hopefully passed. Now, with the bipartisan support of the opposition, it looks like it will be passed, and I am very pleased about that.

The thought of not knowing where your loved one is would be difficult for anyone, be it a child, husband, brother or sister. I know this has affected this family immensely. It has also affected the community as a whole. It affects not just the parents, but the siblings. These siblings have grown up without their sister. The emotional and mental stress this has placed on the siblings has followed them into adulthood, and is causing other issues for this family. If this legislation had been passed last year or the year before when it was first brought to Parliament's attention, it would have stopped a lot of heartache and grief for many parents. I know that Margaret is absolutely overjoyed that this legislation is now being looked at and will get passed in the term of this Labor government. I believe that other families who are going through the same thing will feel relief that pressure may be put on the instigators of these horrendous crimes and make them think, "Yes, I've done this and I'm going to get time, but at some point I want to get out, so maybe I need to fess up and say where this body is." The saddest part is that these families have not only lost their loved ones, but they will never be able to put their loved ones to rest. They will never be able to go to a place each year to grieve or just to say hello to them. I know that many people in this house have lost loved ones of their own and I am sure they will visit their loved ones at their gravesides every year or on special anniversaries. These families do not have that same privilege. They have no place to go and place some flowers, to say a prayer or "We miss you." There is nothing there for them. Also, it does not give the community a chance to grieve for these lost ones. All in all, this legislation is absolutely vital and I would like to see it passed as soon as possible.

MS S.E. WINTON (Wanneroo) [4.16 pm]: I also take the opportunity to speak to this most important Sentence Administration Amendment Bill 2017 before the house today. As some of my colleagues have said, I congratulate our Attorney General for not only bringing this legislation before us, but also the work he has done previously to get us to this stage.

I am very proud to be part of this Mark McGowan Labor government, which is putting real priorities in front of this chamber in its legislative work. We talk a lot about our first 100 days and what we have achieved, and our

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legislative priorities are a strong indication of what this government is about. I am really proud and humbled that this legislation is here for us to debate.

It is also really wonderful to hear from the member for Hillarys, the lead speaker for the opposition on this bill, that there will be bipartisan support for its passage through this place and that he would like to see its speedy passage and he will not delay it. That is great to hear. I have to say that in my experience as a new member of this place—I am sure some other new members would also agree—sometimes we sit here and listen to debate and wonder about the processes and the time we talk about things, so it is wonderful to hear that the opposition will take this bill very seriously and make sure that we progress it speedily through this place.

This legislation is very important for the families of victims in our community, and we have heard previous speakers talk about those people and their experiences. Of course, there is a huge community expectation that the government acts on this speedily to make sure that this no body, no parole law is put in place. It is also interesting to note, as previous speakers have said, that Western Australia is playing catch-up. Other jurisdictions, including South Australia and the Northern Territory, have managed to address this issue and bring some comfort to the families of victims and also the broader community, which has the expectation that we have legislation in place. It is unfortunate to recall what has gone before in this place that got us to this stage. I do not really want to go back to where we have previously been, although as a new member of Parliament, it has been interesting reading through old debates in *Hansard* on this matter. I do not want to rehash much of it but I want to pick up on a few points only because the member for Hillarys raised some of the previous debates on this issue. The member for Hillarys mentioned that he had followed the debate, despite the fact that he was not in this house. He suggested that the last time this subject was addressed in this house by way of a private member's bill introduced by the member for Butler, the now Attorney General when he was in opposition, the legislation was flawed. He suggested that part of the problem —

Mr P.A. Katsambanis: It had flaws.

Ms S.E. WINTON: It had flaws.

He suggested that part of the problem the opposition faced then was that it did not have the resources to draft the legislation in a way that would have been more acceptable to the then government. After listening to those remarks in this place today, it leads me to ask: why, when the previous government had legislation in front of it and had the resources, did it not seek to improve the legislation if it thought it had flaws? After all, the then government had the resources. I guess it is disappointing that it has taken this amount of time to revisit it when we could have had a resolution sooner. However, this government has listened to the community on a range of subjects, particularly on this matter.

There is no question that this legislation will provide huge comfort to the families of murder victims in this state. It is inconceivable to me as a mother to even imagine what it would feel like for one of our loved ones to be murdered—absolutely inconceivable. Also inconceivable is what it would be like being a member of a family who has to be part of the legal process when the murderer of our loved one goes through the legal system. It is inconceivable to imagine what that whole process would be like. I guess families get some resolution to the extent that the murderers are convicted of murder and put in prison. I imagine that would provide some level of comfort. However, what is inconceivable to me is that a parent of a loved one, knowing the murderer is in jail, is aware that there is some prospect that the murderer might be released without giving up the location of the victim's body. That is inconceivable to me.

