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“No body, no parole” laws

by Lenny Roth

1. Introduction

On 20 September 2022, the NSW Government [announced](#) that it would introduce new laws so that, in homicide cases, “offenders must co-operate with investigators and disclose the location of [the victim’s] remains for any chance of release on parole”.¹ It said the reforms were modelled on laws in other jurisdictions and would apply to all current and future inmates convicted of homicide offences. There had been calls for these reforms in the wake of former teacher Chris Dawson’s recent conviction for murdering his wife.² The [Crimes \(Administration of Sentences\) Amendment \(No Body, No Parole\) Bill 2022](#) was introduced into the Legislative Assembly on 21 September 2022.

The aim of this e-brief is to assist parliamentary debate on the Bill. The e-brief puts the proposed NSW reforms in context, reviews similar laws in Australia and other jurisdictions, and outlines the reasons for, and criticisms of, the reforms.

2. The parole system

In NSW, the parole system is governed by the [Crimes \(Administration of Sentences Act\) 1999](#), Part 6. The Act does not describe the purpose of the system. However, the NSW Law Reform Commission has observed that:

The primary purpose of parole is to promote community safety by supervising and supporting the conditional release and re-entry of prisoners into the community, thereby reducing their risk of reoffending.³

In most cases, when an offender is sentenced to imprisonment, the court imposes a non-parole period, which is the minimum period that the offender must spend in custody.⁴ For example, a person convicted of murder could be sentenced to a term of 30 years imprisonment with a non-parole period of 22 years. When the non-parole period expires, the offender becomes eligible to apply for release on parole.

The [State Parole Authority \(SPA\)](#) makes decisions on whether an inmate can be released on parole if the inmate is serving a prison sentence of more than three years. Section 135 of the Act states that the SPA must not grant parole to an offender unless it is

satisfied that it is in the interests of the safety of the community.⁵ The section sets out a list of matters that the SPA must take into account including the nature of the offence, the offender's criminal history, and the likely effect of the offender being granted parole on any victim and the victim's family.⁶

If an offender is granted parole, he or she will need to comply with conditions specified in the order.⁷ One of the conditions is that the offender will be supervised by a community corrections officer.⁸ If the offender breaches a condition of the order, the SPA has the power to revoke their parole.⁹

If the SPA refuses parole, the offender can re-apply for parole on the next anniversary of their parole eligibility date.¹⁰ There are very limited grounds for appealing a decision to refuse parole.¹¹

3. Current 'no body' laws

As a result of [legislative reforms](#) in 2017, under section 135(3)(e) of the Act, one of the matters that the SPA is required to take into account when making a decision about parole is "if applicable, whether the offender has failed to disclose the location of the remains of a victim".¹²

In his [second reading speech](#) on the 2017 Bill, the former Minister for Counter Terrorism, Minister for Corrections, and Minister for Veterans Affairs, David Elliott, said that including this as a factor for the SPA to consider would:

- Give offenders some incentive to disclose information about the location of the victim's remains;
- Help to hold offenders accountable for their behaviour by focusing on what they have done to make amends for their crime; and
- Be relevant to whether offender has made progress towards rehabilitation and still presents a risk to the community.¹³

The SPA's website currently only lists seven [published](#) parole decisions of interest since 2020. Only two of these decisions related to homicide offences and, in these, the SPA did not comment on the victim's body being missing.

4. The proposed reforms

The Minister for Corrections, Geoff Lee, introduced the [Crimes \(Administration of Sentences\) Amendment \(No Body, No Parole\) Bill 2022](#) into the Legislative Assembly on 21 September 2022. He [said](#):

The bill will introduce stronger "no body, no parole" laws in New South Wales similar to those already found in a number of other Australian jurisdictions. That will be achieved by removing SPA's discretion to grant parole unless the relevant offender has cooperated satisfactorily with authorities to identify the location of their victim's remains.

