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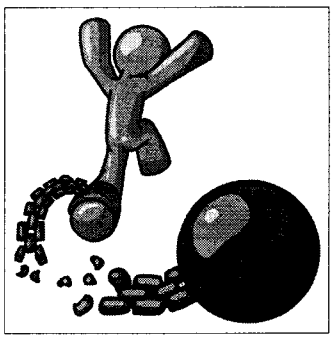


Mr Julian Knight
Port Phillip Prison
PO Box 376
LAVERTON VIC 3028

19 February 2015

Dear iExpress,

I trust that you received my letter dated 15 January 2015 and the attached documents.

I have enclosed a copy of my Petition of Mercy addressed to the Governor of Victoria which I would like posted on my webpage. I have not had a response to my petition or to any of the follow-up letters that I have sent to His Excellency's Official Secretary so the publication of my petition may prompt him to at least acknowledge receipt of it.

Regards,

Jen Knight

JULIAN KNIGHT

His Excellency Alex Chernov AC, QC
Governor of Victoria
DX21-0670
MELBOURNE

Mr Julian Knight
Port Phillip Prison
DX-39334
LAVERTON

Att: Mr Charles Curwen, CVO, OBE
Official Secretary

5 January 2015

VIA FAX: (03) 9650 9050

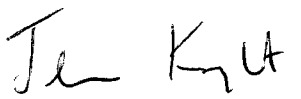
PAGES: 38

RE: PETITITON OF MERCY

Dear Mr Curwen,

Please find attached my petition of mercy submitted for His Excellency's consideration.

Yours sincerely,



JULIAN KNIGHT
PRISONER 49821

cc. *Mr Robert Richter QC*
Fax: (03) 9225 8686

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His Excellency Alex Chernov AC, QC
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Mr Julian Knight
Port Phillip Prison
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Att: Mr Charles Curwen, CVO, OBE
Official Secretary

5 January 2015

RE: PETITITON OF MERCY

Dear Sir,

I submit for your consideration a petition seeking the exercise of the Royal prerogative of mercy with respect to my head sentence of life imprisonment.

Royal Prerogative of Mercy

In light of the circumstances described below, I ask that you extend mercy to me pursuant to sections 106 and 107 of the *Sentencing Act 1991* (Vic).

I note that the provisions of s.107 allow you to extend mercy and order that I be released either on giving an undertaking or on parole. In relation to an undertaking given under s.107(2)(a), I further note that you may impose '*any other condition* that the Governor considers to be in the interests of the person or the community' [my emphasis].

The power in s.107(2) reflects the unfettered power given to the Adult Parole Board of Victoria, pursuant to s.74(5)(a) of the *Corrections Act 1986* (Vic), to impose on a parole order 'additional terms and conditions' as it deems fit.

I also note that s.106 provides that; 'This Act does not affect in any manner Her Majesty's royal prerogative of mercy.'

Personal History

In 1985, I obtained my Higher School Certificate at Melbourne High School.

In 1986, I briefly attended La Trobe University as an undergraduate student in the Bachelor of Arts degree course. During 1986, I also served as a trooper in the 4th/19th Prince of Wales's Light Horse Regiment.

In 1987, I was a staff cadet at the Royal Military College, Duntroon. My offences were committed 16 days after my discharge from the Australian Army.

Original Crime & Sentence

On 9 August 1987, I committed the Hoddle Street shootings in Clifton Hill, Melbourne. As a result of my actions 7 people were killed and 19 were wounded.

I was 19-years-old at the time of my offending.

...2./

I had no criminal record prior to my arrest for the offences I committed in Hoddle Street.

On 28 October 1988, I plead guilty to 7 counts of murder and 46 counts of attempted murder before the Honourable Hampel J in the Supreme Court of Victoria at Melbourne.

Senior Crown Prosecutor John "Joe" Dickson QC led the Crown at my plea hearing, and the defence was lead by Mr Robert Richter QC.

As part of my plea agreement with the Crown, it was agreed that no evidence of any "bastardization" I had been subjected to at Duntroon would be led during my plea hearing. Following the establishment of the Defence Abuse Response Taskforce ("DART") in 2012, and the denial of my request for a tentative date for release on parole on 29 June 2012, I made a lengthy submission to the DART regarding the "bastardization" I was subjected to at Duntroon. With the denial of a further request for a tentative date for release on parole on 9 December 2013, and the introduction of s.74AA into the *Corrections Act 1986* (Vic) in 2014, I filed both an application for criminal injuries compensation and a personal injuries claim in the ACT Supreme Court relating to the injuries I sustained at Duntroon. In addition to these ongoing civil proceedings, these matters are now also the subject of a criminal investigation by the ACT Police.

On the second day of my plea, 31 October 1988, his Honour raised the question of whether I would have relied upon the partial defence of diminished responsibility had it been available in Victoria. The following exchange took place between his Honour and Mr Richter QC (Transcript, *R v Knight*, Monday 31 October 1988, at page 99):

> HIS HONOUR: In other States, certainly New South Wales where the diminished responsibility exists, and in England, the professional evidence in this case would bring this case into some sort of diminished responsibility concept, would it not?
>
> MR RICHTER: It would come very close, because the concept of diminished responsibility was designed to ameliorate the strictness of the insanity rules and of course it takes into account many factors. We would say that the diminished responsibility, had it been available, would have been argued as a defence in this case and the psychiatric evidence that Your Honour has heard might well have brought about that result although that, of course, is not open on the law as we have it.

Such a defence would have, if it had been available and been successfully pleaded, reduced all charges of murder to manslaughter. The maximum sentence for manslaughter in Victoria is 20 years (see s.5, *Crimes Act 1958* (Vic)). It is a partial defence that has been successfully plead by mass killers **Gregory Brown**, **Paul Evers** and **Andre Chayna** in New South Wales, and by **Barry Williams** in England (see below). None of those individuals has received a *maximum* sentence of more than 25 years.