There has been a lot of lawyer talk around the place that we do not need this legislation because it would never happen because the Attorney General has discretionary powers and so on. However, from being out in the community, I can tell members that it beggars belief that a process is in place—as it has been prior to this legislation, which we will fix—in which a murderer could be released without having to confess the location of a body. I note that on previous occasions when this bill was before the chamber, it was argued that the Attorney General had the discretion to overrule the parole board and say that the person will remain in jail. But from talking to my community, I can tell members that, unfortunately, the community does not have much confidence in politicians. No matter how good or well liked an Attorney General is on the day, neither I nor my community are comfortable about that kind of discretion being given. I am thrilled that this legislation will make sure that loophole is closed.

A lot of debate also has occurred about whether this legislation will work and get murderers to give up the location of a victim's body. I accept that that is really important for the families involved. We have heard many people talk about that and I do not need to repeat that here. However, I guess the part I want to highlight in my contribution is that, importantly, families of victims will know that there is no prospect of the murderer being released, and I think that is extremely important. We need to be able to give families of victims the knowledge—whether it takes one year, five years, 18 years or never, of being able to locate their loved one—that the murderer

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will never ever be released. Although I said previously that it is inconceivable to me to imagine what that is like, I imagine that knowing that the murderer will never be released would provide me with a tiny level of peace.

I want to finish by drawing members back to the campaign period of this election. I was able to attend many, many media conferences on many policies and commitments that the McGowan government made. However, I have to tell members that the most striking and most poignant was the media conference held at the Joondalup courthouse. I remember it very vividly, as does the member for Joondalup, when the Premier, Mark McGowan, and the Attorney General, together with some families who are directly impacted by this legislation, announced that the Labor government would bring forth legislation for no body, no parole. I have to say that was a really poignant moment. To be standing here today, as the member for Wanneroo, and a member of this government contributing to the debate on this really fundamental piece of legislation is wonderful. I commend this legislation to the house and I look forward to its speedy passage through this place.

MS C.M. ROWE (Belmont) [4.28 pm]: I, too, rise today to speak on the Sentence Administration Amendment Bill 2017 or the no body, no parole bill. This is certainly a bill I support. It is important legislation, as many have already said, which will, hopefully, go some small way towards helping bereft families to resolve their grief. It should be noted that when the Attorney General attempted to introduce this legislation last year as a private member's bill, the then Liberal government voted it down. At the time, as mentioned by other members today, there was a petition containing nearly 40 000 signatures in support of this no body, no parole legislation. Although it was not accepted because it did not meet the parliamentary requirement for tabling a petition, it clearly demonstrates how deeply many in our community feel about this issue. Members may not be shocked that the then Liberal government was dismissive of the petition and, indeed, of the plight of victims' families, who were seeking some level of closure.

This legislation will provide that in every case, the Prisoners Review Board will consider whether a prisoner convicted of murder or a murder-related offence should be granted an early release order. The board must not grant parole unless satisfied that the prisoner has cooperated with police in the identification of the location of the victim's remains. This is not to say that a prisoner who has cooperated will therefore be released on parole. The usual release considerations under the Sentence Administration Act will apply. It should be noted that this legislation applies only to "relevant prisoners", which includes those charged with heinous crimes, including murder, infanticide and homicide-related offences. The no body, no parole policy will apply only to a very small cohort of prisoners; that is, those who commit these serious and hideous criminal offences. Making parole release for particular prisoners contingent on them cooperating in the identification of the location of the remains of the victim will provide an appropriate and achievable incentive for prisoners to assist in finding and recovering the body or remains of a victim. This will surely go some way to providing much-needed comfort to these devastated families of the victims. Some in the community have noted the potential of the no body legislation to compound a miscarriage of justice; that is, a person wrongfully convicted could not qualify for a parole recommendation under this option. Under our law, once a person is convicted and sentenced the parole provisions are applied without further consideration of guilt. So to be clear, parole is not there to hedge against wrongful convictions.

