



WESTERN AUSTRALIA POLICE FORCE

**OFFICE OF COMMISSIONER OF POLICE**

Your Ref: A1030034 Petition No. 091  
Our Ref: fA2427332  
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The Honourable Peter Foster MLC  
Standing Committee on Environment and Public Affairs  
Parliament House  
4 Harvest Tce  
WEST PERTH WA 6005

**BY POST AND EMAIL:** env@parliament.wa.gov.au

Dear Mr Foster

**PETITION NO. 091 - MURDER OF STACEY THORNE**

Thank you for your correspondence dated 22 June, 2023 regarding the Petition concerning the murder of Ms Stacey Thorne.

It is the understanding this office that the original Petition was submitted to the Honourable Martin Aldridge MLC by licensed investigator Ms Robyn Cottman, requesting:

1. WA Police to re-open and review the Stacey Thorne case.
2. Request WA Police re-examine and complete forensic testing on all exhibits.
3. Request WA Police obtain an internationally recognised knife wound expert to review the findings made by Dr Margolius.
4. Request a full coronial inquest.
5. Disclosure of any Corruption and Crime Commission findings in relation to this matter.

Please refer to the following points in answer to these submissions.

**1. WA Police to re-open and review the Stacey Thorne case**

The original investigation, referred to as 'Operation Snowden', has not been the subject of any investigative review or cold case assessment by the Western Australia Police Force (WA Police).

Following a trial before a judge and jury in March and April 2009, Mr Scott Austic (Mr Austic) was found guilty of the murder of Ms Stacey Thorne (Ms Thorne) and sentenced to 25 years imprisonment.

An appeal against the conviction was lodged on behalf of Mr Austic in January 2010, however that appeal was dismissed in June 2010.

On 6 December 2012, the Corruption and Crime Commission (the Commission) was notified by letter dated 3 December 2012 from Mr John Quigley, then Shadow Attorney General, pursuant to Corruption, Crime and Misconduct Act 2003 (CCM Act) s 25, of an allegation of planting of evidence during the investigation into the wilful murder of Ms Thorne and the misrepresentation of evidence during the trial of Mr Austic for that offence. A copy of the Petition for Clemency was attached to that letter.

In January 2013, as a result of that Petition, the Commission under (then) Commissioner Macknay QC commenced a misconduct investigation regarding the alleged actions of the involved police officers. In August 2013, following independent interviews and examination of comprehensive trial materials, the Commission “formed no opinion of misconduct with respect to any public officer”.

Given Mr Austic’s conviction, failed appeal and later investigation of involved officers by the Commission, the WA Police Force did not deem it necessary to undertake a review or cold case assessment of this matter as the original guilty verdict stood, and therefore did not meet the criteria usually required for investigative review.

The WA Police Force subsequently became aware of a Royal Prerogative of Mercy Application on behalf of Mr Austic in 2018, following which liaison commenced with the Office of the Director of Public Prosecutions (ODPP) in preparation for a Court of Appeal hearing in 2019.

In preparation for the appeal, a prosecutorial review of the case was undertaken by the WA Police Force and the ODPP, which determined there was *prima facie* evidence of Mr Austic’s involvement in Ms Thorne’s murder to put before the court.

Following Mr Austic’s acquittal for murder in the 2020 re-trial, and the publication of the Commission’s most recent (2023) report<sup>1</sup> into this matter, WA Police have commenced transferring Ms Thorne’s case from the Major Crime Division (Homicide Squad - who assisted with re-trial preparation) to Special Crime Division (Special Crime Squad - Homicide). Upon receipt of the case, Special Crime Squad will review the evidence contained therein and produce a ‘Solvability Matrix’, which determines whether the case will be re-opened and progressed, and under what priority compared to other historical cases. Alternatively, the Assistant Commissioner (State Crime) can direct the case to be re-opened and investigated.

In consideration of any future investigation, WA Police remain cognisant of Part 5A of the *Criminal Appeals Act 2004*, which prevents re-investigation of an acquitted accused unless approved by an authorised person (i.e. the Attorney General, Solicitor-General, State Solicitor or DPP [State or Commonwealth]).

## **2. Request WA Police re-examine and complete forensic testing on all exhibits**

Additional forensic examination was requested by the ODPP for certain exhibits prior to the Court of Appeal hearing (managed by then Director ODPP, Ms Amanda Forrester SC) and subsequent re-trial in 2020 (prosecuted by Mr Justin Whalley SC). The decision to conduct further examination on these exhibits was made in conjunction with the ODPP, following consultation with scientists at PathWest.

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<sup>1</sup> Report to Attorney General on aspects arising out of the trial of Scott Austic - <https://www.ccc.wa.gov.au/sites/default/files/2023-05/Report%20to%20Attorney%20General%20on%20aspects%20arising%20out%20of%20the%20trial%20of%20Scott%20Austic.pdf>

Whilst WA Police are in possession of additional untested exhibits for this matter, such exhibits were not deemed critical to the prosecution's case and therefore have remain held from any further analysis. The viability of any untested exhibits to yield any "fresh, compelling evidence" remains unknown.

### **3. Request WA Police obtain an internationally recognised knife wound expert to review the findings made by Dr Margolius**

In preparation for the re-trial of Mr Austic, PathWest Forensic Pathology (specifically Dr Jodi White) was requested by the ODPP to provide an addendum report regarding the length and depth of wounds alleged to have been inflicted upon the deceased by the 'Excalibur'-brand knife, which was located by detectives in the paddock opposite the deceased's residence. An exemplar knife was provided to Forensic Pathology to assist this request.

Dr White provided her report directly to the ODPP prior to the 2020 re-trial. Evidence relating to the knife wounds was given by Dr White at the re-trial, whilst the defence engaged English Forensic Pathologist Dr Richard Shepherd to offer alternate explanations. Engagement of a knife wound expert to review the original pathologist's findings would remain reliant upon the existing photographs and reports, and open to interpretation.

### **4. Request a full coronial inquest**

On 31 August 2009, Albany Coroner, Magistrate Steven Malley found Ms Thorne's death arose by way of "Unlawful Homicide". As the manner and cause of death for this matter has been determined, no Coronial Inquest has been undertaken. Any consideration regarding an Inquest would be a decision for the State Coroner.

### **5. Disclosure of any Corruption and Crime Commission findings in relation to this matter**

The WA Police Force are unable to comment in relation to the disclosure of any of the Commission's reports or findings, suffice to say their most recent publication<sup>2</sup> regarding this matter is available on their website. The publication also provides a comprehensive background in relation to this matter, including some of the forensic exhibit analyses which are the subject of the second request in this Petition.

### **Additional Information**

Following Mr Austic's acquittal at the re-trial in 2020, it is my understanding the ODPP submitted a 'Post-Prosecution Report' to the Attorney General, outlining all relevant evidence relied upon in the prosecution's case. WA Police have not been provided a copy of the report on the basis of Legal Professional Privilege.

WA Police recently included Ms Thorne's case in the \$1m reward scheme for any information leading to a conviction for her murder. As yet, no significant information has been forthcoming.

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<sup>2</sup> Ibid

I trust this provides some clarification regarding the WA Police Force position on the five points raised in the Petition. Please contact my office should you require any clarification or further information regarding this matter.

Yours sincerely

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

COL BLANCH APM  
COMMISSIONER OF POLICE

10 July 2023