The setting of a minimum non-parole term was not opposed by the Crown during my plea hearing. On the first day of the plea the Crown stated that; "We do not submit, Your Honour, that it would be inappropriate for Your Honour to fix a minimum sentence in this case" (Transcript, *R v Knight*, Friday 28 October 1988, at page 89). On the second day of the plea counsel for the Crown again said in relation to the setting of a minimum term that, "I repeat, as I said the other day, we do not submit it would be inappropriate to do so" (Transcript, *R v Knight*, Monday 31 October 1988, at page 111).

On 10 November 1988, I was sentenced to a total effective sentence of life imprisonment with a minimum non-parole term of 27 years (see *R v Knight* [1989] VR 705). In fixing a minimum term, Hampel J found (at 711) that:

> In my view, the fixing of a minimum term in this case is appropriate because of your age and your prospects of rehabilitation, as well as the other mitigatory factors I have already mentioned which justify some amelioration of your sentence, not only in your interest, but in the interest of the community.

In sentencing me Hampel J noted (at 711) that the Crown "did not contend that a minimum term should not be fixed."

The minimum non-parole term granted to me was not appealed by the Crown.

The minimum term given to me was 'part of the sentence' (see s.11(1), *Sentencing Act 1991* (Vic)).

The minimum term – after which I could expect, given the history of the parole of convicted murderers in Victoria, to be considered by the Adult Parole Board for conditional release on parole – was at that time due to expire on 8 August 2014. With the granting of a number of "emergency management days" (EMD) pursuant to the *Corrections Act 1986* (Vic) 'on account of good behaviour while suffering disruption or deprivation during an industrial dispute,' and 3 EMD for meritorious conduct in trying to save a fellow inmate's life in 2000, my minimum term expired on 8 May 2014.

In 2007, the Honourable Justice George Hampel, by then retired and a law professor at Monash University', told the *Herald Sun* newspaper that: "The judgment sets out all my thinking about the case. I really don't have much to add, and my views haven't changed" (see "Hoddle St judge firm on Knight", by Norrie Ross, *Herald Sun*, 9 August 2007, page 8 – available at www.news.com.au/heraldsun/story/0,21985,22212953-661,00.html). His Honour also rejected a suggestion that if my crimes had been committed now, a minimum term would be unlikely to be set. He said that: "I would have some doubt about that. I'm not saying he would or he wouldn't. I don't think I'd categorically say he wouldn't."

In 2011, former Supreme Court judge and Chairman of the Adult Parole Board, the Honourable Justice Frank Vincent, commented to *The Sunday Age* newspaper that my sentence, "was then and now a very lenient one." Justice Vincent, however, also pointed out that, "the board does not and cannot in principle say that because a minimum term was set too low we will ... increase the period" (see "Parole row looms on Hoddle St murderer", by Peter Munro, *The Sunday Age*, 3 July 2011, page 5).

Despite his Honour's comments, it appears from my circumstances, my treatment in prison and recent retrospective legislative amendments that the prevailing opinion amongst the executive, the legislature and the judiciary in Victoria is that I was undeserving of a minimum term and that I should have been given a 'whole-of-life' sentence.

...4./

My sentence is now only the 33rd highest sentence in Victoria; there are 21 other murderers serving longer minimum terms than mine.

I am currently the fifth longest serving prisoner in Victoria, but I am now the only life sentence prisoner with a minimum term from the 1980s who remains in maximum security. I was granted a medium security rating in mid-1999 and held that rating for the next 3½ years but I was never moved out of maximum security prisons. I was again given a medium security rating in late 2012 but that rating was raised back to maximum security after the introduction of s.74AA into the *Corrections Act 1986* (Vic) in mid-2014 (see below). By the time that s.74AA was introduced I had served longer continuously in maximum security than any other prisoner with a release date in Victoria's history. The only prisoners who have served longer continuously in maximum security (**Paul Haigh** and **Ray Edmunds**) are both serving 'whole-of-life' sentences.

My repeated attempts to have the Supreme Court of Victoria intercede on my behalf in relation to my lack of progression through the prison system have been unsuccessful (see *Knight v Anderson* [2007] VSC 278; 16 VR 532 & *Knight v Hastings* [2012] VSC 203). Similarly, my repeated attempts prior to the introduction of s.74AA to have the Supreme Court of Victoria intercede on my behalf in relation to obtaining a tentative date for release on parole were unsuccessful (see *Knight v Adult Parole Board* [2012] VSC 23 & *Knight v Adult Parole Board* [2013] VSC 97). In refusing leave in *Knight v Adult Parole Board* [2012] VSC 23, Osborn J found (at 14(a)) that amongst the reasons for refusing relief was that:

> There are a series of reasons for regarding Mr Knight's application as fundamentally deficient: (a) The relief sought is with respect to the grant of parole as such. Mr Knight is not yet eligible for parole. The ultimate appropriateness of a parole order will fall to be determined upon the basis of the circumstances as they are when Mr Knight becomes eligible.

The Sentencing of Multiple & Mass Killers

Australia

The claim that if I was sentenced today I would not receive a minimum term is a claim that is not substantiated when sentences handed down since 1988 are examined. A number of multiple (3+ deaths) and mass (5+ deaths) killers throughout Australia have had minimum terms set on life sentences.

In Victoria, **Gregory Brazel** was sentenced on 28 March 2003 to life imprisonment with a minimum term of 27 years on his third conviction for murder. In 1992 and 1993 he received set terms of imprisonment for two murders committed in 1990. He later confessed to a third murder for which he received the Life/27 years sentence, later reduced to Life/22 years on appeal. His total effective sentence, however, amounts to Life/35 years when time already served is taken into account.