The bill recognises the pain and ongoing suffering experienced by victims' families and friends who have not only lost a loved one but are unable to locate their remains and put them to rest... By incentivising cooperation, the bill aims to increase the likelihood of finding remains in the hope that this may offer some degree of finality or closure to those close to the victim.¹⁴

The Bill would replace the existing provision in section 135(3)(e) with a new provision. The proposed new section 135A states (in part):

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135A Parole order must not be made where offender has not cooperated in locating victim’s body or remains

(1) This section applies to an offender if the offender is serving a term of imprisonment for a homicide offence and—

(a) the body or remains of the victim of the offence have not been located, or

(b) because of an act or omission of the offender or another person, part of the body or remains of the victim has not been located.

(2) Despite section 135(1), the Parole Authority must not make a parole order directing the release of an offender to which this section applies unless it is satisfied the offender has cooperated satisfactorily in police investigations or other actions to identify the victim’s location.

Homicide offence is defined to mean murder, manslaughter, infanticide, assault causing death, conspiring to commit murder, and being an accessory after the fact to murder. The new section does not define what is meant by “cooperated satisfactorily...to identify the victim’s location”. However, the section does note that the cooperation “may have happened before or after the offender was sentenced to imprisonment for the offence”.

One [media article](#) suggested that “there are believed to be six convicted murderers in NSW prison who could be affected by the proposed legislation changes”.¹⁵ Another [media article](#) noted that it was unclear whether the laws would operate as an incentive for Chris Dawson having regard to his age of 74 years, and the likelihood of him receiving a substantial minimum sentence. The same article reported that Shadow Minister for Corrections, Tara Moriarty, said the change in the Bill was “long overdue”.¹⁶

5. Other States and Territories

Five other States and Territories have “no body, no parole” laws, which were introduced between 2015 and 2017 (see Table 1 below). Like the proposed NSW Bill, these laws provide that the parole authority must not release a relevant prisoner on parole if he or she has not cooperated satisfactorily to identify the location of the remains of the victim.

Table 1: No body no parole laws in other States/Territories

State/Territory	Relevant legislation	Introduced by
South Australia	Correctional Services Act 1982 sections 67(6), (7)	Correctional Services (Parole) Amendment Bill 2015
Northern Territory	Parole Act 1971 section 4B(4)	Parole Amendment Bill 2016
Victoria	Corrections Act 1986 section 74AABA	Justice Legislation Amendment (Parole Reform and Other Matters) Bill 2016
Queensland	Corrective Services Act 2006 sections 193A, 193AA	Corrective Services (No Body, No Parole) Amendment Bill 2017 . See also this Committee report

State/Territory	Relevant legislation	Introduced by
Western Australia	Sentence Administration Act 2003 section 66B	Sentence Administration Amendment Bill 2017 . See also this Committee report

The South Australian laws were an election commitment made by the Labor party at the 2014 State election. The Northern Territory laws appear to have been introduced in response to the murder of Peter Falconio in 2001.¹⁷ The Queensland laws implemented a recommendation from an independent review of the parole system in 2016.¹⁸ The recommendation came in response to submissions including by Fiona Splitt, the widow of Bruce Schuler who was murdered in 2012. The [review report](#) stated:

Withholding the location of a body extends the suffering of victim's families and all efforts should be made to attempt to minimise this sorrow. As a matter of theory, such a measure is consistent with the retributive element of punishment. A punishment is lacking in retribution, and the community would be right to feel indignation, if a convicted killer could expect to be released without telling what he did with the body of the victim. The killer's satisfaction at being released on parole is grotesquely inconsistent with the killer's knowing perpetuation of the grief and desolation of the victim's loved ones.¹⁹

A 2017 [Parliamentary Committee report](#) into the Western Australian Bill surveyed the laws in Australia and noted several common features:

- all legislate for a prohibition on the granting of parole without 'cooperation' on the part of the prisoner
- all early release decisions will be made taking into account reports from the Chief of Police of the respective jurisdiction
- all provisions take effect retrospectively
- all allow for the prisoner's cooperation to take place after the trial, or after the outcome of any appeal, so as not to interfere with that prisoner's right to silence.²⁰

Following the survey of laws in other States and Territories, the Committee recommended including the offence of manslaughter in the definition of 'homicide offence' in the Bill; and including a requirement for the Prisoners Review Board to consider the mental capacity of a prisoner to cooperate.²¹ These recommendations were ultimately incorporated into the Bill.

