



ATTORNEY GENERAL; MINISTER FOR COMMERCE

Our Ref: 44-11285

The Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment and Public Affairs
Legislative Council Committee Office
18-32 Parliament Place
WEST PERTH WA 6005

Dear Chairman

PETITION 34 – REVIEW LIFE SENTENCES OF WOMEN IN PRISON FOR DOMESTIC HOMICIDE

Thank you for providing me the opportunity to comment in relation to the above petition which was tabled in the Legislative Council on 9 April 2014 and referred to the Standing Committee on Environment and Public Affairs.

Extensive changes were made to the *Criminal Code* by the *Criminal Law Amendment (Homicide) Act 2008* following the Law Reform Commission's 2007 *Review of the Law of Homicide*. The recommendations contained in the report aimed, amongst other things, to better provide for a history of domestic violence in a relationship to be taken into account in the justice system. Three key reforms significantly improved outcomes for women who have suffered domestic abuse:

1. the consolidation of wilful murder and murder into one crime of murder;
2. the simplification and clarification of defences to murder, including self-defence; and
3. the increased flexibility in sentencing for murder.

The Government considers that these reforms ensure that fairness and justice is properly served in relation to domestic homicide where there had been a history of violence by either the deceased or the accused.

In addition, the Government has continued to efficiently review matters if and when petitioned, on a case by case basis, in the exercise of the Royal Prerogative of Mercy. The Royal Prerogative of Mercy is preserved by section 137 *Sentencing Act 1995*. Section 140 *Sentencing Act 1995* empowers the Attorney General to exercise the Royal Prerogative of Mercy by referring a petition to the Court of Appeal for the whole of the case to be reviewed as if it were an appeal against conviction or sentence. Section 141 *Sentencing Act 1995* empowers the Governor to exercise the Prerogative of Mercy in relation to an offender who is serving a term of imprisonment by making a parole order in respect of the offender.

In each case, the Royal Prerogative of Mercy is exercised with meticulous care and attention to the merits, taking into account all relevant circumstances and having regard to independent legal advice from the State Solicitor's Office, thus ensuring a just and thorough examination, analysis and consideration of every petition.

The Social Justice Alliance has requested in its submission to the Committee that Ms Robyn Westgate and Mrs Lesley Dowling be considered for parole. I can confirm that I have previously undertaken a comprehensive review in relation to the conviction and sentence of each of these women, and found after careful consideration that there was no compelling case for the exercise of the Royal Prerogative of Mercy or any of the statutory discretions set out in the *Sentencing Act 1995*.

The Government will give due consideration to any recommendation by the Committee following the Committee's investigations.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Mischin', written in a cursive style.

Hon. Michael Mischin MLC
ATTORNEY GENERAL; MINISTER FOR COMMERCE

18 AUG 2014