Serial killer **Paul Denyer** was only 20-years-old when he killed three women over six weeks in mid-1993 in Melbourne's bayside suburb of Frankston. Originally sentenced to life imprisonment in 1993, his appeal in 1994 was upheld by Victoria's Court of Appeal, who set a minimum term of 30 years (see *Denyer* [1995] 1 VR 186; (1994) 74 A Crim R 47). *(* I predict that Denyer will be the only other prisoner in Victoria to be subjected to legislative changes to detain him in prison beyond his EED, and that every other eligible convicted murderer before and after us will be released on or near their EED).*

On 21 August 1993, 25-year-old gun enthusiast **John Lascano** killed three people in a gun shop in Springvale, Melbourne. In 1994, he was sentenced to life imprisonment with a minimum term of 27 years. His appeal against that sentence was dismissed in 1995 by Victoria's Court of Appeal (see *R v Lascano*, unreported, Court of Appeal of Victoria, 7 December 1995; BC9502546). Lascano was progressed to a medium security prison in March 2005 after serving 11½ years.

In 2005, **Robert Farquharson** was charged with killing his three sons. At his first trial in 2007 he was convicted and sentenced to life imprisonment. A successful appeal resulted in a retrial in 2010 in which he was again convicted and sentenced to life imprisonment but this time he received a minimum term of 33 years.

Melbourne's so-called "Gangland War" between 1996 and 2007 resulted in a number of individuals being convicted of multiple killings.

The first was **Victor Brincat**, convicted of three murders and sentenced to life imprisonment with a minimum term of 23 years on 14 March 2006.

Two months later, on 3 May 2006, career criminal **Keith Faure** was convicted of two murders and sentenced to life imprisonment with a minimum term of 19 years. Faure had already served terms of imprisonment for two counts of manslaughter and for his part in the armed robbery and murder of a Thornbury jeweller in 1987.

On 19 July 2006, **Carl Williams** was convicted of one murder and received a set term of imprisonment. On 7 May 2007, he finally plead guilty to four other murders and received a sentence of life imprisonment with a minimum term of 35 years.

Brincat and Faure had both agreed to become Crown witnesses and testify against their co-offenders before they were sentenced, while Williams was providing police with information in the hope of receiving a sentence discount when he was murdered in Barwon Prison on 19 April 2010.

In New South Wales, **Sam Constantinou** was arrested in 1983 over three murders he committed in 1982. Sentenced to life imprisonment in 1984 he received a minimum term of 30 years in 1999.

In New South Wales in 2003, **Kathleen Folbigg** was convicted of murdering three of her children (aged between 8 and 19 months) and the manslaughter of a fourth child (aged 19 days). On 24 October 2003, she was sentenced to 40 years imprisonment with a 30-year minimum non-parole term in the Supreme Court of NSW. On 17 February 2005, however, the Court of Criminal Appeal upheld her appeal against sentence and re-sentenced her to 30 years imprisonment with a 25-year minimum non-parole term.

In South Australia, **Alistair "Sandy" MacRae** was convicted on 4 July 1997 of a double murder committed in Adelaide in 1985, and was sentenced to life imprisonment with a minimum term of 36 years. MacRae had previously been convicted of two other murders committed in Victoria during 1984-1985. At his first trial in 1989 he was sentenced to life imprisonment with a minimum term of 18 years, later reduced to 16 years on appeal. At his second trial he was sentenced to life imprisonment with a minimum term of 26 years (see *MacRae* (1995) 80 A Crim R 380; BC9507301 & BC 9604913)).

One of South Australia's Snowtown murderers, **James Vlassakis**, was convicted of 4 of the 12 Snowtown "bodies in the barrels" murders and sentenced to life imprisonment in 2001. In 2003 he received a minimum term of 26 years.

...6./

Western Australia's most notorious example of a multiple murderer receiving a minimum term was the 1993 case of **William Mitchell**. On 22 February 1993, 24-year-old Mitchell killed four people – a woman and her three children - on a farm at Greenough. Originally sentenced to life imprisonment with a minimum term of 20 years, a Crown appeal against leniency was upheld by the WA Court of Criminal Appeal in 1994 and the minimum term was revoked. In 1995, however, the High Court of Australia overturned that decision and reinstated the minimum term (see *Mitchell* (1995) 184 CLR 333; (1996) 85 A Crim R 304).

In the Northern Territory, on 18 August 1983, 36-year-old truck driver **Douglas Crabbe** drove a semi-trailer into the Inland Motel at Ayers Rock leaving 5 dead and 16 injured. At his second trial in 1985 he was convicted of 5 counts of murder and sentenced to life imprisonment (see *R v Crabbe* (1984) 11 FCR 1; 56 ALR 733; *R v Crabbe* (1985) 156 CLR 464; *R v Crabbe* (1990) 101 FLR 133). On 8 December 2004, the Chief Justice of the Northern Territory set a minimum term of 30 years (see *Crabbe* [2004] NTSC 63; (2004) 188 FLR 209).

In Queensland, on 23 June 2000, 37-year-old **Robert Long** set fire to the Palace Backpackers Hostel in the town of Childers, leaving 15 dead and 20 injured. In 2002 he was convicted of murder and sentenced to life imprisonment with an effective minimum term of 22 years. An appeal against conviction and a Crown appeal against the leniency of the sentence were both dismissed by the Queensland Court of Criminal Appeal in 2003.