Similar laws have been effected across the country. For example, in December 2016, the Victorian Legislative Council passed the Justice Legislation Amendment (Parole Reform and Other Matters) Bill 2016, which aims to ensure persons convicted and sentenced to imprisonment with a non-parole period for certain fatal offences are not granted parole if they do not satisfactorily cooperate with police to identify the location of the body or remains of the victim of the offence. South Australia passed the Correctional Services (Parole) Amendment Bill 2015 in early 2016, which introduced sections that require the parole board not to release on parole a person serving a life sentence for an offence of murder unless the board is satisfied that the prisoner has satisfactorily cooperated in the investigation of the murder. The Queensland parole system has recently been independently reviewed to determine whether this area of the corrective services system is operating effectively. The issue of no body, no parole was considered during this review, which recommended the introduction of no body, no parole legislation. Such legislation was subsequently introduced in May this year. In mid-2016, the Northern Territory Parole Amendment Bill 2016 was passed to provide that the board must not make a parole order in relation to a prisoner unless the board considers that the prisoner has cooperated satisfactorily in the investigation of the offence to identify the location, or the last known location, of the remains of the victim of the offence. In New South Wales, the corrective services minister has indicated that the government will introduce no body, no parole laws and strengthen the parole system for killers who have not disclosed the location of their victim's body or remains.

Since the conviction of Cameron Mansell in 2011, a further four people have been convicted of murder in cases in which the body of the victim has not been found. It is clear that other states and territories have acted to rectify this issue, and it is time that we act in Western Australia to pass this important legislation for the victims'

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grieving families. This provides a level of fairness and compassion to our system and allows some small degree of closure to those grief-stricken families who are suffering. I commend this bill to the house.

MR B. URBAN (Darling Range) [4.34 pm]: Not many bills that come into this place go to the core of my fibre. Early in this, my first term as a member, we are dealing with a very important bill, the Sentence Administration Amendment Bill 2017. First of all we dealt with the methamphetamine bill, which is one of a string of things that we need to deal with, and the no body, no parole bill is equally as important. I concur with the member for Hillarys and the opposition that this matter is far too serious for us to play politics or to interject and banter about. We should not be doing that during debate on this bill. We need to send a strong, clear message to the community that if someone has been murdered and their body has not been recovered, we must prevent the person who carried out that murder from obtaining parole.

I want to talk about the Prisoners Review Board. I worked in the corrective services area for a short time. An interesting thing about the Prisoners Review Board is that once a person has been found guilty and has admitted their offending behaviour, they must do a number of things to rehabilitate and reintegrate back into society. One of those things may be attending a course. If, for whatever reason, an offender does not do a violent offender treatment program, or a sex offender treatment program, they are not eligible for parole. There could be many reasons why they are not afforded the opportunity to attend such courses. For instance, the prisoner could be held in Hakea or Acacia Prisons, and could not achieve the minimum standard of classification to be able to go to Karnet Prison Farm, a minimum-security prison, where these courses are held. This provision is to enable prisoners in the system for offences, including murder, to become eligible to come back into society as effective members of the community. We must help people in prisons to rehabilitate themselves, to give them the opportunities to do that, and accept the fact that they have stuffed up. Hopefully, they will accept that what they have done was wrong. They will accept that they have to slot back into society in a more positive way than they did before. In the case of murder—I am not going to call it anything but murder, because it is murder—the member for Hillarys is quite right: these people are the lowest of the low. There are lower people; I will not go into that today, but if another bill comes up later on, I will discuss those people as well.

I will jump across to my time as an investigator in the police force, both in the United Kingdom and here. It is well documented that I held the role of detective both in the UK and here. Most of my police career has been involved in dealing with offenders who committed serious arrestable offences including violent offences such as robbery. I worked in a surveillance unit and in the regional crime squad. We followed and arrested people in action committing serious offences such as robberies. I have been the initial officer, or crime scene manager, for a number of murders, and I want to bring to the attention of this house what that feels like. When the call comes across the radio that a murder has taken place or that an incident has happened, but we do not know what it really is, everything goes through your head at that time whether you are a detective or a uniformed officer. You get there as quickly as possible. First of all, you think: is it just a false alarm? The officer starts preparing for what inevitably could happen. The initial part of going to a crime scene is quite distressing, particularly if a death or a murder has taken place, because, first of all, our minds race. We have a lot running through our minds to understand what is needed. We have to then start putting all our other experiences in hand and the member for Churchlands also being a military man would understand this. We have to stand above that and bring in the people and think about what it is. For the police officers who get to these crime scenes initially, it is not disturbing or distressing. It is just police officers doing their job. What they do when they get to the job is what makes police officers stand out in many parts of our community.