One interesting aspect of the Victorian laws is that, in addition to amending parole laws, changes were also made to the *Sentencing Act 1991* to expressly allow the courts to take into account whether or not an offender has cooperated in the investigation of the offence in "no body" cases when determining an appropriate sentence.²²

In late 2021, the Queensland Government introduced a change to its "no body, no parole laws".²³ The Government explained:

The bill includes a new discretion for the board to trigger consideration of a prisoner's cooperation in locating a victim's remains at any time after sentencing instead of waiting for when the prisoner makes a parole application. This aims to incentivise prisoners to cooperate with police earlier in the hope that the earlier provision of information will assist families to locate their loved one's remains. Where a no-body no-parole prisoner has not

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cooperated satisfactorily, the prisoner will be subject to a no-cooperation declaration that will restrict the prisoner from reapplying for parole until they choose to cooperate in locating the victim’s remains.²⁴

6. Operation of Queensland laws

A [2022 journal article](#) by Moffa, Ruyters and Stratton reported on a study into the operation of “no body, no parole” laws in Queensland.²⁵ The study focused on that State because it had the second highest number of “no body” cases in Australia, and it was one of two jurisdictions in which the parole boards published their [“no body, no parole” decisions](#). The study examined the ten “no body, no parole” applications heard by the Parole Board to date. Six of the ten applicants were found by the Parole Board to have cooperated satisfactorily, but no remains had been found in any of these cases.

[Dennis](#) is an example of one of the six cases in which the Parole Board found that the offender had cooperated satisfactorily even though the body was not found. Dennis was convicted of murder in January 2003. After initially denying involvement, on his arrest 41 days later he told the police that he had disposed of the victim’s body and murder weapon in a river inhabited by crocodiles. Police divers located the murder weapon but not the victim’s remains. The article explained the Parole Board’s decision:

...The [Parole Board] agreed that his cooperation was truthful, complete, and reliable in the sense that he confessed to the murder and assisted as much as possible in locating the deceased’s remains. The main factor was the timeliness of Dennis’ cooperation; however the Board acknowledged that even if Dennis had cooperated earlier, the river may not have been safe for police to investigate...²⁶

[De Jackson](#) is an example of one of the cases where the Parole Board found there was not satisfactory cooperation. De Jackson was convicted of murdering his de facto partner. The victim’s headless body was found in garbage bags in bushland three days after she went missing. After his conviction, the offender made some inconsistent disclosures to psychiatrists and psychologists about the murder. He claimed that he had placed the head in a garbage bin. He also admitted telling many lies. The article explained:

After police notified him of the [no body, no parole] requirements, [De] Jackson claimed he had disposed of the head in the Brisbane River. The location descriptions he provided...were consistent with information he provided in other interviews with police and consistent with personal items belonging to the victim found in the area. A search of the area and river failed to find any remains. De Jackson’s previous lies were relevant to the Board’s assessment of the credibility of this new information in considering whether his cooperation was satisfactory. The Board did not consider the new information about the victim’s location to be truthful, credible, or reliable...²⁷

A recent [media article](#) on “no body, no parole” laws referred to one other case in Queensland where an inmate (Evans) was convicted of killing his former partner and later told police where to find the body.²⁸ In a separate [article](#), the authors of the study into the Queensland laws noted that:

...Evans pleaded guilty to the offence and was not eligible for parole at the time when he helped investigators find [the victim’s] remains.

This example is only related to “no body” laws because the detective in charge of the case has claimed he used the threat of those laws to convince Evans to cooperate.²⁹

7. Criticisms of these laws

In a 2017 [submission](#), the Queensland Bar Association opposed the “no body, no parole” laws in that State on various grounds including:

The ultimate effect of a "no body, no parole" scheme...would be to have violent offenders, who have not cooperated in the way the Bill contemplates, being released at the end of their sentences without the support and supervision that parole provides...³⁰

Moffa, Ruyters and Stratton criticise “no body, no parole” laws on the grounds that the laws have not been effective in Queensland and that:

Selling promises of closure that may never be experienced by victim’s families comes at the cost of removing reintegration support through the parole process and can also extend the trauma of wrongful convictions.³¹

In relation to wrongful convictions, they noted that the debate on the Queensland Bill failed to consider this impact, and argued:

This is concerning given high profile Australian cases of ‘no body’ homicides where a wrongful conviction has either been established or is contested, such as Lindy Chamberlain, Sue Neil Fraser, and Keli Lane. The Department of Justice and Attorney General optimistically anticipated that existing criminal justice mechanisms would redress any wrongful conviction concerns.³²

A [media article](#) quoted the views of another academic on the utility of the proposed laws in NSW:

Professor Julia Quilter from the University of Wollongong’s School of Law said it’s not clear what an accused person has to gain from co-operating, especially if they have long maintained their innocence...³³

Another [media article](#) noted the absence of “no body, no parole” laws in Tasmania and quoted Dr Vicky Nagy, a senior lecturer in criminology at the University of Tasmania. The article stated:

She suggested Tasmania consider other options to a hard 'no body, no parole' law that might produce a similar incentive, but limit the damage to those wrongfully convicted.

"There is one idea of linking it to parole but making the parole period shorter. So saying, you can be eligible for parole sooner if you reveal where the body is," she said...³⁴

8. Overseas laws

In the United Kingdom, the [Prisoners \(Disclosure of Information About Victims\) Act 2020](#) requires the Parole Board to *consider* the non-disclosure of information about the location of a victim’s remains. This is similar to the existing law in NSW. The law is also known as Helen’s law. Helen McCourt was murdered in 1988 and the convicted killer had never revealed where her body was located.³⁵ An October 2021 [media article](#) reported the first case of an offender who was refused parole under these new UK laws.³⁶

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In November 2021, the Northern Ireland Government released a [consultation paper](#) following a Departmental review of ‘no body’ murders.³⁷ The review made recommendations extending from the earliest stages of the investigation to the eventual parole hearing. One recommendation was to consult on the introduction of provision equivalent to Helen’s Law. In a section on “learning from other jurisdictions”, the consultation paper noted that the review team “found relevant legislation only in Australia”.³⁸

9. Conclusion

The NSW Government is proposing to strengthen the “no body, no parole” laws. In homicide cases where the victim’s body has not been found, the Parole Authority would be required to refuse parole to offenders who do not cooperate satisfactorily to identify the body’s location. The proposed change would bring NSW into line with five other States and Territories.

The main objective of these laws is to recognise the ongoing suffering experienced by victims’ families and friends, and to help bring closure to them. However, critics argue that the laws undermine the purpose of parole, which is to reduce the risk of reoffending, and that the laws are ineffective and only offer false hope to families. The impact of these laws on people who have been wrongfully convicted is also raised as a concern.

The [2022 study](#) on the Queensland laws is the only study that was identified on how these laws have operated in practice. The key finding was that six of ten applicants for parole were found to have cooperated satisfactorily, but no bodies had been found in any cases.

If the proposed Bill is passed it will be important to monitor the effectiveness of these reforms to understand if they are achieving the stated outcomes and whether there are any unintended negative consequences.

¹ Premier, Minister for Corrections, [NSW to introduce “no body no parole” laws](#), *Media Release*, 20 September 2022.

² See for example <https://www.change.org/p/lynns-law-no-body-no-parole>

³ NSW Law Reform Commission, [Parole](#), Report No. 142, June 2015, p 27 (Rec 2.2). For recent evidence on whether parole reduces offending, see Ooi, E. J. & Wang, J. J. [The effect of parole supervision on recidivism](#) (Crime and Justice Bulletin No. 245), 2022 Sydney: NSW Bureau of Crime Statistics and Research.

⁴ NSW Law Reform Commission, [Parole](#), Report No. 142, June 2015, p 13

⁵ Section 135 of the Act

⁶ Section 135 of the Act

⁷ Section 128 of the Act

⁸ Section 128C of the Act

⁹ Section 170A of the Act

¹⁰ See sections 137A and 143A of the Act.

¹¹ See section 155 of the Act. An offender may also be able, on limited grounds, to seek judicial review of a decision to refuse parole.