Overseas

A number of multiple and mass killers overseas have had minimum terms set on life sentences. In Canada, on 24 August 1993, 53-year-old university professor **Valery Fabrikant** committed a mass shooting at Concordia University in Montreal, Quebec, which left 5 dead and 1 wounded. In 1994 he was sentenced to life imprisonment with a minimum term of 25 years.

In Israel, on 20 May 1990, 21-year-old Israeli soldier **Ami Popper** opened fire on a group of Palestinians waiting at a bus stop in the town of Rishon le Zion, killing 7 and wounding 15. In 1991 he was sentenced to life imprisonment but in 1994 that sentence was commuted to 40 years.

In Sweden, on 11 June 1994, 24-year-old army officer **Mattias Flink** ran amok with an assault rifle in Falun, leaving 7 dead and 3 wounded. He shot at police before he was eventually shot and wounded and taken into custody. In 1995 he was sentenced to life imprisonment in Sweden's Supreme Court. In 2010 he received a minimum term of 32 years in the Örebro District Court but later that year the Court of Appeal increased the term to 36 years. Flink is, however, eligible for parole after 24 years.

It needs to be noted that Sweden, contrary to any public perception that Scandinavian countries are "soft on crime", hands down more life sentences per capita than Australia. In 2008 (when Sweden's population was 9,000,000) there were 170 people serving life sentences in Swedish prisons. In Victoria in 2008 (when Victoria's population was 5,364,000) there were 45 people serving life sentences. This equates to 1 life sentence prisoner for every 52,941 Swedes and 1 for every 119,200 Victorians. The difference between Sweden and Victoria lies not in their criminal justice systems or in their tabloid media but in their prison systems. Although Flink's crime and sentence are similar to my own, he started temporary leaves from prison in 2007 after having served only 13 years of his sentence. In Victoria convicted murderers are now only eligible for unescorted temporary leaves from prison in the final 12 months of their sentence.

...7./

The Sentencing of Spree Killers

Aside from those who have committed multiple or mass shootings in Victoria, individuals who have embarked on shooting sprees that did not result in multiple deaths have received minimum terms on life sentences.

In 1985, 19-year-old **Kai Korhonen** shot dead an unarmed security guard then wounded 3 police officers as he evaded capture in Melbourne's south-eastern suburbs. Sentenced to a mandatory life sentence on 20 May1986, he subsequently received a minimum term of 15 years pursuant to a s.18A application (see below) and was released. He was later returned to custody after absconding interstate and overseas for almost a decade but was re-paroled after a few months (see "Gunn operator to track fugitives", by John Silvester, *The Age*, Saturday 2 February 2013, page 24).

On 3 August 1999, 38-year-old **Jonathon Horrocks** went on a shooting rampage at La Trobe University that left a man dead and two others wounded. On 5 October 2000, Horrocks was sentenced to life imprisonment with a minimum non-parole term of 23 years (see BC200006734). In July 2009, he was progressed to a medium security prison after serving 10 years.

The Punishment of Murderers in Victoria Since 1836

Contrary to popular belief, most murderers were not executed when capital punishment was in force in Victoria. From the settlement of Victoria as the Port Phillip District in 1836 to the last execution in 1967, there were 186 executions in Victoria but only 142 of those were for murder (see Ivan Potas & John Walker, "*Trends and Issues in Crime and Criminal Justice*", No 3, *Capital Punishment*, Australian Institute of Criminology, Canberra, February 1987, Table 1, & Dr Peter J. Lyn & George Armstrong, *"From Pentonville to Pentridge: A History of Prisons in Victoria"*, State Library of Victoria, Melbourne, 1996, Appendix 1 - pages 202-207 * *NB: ages are not recorded for the first 54 executions that took place during the period 1842-1857*).

Only three of those hung for murder after 1857 were teenagers: all were 19-years-old (David Gedge on 11 November 1863, Elijah Cockroft on 12 November 1894 & James Williams on 8 September 1904).

During the 20th Century only 23 people were hung for murder in Victoria, including a US serviceman hung by the US military authorities at Pentridge Prison (Private Edward Leonski on 9 November 1942), one triple hanging (Robert Clayton, Norman Andrews & Jean Lee on 19 February 1951) and the hanging of one man since pardoned on the ground of innocence (Colin Ross on 24 April 1922).

During 1928-1987, only 11 convicted murderers were executed in Victoria but 88 were released from prison. Of those released, the average period in custody was 14 years (22 were released after serving 5-10 years, 30 after serving 10-15 years & 23 were released after serving 15-20 years - see *In the Matter of a Minimum Term Application Pursuant to s.18A of the Penalties & Sentences Act 1985 by Rodney Paul Schultz, Peter John Lawless & Hans Kumar Sharma*, unreported, Supreme Court of Victoria, Gray J, 6 March 1987; BC8700635, page 6).

During 1965-1974, when there was only 1 execution in Victoria (Ronald Ryan on 3 February 1967, the last execution in Victoria & in Australia) 17 prisoners convicted of murder had their death sentences commuted to set periods of imprisonment (see *R v Jolly* (1990) 52 A Crim R 83, at 89). All of them were eventually released and none of them served longer than 27 years, 5 months.

...8./

The Release of Murderers in Victoria Since 1836

Since 1836 every convicted murderer in Victoria who has been eligible for a "ticket of leave", a conditional pardon (a release on licence) or a minimum non-parole term has been released.

During the operation of the "ticket of leave" system between 1850 and August 1860, 20-43% of a prisoner's sentence was served by way of a "ticket of leave" (see Arie Freiberg & Stuart Ross, "*Sentencing Reform & Penal Change: The Victorian Experience*", The Federation Press, Leichhardt, 1999, pages 9-10).