The crime scene can be dealt with. We take photographs of everything. We get scenes of crime in. Scenes of crime take photographs, brush for fingerprints, collect DNA and bag as many exhibits as it can from the scene. Inevitably, a young probationary constable on nights is paired up with someone else to do a scene guard after an eight-hour period or when it gets too late in the morning. Scenes of crime cannot always deal with it in one hit so it comes back the next day. The body has usually been removed by this stage, but it may not have been; unfortunately or fortunately, whilst the person is deceased they cannot do anything, and that enables the scenes of crime and the forensic officers to do their job. That is the easy part of it.

I put my hand on my heart and say that whenever I have been to a murder scene—and there have been a few—the body has always been there. The body is taken to the mortuary and then afterwards we as police officers sit in the police station and debrief. Many people point fingers at us, but we sit there and drink alcohol, rather than going home. We will finish at six o'clock or seven o'clock and sit there and have a drink even if we have done an 18-hour shift. That is the black humour that comes with being a police officer. We sit there and reflect, debrief, discuss the events and put our own twist on what we think has happened and everything else that goes with it.

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But I can really only imagine what people would experience when the body is not there. We know an offence has been committed, but we do not know what it is. We hope that the victim of the offence is still alive and he has got away and is in hospital. Then we start making the phone calls and asking hospitals whether someone has come in with a certain sort of injury and certain sort of blood. The reality must bite sometime during this investigation stage. It has to. If it does not, then the officers are not doing their job. Most police officers do their job—believe me. When the body of the deceased person is at the crime scene, it is sort of surreal to be dealing with the families at the edge of the crime scene, most of whom are crying and distraught. They are going through hell and to tell a family that their loved one has passed away because someone has committed an offence—at this stage the police officers may or may not know who the culprit was—is the worst feeling in the world. I can only imagine that it is like when I have delivered the news of road deaths to family members. I have seen how their jaw drops, the blood leaves their face and they go white. They are traumatised, and that is no different from how the family of a murder victim would react.

Like the member for Hillarys, I am not going to glamorise this; this is reality. When the family does not know where the victim's body is, they do not understand what has happened to their family. As an investigator, we do not understand that either. The evidence is not there. The body is not there. Maybe we can see blood on the floor or smear marks or a hammer through the coffee table, but we cannot give the family a bit of reassurance to say what has happened to the victim. It is strange and it is not to get a morbid kick, but they all want to know how their family member, their loved one, was killed. We may try to be nice to them initially when we say what has happened. But they ask what really happened. They can tell by the number of exhibit bags that come out of the house that it is very serious. It is strange because when we do not know the location of the victim's remains, there is a bond between us and the family because they also do not know. Nothing else in the world would devastate me more than if something happened to my family or my children and I did not know what happened.

If the deceased has been found at the crime scene and we have processed the crime scene and the body has been taken away to the hospital mortuary, we form a bond with the family. It is strange, but we are pushed together with people whom we do not know. We do not know their background or anything about them, but we get pushed together and share a common bond. They feel that we have all the answers, and they want answers. For decades, people want information from us. A matter may have gone through the court system but we are still in contact with people involved. I am still in contact with people in the United Kingdom. I have investigated many things such as armed robberies and remained in communication with business owners. As a Western Australian police officer I am in contact with people from here whose family members have been killed—not murdered, but killed.

It is quite disturbing. All family members, whether it is mum, dad, brother, sister, cousin, nephew, aunty—the lot—are affected by the murder. All they want is answers. When the court case comes on, we go to court and we give evidence along with the forensic officers and, as the Attorney General has alluded in many occasions in this debate, it is all about speculation. There is a right to silence here in Western Australia. I am not going to go into that debate because in the UK, there is a right to silence but if someone does not give an excuse at that time when they are first arrested, they cannot use that excuse later.

Mr P.A. Katsambanis: It's very, very different from here.

Mr B. URBAN: It is very different from here. That is a different argument for a different day so let us keep to this topic, please. The right to silence is the right of anyone who has been arrested for an offence, and I accept that. If a defendant exercises their right to silence in the court process, we have only one side of the evidence, which is the forensic evidence that has been observed at the scene. The families sit in the court, sobbing and upset, going through every emotion that we could ever, ever imagine. They scowl at the offender, and if they shout abuse at him they get moved out of court. We have to physically escort them out of court. I have felt as though I was the one stopping them and cheating them of their right to have their say in court. But that is the process that the Attorney General and his former colleagues undertake. That is not a process that police officers are involved in. Police officers are a bit more dignified than that. They might think the same as everybody else; they might think the offenders are the scum of the earth and our society. As the member for Hillarys quite aptly said, these people are murderers, and we have to protect our society from these types of people.