¹² Section 135(3)(e) of the Act

¹³ Elliott D, [Hansard, Legislative Assembly](#), 11 October 2017. See also Department of Communities and Justice, [Parole Reforms](#), [website – accessed 21 September 2022]

¹⁴ Lee G, [Hansard, Legislative Assembly](#), 21 September 2022

¹⁵ Smith A and Cormack L, [Lyn’s law: NSW to follow other states with ‘no body, no parole’ laws](#), *Sydney Morning Herald*, 20 September 2021

¹⁶ Noyes J, [‘No remains detected to date’: Experts question utility of proposed parole law](#), *Sydney Morning Herald*, 21 September 2022

- ¹⁷ Legislative Council Standing Committee on Legislation, [Sentence Administration Amendment Bill 2017](#), Report 34, November 2017, p 27
- ¹⁸ Sofranoff W, [Queensland Parole System Review](#), November 2016, p 235 (Rec 87)
- ¹⁹ Sofranoff W, [Queensland Parole System Review](#), November 2016, p 234
- ²⁰ Legislative Council Standing Committee on Legislation, [Sentence Administration Amendment Bill 2017](#), Report 34, November 2017, p 25
- ²¹ Legislative Council Standing Committee on Legislation, [Sentence Administration Amendment Bill 2017](#), Report 34, November 2017, p 51 (Rec 1), p 53(Rec 2)
- ²² See Neville L, [Hansard](#), Legislative Assembly, 6 December 2016. Note that in NSW, section 23 of the [Crimes \(Sentencing Procedure\) Act 1999](#) allows courts to reduce an offender's sentence for assistance provided to law enforcement authorities.
- ²³ [Police Powers and Responsibilities and Other Legislation Amendment Bill 2021](#). The Legal Affairs and Safety Committee tabled [a report](#) on this Bill. The Bill passed and was assented on 3 December 2021.
- ²⁴ Ryan M, [Hansard](#), 15 September 2021.
- ²⁵ Moffa, M., Ruyters, M., & Stratton, G. [Still no bodies: Five years of "no body, no parole" in Queensland, Australia](#). *The Australian and New Zealand Journal of Criminology*, 2022, 55(2), p 162–179
- ²⁶ Moffa, M., Ruyters, M., & Stratton, note 25, p 167
- ²⁷ Moffa, M., Ruyters, M., & Stratton, G. note 25. *The Australian and New Zealand Journal of Criminology*, 2022, 55(2), p 170-171. Renwick is another case discussed in the article. Note that Renwick challenged the Parole Board's decision that he had not cooperated satisfactorily but the challenge was unsuccessful: [Renwick v Parole Board Queensland \[2019\] QCA 269](#)
- ²⁸ Murray W, ['No body, no parole' laws in spotlight ahead of convicted murderer Sue Neill-Fraser's release](#), ABC News, 21 September 2022
- ²⁹ Moffa, M., Ruyters, M., & Stratton, G, ['No body, no parole' laws could be disastrous for the wrongfully convicted](#), *The Conversation*, 23 September 2022
- ³⁰ Bar Association of Queensland, [Submission on Corrective Services \(No Body, No Parole\) Bill 2017](#), 9 June 2017.
- ³¹ Moffa, M., Ruyters, M., & Stratton, G. note 25, p 175
- ³² Moffa, M., Ruyters, M., & Stratton, G., note 25, p 166. See also Bartle J, Moffa, M., Ruyters, M., & Stratton, G, ['No body, no parole' laws could be disastrous for the wrongfully convicted](#), *The Conversation*, 23 September 2022
- ³³ Noyes J, ['No remains detected to date': Experts question utility of proposed parole law](#), *Sydney Morning Herald*, 21 September 2022
- ³⁴ Murray W, ['No body, no parole' laws in spotlight ahead of convicted murderer Sue Neill-Fraser's release](#), ABC News, 21 September 2022
- ³⁵ Buckland R, [Hansard](#), House of Commons, 11 February 2020.
- ³⁶ [Helen's law: killer refused parole for failing to disclose where body hidden](#), *The Guardian*, 28 October 2021
- ³⁷ Department of Justice, [Charlotte's Law: A public consultation](#), November 2021
- ³⁸ Department of Justice, [Charlotte's Law: A public consultation](#), November 2021, p 7.

Information about Research Publications can be found on the Internet at the:
[NSW Parliament's Website](#)

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