The "ticket of leave" system was replaced by a system of absolute remissions where up to ¼ of a prisoner's sentence was reduced. From 1 July 1908, indeterminate sentences were introduced, with an Indeterminate Sentences Board to administer them, pursuant to the *Indeterminate Sentences Act 1907* (Vic) (Freiberg & Ross, *op.cit.*, pages 12-16). The Indeterminate Sentences Board was eventually abolished in 1957 following the establishment of the Adult Parole Board of Victoria.

From 1 July 1957, the *Penal Reform Act 1956* (Vic) established the modern Adult Parole Board of Victoria, the first parole system in Australia (Freiberg & Ross, *op.cit.*, page 16, & see Adult Parole Board of Victoria, "*Fifty Years of the Adult Parole System in Victoria 1957 to 2007*", Carlton, Melbourne, July 2007, page 3). The Board was required to review all prisoners serving sentences, except those prisoners who had been convicted of murder and had their mandatory death sentences commuted to life imprisonment or to a set number of years. These prisoners were released by way of executive action (i.e. a release on licence pursuant to a granting of the royal prerogative of mercy).

In the 57 years since the establishment of the Adult Parole Board of Victoria in 1957, every prisoner convicted of murder and given a minimum term – including those originally sentenced to death or given a mandatory life sentence – has been released after becoming eligible for parole.

To date, no prisoner serving a life sentence with a minimum term for murder has served more than 17 months beyond his EED before being released on parole.

The fact is, 'from the inception of sentencing in Victoria, a sentence of imprisonment was rarely, if ever, served in full' (Freiberg & Ross, *loc.cit.*, page 10). It is also a fact that, 'In Victoria, approximately 86 percent of prisoners are released within three months of their expected eligibility date, ... and this rate has been relatively stable over the years' (Freiberg & Ross, *loc.cit.*, page 177, source: Office of Corrections, "Corrections Master Plan", Neilson Associates, Melbourne, 1983, page 256). The 2010-2011 annual report of the Adult Parole Board confirmed that up to 90% of prisoners are granted parole at their earliest eligibility date (EED) for release on parole (see Adult Parole Board of Victoria, *"Annual Report 2010-2011"* & "Get out of jail card: Nine out of 10 inmates given parole as soon as possible", by Geoff Wilkinson, *Herald Sun*, 2011, page 3).

When the mandatory death sentence for murder was abolished in Victoria in 1975 it was replaced with a mandatory sentence of life imprisonment. This remained the sentence for murder in Victoria until the passage of the *Penalties and Sentences Act 1985* (Vic). Following the passage of this Act the sentence for murder became either life imprisonment or life imprisonment with a minimum non-parole term or imprisonment for a set number of years.

The *Crimes (Amendment) Act 1986* (Vic) was assented to on 20 May 1986, amending the *Penalties and Sentences Act* and authorizing the Supreme Court of Victoria to fix a minimum term of imprisonment for any person who on 1 July 1986 was serving a term of imprisonment for the term of his or her natural life. At this time there were 119 prisoners serving life imprisonment for murder: excepting those that died in custody, all bar 2 had minimum terms set and have been released. Of the 2 prisoners who have not had a minimum term set (Ray Edmunds & Paul Haigh), both had their applications for a minimum term refused. The last prisoner of the pre-1986 "Lifers" waiting to have his application heard (Bobby Barron) died in Thomas Embling Forensic Hospital on 11 August 2013 after serving 39 years.

Of the 78 applications for a minimum term (known as "s.18A applications") heard during 1986-1989, 76 resulted in terms set of 14 years or less, 1 term was 16 years (for a double murder) and 1 was for 17 years (for a triple murder) (see *Bugmy v R* (1990) 169 CLR 525, at 538 per Dawson, Toohey & Gaudron).

Aside from the fact that no murderer since 1836 eligible for a "ticket of leave", a pardon or with a minimum non-parole term has been denied release, other pertinent facts are that:

- No released convicted murderer has served longer than 27 years and 5 months in prison (Bill O'Meally).

- The second longest serving released murderer served 26 years and 11 months (Keith Ryrie - see *Ryrie* (1993) 64 A Crim R 332 (CCA); BC9300642).

- No released murderer has served more than 17 months beyond his earliest eligibility date for release on parole (Robert Pickford).

- No murderer convicted of committing murder as a teenager has been denied a release date.

- No released murderer convicted as a teenager has served more than 21½ years in prison (*viz.* Christopher Lowery & Charles King).

The Release of Multiple & Mass Killers

A number of multiple (3+ deaths) and mass (5+ deaths) killers have been released both in Australia and overseas.

Australia

In Australia, a number of offenders who were convicted of killing 3-15 people have served varying terms of imprisonment before being released. Practically all of them are not even remembered by the public or have their cases revisited by the media.

Myron Kelly bombed a policeman's house in NSW in 1957, killing the policeman and two others. He served 33 years.

Clifford Bartholomew killed 10 members of his extended family at Hope Forest near Adelaide in 1971. Originally sentenced to death he had his sentenced commuted and ended up serving only 8 years, 3 months before being released in 1979. Until the Port Arthur massacre in 1996, Bartholomew's crime was the worst mass shooting in Australia's history. Who now has even heard of Clifford Bartholomew?

...10./

On 8 March 1973, the "Whisky-Au-Go-Go" nightclub in Brisbane was set alight and 15 people died in the ensuring blaze. Two men were convicted of setting the fire and were sentenced to life imprisonment. One of the men died in prison but the other, **James Finch**, was released in 1988 in a blaze of publicity after serving 15 years and was then deported to the UK.