In cases when a body is found at the scene of a crime, there is 100 per cent closure for those family members. The offender will either be found guilty or not guilty.

[Member's time extended.]

Mr B. URBAN: In this example I will say the offender has been found guilty, a body has been found and put to rest. It sounds awful, does it not? I feel awful just saying this. It sounds like I am talking about a victim of an offence as though they are a tin of meat. These people are being laid to rest. A family needs and wants this closure for their loved one. The circumstances of the death are irrelevant in this case, but it is still a loved one. It must be absolutely demoralising. I could throw up many names in this place—I may throw a few in from other

Mr David Templeman; Mr Peter Katsambanis; Mr Simon Millman; Mr Reece Whitby; Mrs Robyn Clarke; Ms Sabine Winton; Ms Cassandra Rowe; Mr Barry Urban

jurisdictions in Australia—but the closure for family members of their loved ones being laid to rest is absolutely important. I cannot imagine anything else more important to a family in the days after a fatality when they have to put their family member to rest.

We heard about the Attorney General's petition that collected over 40 000 signatures.

Ms A. Sanderson: That's a lot.

Mr B. URBAN: It is a huge amount.

Most of the people who signed that petition had probably been victims of crime or cared about the families of victims of crime, but most probably wanted the closure of knowing the location of victims' remains. I will not politicise this. I could go into this quite heavily, but it is not worth it. I promised not to do that on an issue that is quite dear to my heart.

On 29 February 2016, Tom Percy, QC, had an article published in *The Sunday Times*. I wanted to raise this point because it sums up everything we discuss in this place. He wrote about the Attorney General putting up his private member's bill in the last Parliament and stated —

Labour's courageous and correct decision not to be drawn into a chest thumping competition with the government over sentencing issues was commendable.

I again commend the member for Hillarys, the opposition and the government for not beating our chests over something that is really, really important.

Mr P.A. Katsambanis: I hope to live up to that in all my time here.

Mr B. URBAN: We will change it sometime, I am sure!

The no body, no parole legislation is gathering momentum around Australia. It is amazing how the Northern Territory started it off with the Peter Falconio case. In 2005 Bradley John Murdoch was convicted of the 2001 murder of Peter Falconio, a British backpacker. The then Attorney-General, John Elferink—I will provide this article to Hansard because I have probably said that totally wrong—stated, and I quote —

Society expects a person convicted of murder to be contrite for their crimes, and a person who refuses to show that contrition by giving the family an opportunity at least to bury their loved one is not a person who's contrite, is not a person who even acknowledges frankly that they've committed a crime ...

'If you're not going to be contrite we don't want you walking amongst us as a society, you won't get parole.'

I urge the Attorney General to make the same statement in this place and out in public—he has done it many times before—as the Northern Territory Attorney-General.

Queensland's Parliament passed similar legislation after a murderer on the Sunshine Coast refused to identify the location of a body in 1999. Derek Sam was charged with killing a Nambour schoolgirl, Jessica Gaudie, in 1999. Her body has never been found, and Sam has never revealed where she is.

A Cairns woman called Fiona Splitt lodged a petition containing 6 259 signatures because her partner went missing, someone was convicted of his murder but the body was never recovered. Its location was never identified. Queensland has picked up on this legislation.

The no body, no parole legislation is in effect in South Australia. I will not go into that because we are running out of time. New South Wales has also considered it. It is quite disturbing that WA is following a trend, when we should have taken the Attorney General's lead on this and taken it on. If such law helps just one family put their loved one to rest, I think it is absolutely worth bringing this bill to this chamber and this state. We should get it passed through the other place as quickly as we can. There is nothing worse than a family being unable to have the remains of a loved one returned to it. They will never recover from the loss of that person. They will never forget. One thing they will, to a degree, recover from is their hatred towards somebody else if the body is returned.

I am quite happy to back the government on this bill in this place. I could keep going on and on, but I understand the time of the day and everything else. I accept what has been happening in this chamber.

Debate adjourned, on motion by **Mr D.R. Michael**.

House adjourned at 5.00 pm

Extract from *Hansard*

[ASSEMBLY — Thursday, 22 June 2017]

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Mr David Templeman; Mr Peter Katsambanis; Mr Simon Millman; Mr Reece Whitby; Mrs Robyn Clarke; Ms Sabine Winton; Ms Cassandra Rowe; Mr Barry Urban
