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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

Inquiry into the Sentence Administration Amendment Bill 2017

Thank you for your invitation to make a submission to the Legislative Council's Standing Committee on Legislation in relation to the Inquiry into the Sentence Administration Amendment Bill 2017 (the Bill).

I understand the Bill seeks to amend the *Sentence Administration Act 2003 (WA)* by inserting provisions which are commonly referred to as 'no body no parole' provisions and will only apply in circumstances where the Prisoner's Review Board (the Board) is considering whether to grant an early release to a prisoner, who has been convicted of a homicide or homicide-related offence and where the location of the remains of the victim is unknown to the Western Australia Police Force (WA Police Force).

It is the WA Police Force's view that this legislation is in the interest of the achievement of justice and supports its enactment. I also note, WA Police Force was consulted in the drafting of the proposed amendments.

The WA Police Force recognises this Bill has the greatest significance for a victim's family. It will go some way to enable these families to achieve a greater degree of closure, by knowing the final location of their loved one, and even potentially being able to have their remains recovered and to be able to lay them to rest.

It should be noted that this legislation will only apply to a very limited number of cases. In the overwhelming majority of homicide cases, the body of the victim has been located. On average, at any one time, there are less than ten cases where a person has been convicted of homicide or a homicide-related offence and the whereabouts or the body of the victim remains unknown. Nevertheless, it is believed that this legislation will improve the potential for the recovery of a victim's remains or for the identification of the last known location of the victim.

While the conviction of the offender would have been based on the WA Police Force's ability to conduct a thorough investigation and to collect evidence which satisfies a Court or Jury, beyond reasonable doubt, that the accused committed the offence, the recovery of the body or the revelation of the last known location of the body would be beneficial in the respect that it can serve to finalise aspects of the offence.

As the Bill has retrospective application, this will apply to all homicide and homicide related convictions where the body has not been recovered or the last known location identified. This legislation therefore has the potential to assist in the finalisation of aspects of historic offences and may even provide further information relevant to other historic offence investigations.

In terms of some of the key provisions of the Bill, the WA Police Force makes the following comments:

- the inclusion of all persons convicted of homicide offences and homicide-related offences is noted and supported. It is appropriate for a person who has been convicted of having been a party to the offence to have these provisions apply to them;
- the legislation focuses on the level of cooperation given to Police, therefore in the rare circumstance that a prisoner genuinely does not know the location or last known of the body, the prisoner could still be judged to have cooperated sufficiently;
- the protection of a person's privilege against self-incrimination (sometimes referred to as their right to silence) is also an important protection contained in the Bill;
- the obligation of the Commissioner to provide a report to the Board, on request, addressing mandated factors regarding the prisoner's co-operation, is believed to enable the Board to make an assessment of whether the prisoner has sufficiently cooperated;
- due to the relatively low numbers of persons to be affected by this legislation, the requirement for the Commissioner to provide a report to the Board is not expected to have a major impact upon the WA Police Force; and
- the requirement that the Commissioner's report be provided to the Board within a reasonable period of time is noted, understood and supported.

It should also be noted that this Bill is not unique to Western Australia. Other Australian jurisdictions have either already enacted, or are considering enacting, similar legislation. It is therefore submitted that with the passage of this law, Western Australian law would not be out of step with other Australian jurisdictions.

In conclusion, I wish to reiterate the WA Police Force's support for this Bill and thank the Standing Committee on Legislation for providing me with the opportunity to provide a submission on this legislation.

Yours sincerely



CHRIS DAWSON
COMMISSIONER OF POLICE

22 September 2017