Another notorious multiple murderer deported to the UK after serving his sentence was **Archibald McCafferty**. Over three days in August 1973, McCafferty committed three murders in Sydney. Sentenced to life imprisonment in 1974, he was an accomplice to the murder of another prisoner in 1981 and was convicted of his manslaughter in 1983. He became eligible for parole in 1993 but fought his deportation. In 1997, after serving 23½ years, he was finally released and deported back to his native Scotland (see *McCafferty v Minister for Immigration & Ethnic Affairs* (1995) 61 FCR 275; BC9502015. See also *McCafferty v Offenders Review Board*, unreported, Court of Criminal Appeal of NSW, 19 June 1995; BC9504950).

On Christmas Day 1975, an arsonist set fire to the Savoy Private Hotel in King's Cross, Sydney. The ensuing blaze left 15 dead and 20 injured. In 1976 the arsonist, **Reginald Little**, was convicted of four representative counts of murder and sentenced to life imprisonment. He was released some years ago.

On 15 July 1977, the anti-drugs campaigner Donald Mackay was murdered in Griffith, NSW. His body was never found. Two years later two drug couriers were murdered in Melbourne. The man convicted of these three contract killings, **James Bazley**, was arrested in 1980 and later sentenced to life imprisonment. In 1992 a minimum term of 11 years was set but in 1993 a Crown appeal against the leniency of this sentence was upheld and it was increased to 15 years (see *Bazley* (1993) 65 A Crim R 154). In 1995 he was released without revealing where Mackay's body is or what happened to it.

In 1977, **Berwyn Rees** killed two people during the robbery of a gun store in Sydney but evaded apprehension. Three years later he killed a police sergeant and wounded a constable during his arrest near Mount Sugarloaf in NSW. Sentenced to life imprisonment in 1981 he received a minimum term of 27 years in 1993. He was released in 2007 after serving that term.

The most infamous bombing in Australia's history - that of the Hilton Hotel in Sydney - occurred in the early hours of 13 February 1978. Two council workers and a policeman were killed in the blast. In 1989, **Evan Pederick** surrendered to police and confessed to planting the bomb. Later that year he received a sentence of 20 years with a 13½ year minimum term after agreeing to testify against a supposed accomplice. He later appealed against his conviction, but his appeal was unsuccessful and he served his minimum term and was released in 2003.

On 24 September 1978, **Daniel Lovec** killed three – including his wife and their 6-year-old son - and wounded a fourth during a mass shooting in South Australia. In 1979 he was sentenced to life imprisonment and in 1987 had a minimum term of 18 years set by the Supreme Court of SA. An appeal against that sentence was unsuccessful, and in 1996 he was released after having served 18 years.

The Hoddle Street shootings were not the first mass shooting in Victoria. On 24 January 1924, **Norman List** ran amok with a rifle in the Royal Botanic Gardens in Melbourne. After shooting dead three people and wounding a fourth he fled the scene. On 1 February 1924, his body was found in a creek at Pakenham after he apparently committed suicide by drowning himself.

...11./

On 21 May 1980, **Sulejman Kraja** opened fire with a revolver in a corridor in the Supreme Court of Victoria, killing three and wounding two others. He only stopped shooting when he ran out of bullets, and he was tackled by a bystander outside the court. The following year he was sentenced to life imprisonment but in 1993 he received a minimum term of 24 years. An appeal against that sentence in 1994 was unsuccessful (see *R v Kraja*, unreported, Court of Criminal Appeal of Victoria, 11 November 1994; BC9401295), and in 2004 he was released after serving his minimum term.

Today most Victorians know of Rob Farquharson, the father convicted of killing his three sons and sentenced to life imprisonment with a minimum term of 33 years. No-one, however, remembers **Josephine Zikos**, who in September 1982 killed her husband and their three children. Found not guilty by reason of insanity she was sentenced to Governor's Pleasure and was released back into the community some years later (see *In the Matter of the Estate of Nickolaos Zikos* , unreported, Supreme Court of Victoria (Probate), Nathan J, 31 March 1987; BC8700621).

On 7 February 2009, Australia experienced the worst bushfires in its history; 173 people died in the "Black Saturday" bushfires in Victoria. Three months later, on 30 April 2009, Australia's worst convicted arsonist was quietly released from Port Phillip Prison. **Gregory Brown** was released after serving 18 years and 9 months – his entire sentence. Of the more than 200 fires he had lit in his lifetime, some were lit in Victoria on 16 February 1983 – "Ash Wednesday". On 17 September 1989, he set fire to the Downunder Backpackers Hostel in Sydney. The resulting inferno killed 6 people and injured 18 others (an almost identical death and injury toll as the Hoddle Street shootings). Not arrested until 1990, he successfully plead diminished responsibility in the Supreme Court of NSW (a partial defence not available in Victoria) and was convicted of 6 counts of manslaughter instead of murder. He was sentenced in relation to those counts and in relation to other fires to a total of 16 years. His appeal against that sentence was dismissed by the Court of Criminal Appeal of NSW (see *R v Brown*, unreported, Court of Criminal Appeal of NSW, 20 February 1995; BC9504405). He was later transferred to Victoria to face multiple counts of arson relating to fires he lit – including some of the "Ash Wednesday" fires – in Victoria. He became eligible for parole in 2001 but refused to undergo any form of psychiatric assessment or to undergo programs designed to address his offending behaviour. He sought to obtain a 'straight release' from prison (i.e. with no parole conditions) which he achieved at the end of April 2009. A belated application by the Department of Human Services to have him subjected to a guardianship order was rejected by VCAT on 29 April 2009 (see *AC (Guardianship)* [2009] VCAT 753), and he was released the next day. His release was not reported until a week later (see "Exclusive: Killer among us - Australia's worst arsonist is 'sure to strike again' but VCAT says he free to do what he wants", by Keith Moor, *Herald Sun*, 2 May 2009, page 3).

Another killer to successfully plead diminished responsibility to multiple counts of murder was **Paul Evers**. On 30 August 1990, Evers went berserk with a shotgun in a block of flats in Surry Hills, Sydney, and shot dead 5 people. In 1992 he was convicted of five counts of manslaughter on the grounds of diminished responsibility and sentenced to 25 years imprisonment with a minimum term of 18 years. His appeal against that sentence was unsuccessful (see *R v Evers*, unreported, Court of Criminal Appeal of NSW, 16 June 1994; BC9301748) and he was released in 2008.

Andre Chayna also plead diminished responsibility to multiple counts of murder in NSW. On 12 November 1990, she stabbed to death her sister-in-law and her 8-year-old daughter and hid their bodies. Two days later she stabbed to death her 9-year-old daughter. The bodies were discovered the next day and she was arrested. She was found guilty of three counts of murder by a jury in the Supreme Court of NSW, but on 15 February 1993, the Court of Criminal Appeal upheld her appeal against those convictions and substituted verdicts of manslaughter. On 8 June 1993, the Court of Criminal Appeal re-sentenced her to 12 years imprisonment with a 6-year minimum non-parole term. She was freed in 1996.

Overseas

A number of multiple and mass killers have also been released overseas.

In 1978, 34-year-old **Barry Williams** killed 5 people during a shooting spree in West Bromich, Birmingham, England. In 1979, he was convicted of 5 counts of manslaughter on the basis of diminished responsibility. In 1994, he was released after having served 16 years.

In Quebec, Canada, on 8 May 1985, 25-year-old soldier **Denis Lortie** went on a shooting spree in the Quebec Parliament Building. He surrendered after killing 3 and wounding 13. After a second trial in 1987 he was convicted of 2nd degree murder and sentenced to life imprisonment with a minimum term of 10 years. In December 1995 he was released on parole after serving only 11½ years.

On 15 November 1988, 23-year-old policeman and White supremacist **Barend Strydom** went on a shooting spree with a pistol in Pretoria, South Africa. He killed 8 and wounded 18 before being arrested. In 1989 he was sentenced to death but in 1991 his sentence was commuted to life imprisonment. In 1992 he was released as part of South Africa's peace process.

Dozens of terrorists convicted of multiple killings have been released as part of various peace processes and prisoner exchanges over the past two decades. In Germany, Italy, South Africa, Northern Ireland and Israel numerous convicted gunmen and bombers have been released over the years. In Israel no Palestinian terrorist has served more than 34 years in prison before being released.

In Germany during 1977-1982, **Christian Klar** committed 9 murders as a member of the notorious Baader-Meinhof Gang ("Red Army Faction"). In 1985, he was sentenced to 6 life sentences and various other terms of imprisonment. He served 26 years and was released on 19 December 2008.

The Recidivism of Released Murderers

A 2007 study by Corrections Victoria's Research and Evaluation Unit, "*Who returns to prison? Patterns of recidivism among prisoners released from custody in Victoria in 2002-03*", found the following:

- Offenders who serve longer terms of imprisonment are less likely to be re-convicted and re-imprisoned than those serving shorter sentences. (page 10)

- Studies have consistently found that prisoners with homicide ... offences have considerably lower recidivism rates than average. (page 10)

- The lowest rates of recidivism were evident for those serving the longest sentences (more than two years). (page 15)

- Prisoners with homicide ... offences have recidivism rates that are significantly below the cohort average[3]. (page 16) * Endnote 3. ... only 5 per cent of prisoners with murder as their most serious offence, ... returned to prison. (page 23)

Of the pre-1986 "Lifers" released from prison, only 2 have committed a further murder (**Michael Lane** - see *R v Lane* [1983] 2 VR 449 & [2003] VSC180 & **John Coombes** - see *R v Coombes*, unreported, Court of Appeal of Victoria, 16 April 1999; BC9902012 & [2011] VSC 407) and neither of them received any media attention when they were originally released.

None of the "notorious" murderers of the past – O'Meally, Ryrie, Lowery and King, *et al* – have killed again. The majority have not returned to prison at all.

The Risk of Reoffending

On 29 August 1997 and 5 September 1997, I was assessed by the then Director of Victorian Psychiatry Services, Professor Paul E. Mullen, for the Adult Parole Board of Victoria. Professor Mullen compiled the report of his assessment on 25 September 1997. He found that 'despite a decade of confinement in a high security context, Mr Knight has not developed any signs or symptoms of a major mental illness.' He also wrote that 'there is evidence that Mr Knight has matured and a number of the aspects of his then personality have been replaced by more adult ways of understanding and responding to the world.'

On 19 August 2004, I completed Corrections Victoria's so-called Tier 1 Assessment. This assessment was based on the Canadian LSI-R:SV (Level of Service Inventory – Revised: Screening Version). On a scale of 0-54, with 54 being the highest risk of reoffending, I scored a 2 – Low.

Even Corrections Victoria assert that: 'The LSI has been found to be effective in the prediction of recidivism' (see Office of the Correctional Services Commissioner, Felicity Dunne, *"A Framework for Reducing Re-offending: Differentiated Case Management in Victorian Corrections"*, Department of Justice, Melbourne, 2000, page 10. See also Auditor-General of Victoria, Performance Audit Report *"Addressing the needs of Victorian prisoners"*, November 2003).

An earlier finding by Loza and Loza-Fanous (Wagdy Loza & Amel Loza-Fanous, "Anger and Prediction of Violent and Nonviolent Offenders' Recidivism", *Journal of Interpersonal Violence*, Vol 14, No 10, October 1999, page 1016) was that:

> Over the last 15 years, a number of studies have been conducted to support the validity and reliability of the LSI-R. ... recent reports indicate its usefulness in the assessment of violent recidivism.

On 16 March 2012, forensic psychiatrist Professor Paul E. Mullen submitted a report to Corrections Victoria regarding his psychiatric evaluation of me. This was essentially a copy of the report that Professor Mullen had earlier submitted to the Adult Parole Board.

In his report Professor Mullen found that, in relation to the Hare Psychopathy Checklist, I was 'unlikely to score higher than the average for a prison population' (paragraph 22, page 9). He also found that I am 'not currently showing any signs of serious mental illness' (paragraph 23, page 9). He also stated that: 'The chances, in my opinion, of Mr Knight repeating a massacre like that at Hoddle Street are remote' (paragraph 35, page 13). In terms of the risk of general re-offending, Professor Mullen stated that: 'Mr Knight's probability of general reoffending, currently is probably no higher than moderate' (paragraph 38, page 15).

On 23 April 2012, I attended the Parole Readiness program at PPP.

On 31 May 2012, forensic psychologist Professor James R.P. Ogloff submitted a report to Corrections Victoria regarding his psychological evaluation of me. This was essentially a copy of the report that Professor Ogloff had earlier submitted to the Adult Parole Board.

In his report Professor Ogloff found that: 'Mr Knight does not exhibit any symptoms of major mental illness' (paragraph 8, page 4).

In relation to the administration of the Personality Assessment Inventory ("PAI"), Professor Ogloff found that my 'PAI clinical profile was entirely within normal limits' (paragraph 32, page 11).

In relation to the Structured Clinical Interview for the DSM-IV, Personality Disorders ("SCID-II"), Professor Ogloff found that: 'Mr Knight does not appear to meet the diagnostic criteria fully for any of the personality disorder diagnoses' and that I did 'not meet the criteria for a diagnosis of Antisocial Personality Disorder' (paragraph 36, page 11).

In relation to the administration of the structured risk assessment instrument the Historical, Clinical and Risk Management ("HCR-20"), Professor Ogloff found that it indicated that I am 'at the upper end of the low category level of risk for re-offending violently in the future' (paragraph 47, page 15).

In relation to the administration of the Psychopathy Checklist Revised ("PCL-R"), Professor Ogloff found that: 'Mr Knight's overall score on the PCL-R fell in the lower range, indicating that he does not demonstrate many of the personality traits and behaviours associated with psychopathy' (paragraph 51, page 16).

Professor Ogloff's summary of the risk assessment of my future offending was this: 'By conventional measures of risk for violence, the likelihood that Mr Knight would re-offend violently is at the upper end of the low range' (paragraph 54, page 17).

On 13 December 2012, I completed the PSYCH-ED program at PPP.

On 4 March 2013, I submitted a lengthy response to both Professor Mullen and Professor Ogloff regarding errors or perceived inaccuracies in their reports.

On 13 April 2013, I completed the Exploring Change program at PPP.

On 8 July 2013, I attended the Parole Readiness program at PPP for the second time.

On 2 October 2013, I completed the High Intensity Violence Intervention Program ("VIP") at PPP. The position of Corrections Victoria and the Adult Parole Board of Victoria was that they would not review my sentence management or my request for a tentative date for release on parole until the program completion report was completed. At the time of drafting this petition (January 2015) this completion report had still not been completed.

Medical Condition

In March 1995 I contracted Crohn's Disease, a chronic and incurable inflammation of the full thickness of the intestine, which may involve any part of the gastrointestinal (digestive) tract.

My condition was diagnosed at St Vincent's Hospital on 6 March 1996.

My condition was not stabilized until I commenced fortnightly Humira injections on 25 March 2010. These injections can only be prescribed by a specialist.

1st APB Decision

On 29 June 2012, the Adult Parole Board of Victoria, constituted by the then Chairperson Mr Justice Simon Whelan, Judicial Member Ms Justice Elizabeth Curtain and Community Member Dr Kerry-Lee Jones, met and decided to refuse my repeated requests for a tentative date for release on parole. The Board at that time had a total of 22 members. I was given no notice of the Board's meeting. I did not appear before the Board. Save for my own correspondence to the Board, I was not provided with any of the material that the Board considered in making its decision.

On 4 July 2012, I was handed a letter dated Monday, 2 July 2012 from APB General Manager David Provan. This letter informed me that the decision of the Board on 29 June 2012 was that:

> Correspondence from prisoner, further incident reports and reports from Professor Mullen and Professor Ogloff considered. The prisoner's request for an indication as to his eventual release date in letter dated 24 May 2012 is refused. The Board considers that there is no prospect of an order for release on parole in the foreseeable future. In the Board's view the prisoner continues to represent a danger to the community.

The same day that I was notified of the Board's decision the Board notified the media of its decision (see "Exclusive: Throw Away the Key", by Geoff Wilkinson, *Herald Sun*, 5 July 2012 pages 1 & 8). I did not know of the Board's composition on 29 June 2012 until I read the media reports of their decision.

Draft Parole Plan

On 20 November 2013, I submitted my own Draft Parole Plan to the Adult Parole Board. I have attached a copy of this document for your reference.

Despite offering to re-draft my proposed Parole Plan if the Board considered it 'in any way deficient', I received no response from the Board.

2nd APB Decision

On 6 March 2013, I requested in writing that the Board review its decision of 29 June 2012 with respect to my request for a tentative date for release on parole. As part of my request I asked the following questions:

(1) What timeframe did the Board mean by 'foreseeable future'?

(2) Based on what material did the Board determine that 'the prisoner continues to represent a danger to the community'?

(3) What does the Board propose I do to reduce the danger I represent to the community?

(4) What threshold test do I have to meet to be deemed an "acceptable risk"?

(5) When, if ever, does the Board intend to review my case?

On 23 March 2013, I received written notification from the Board that they had met to discuss my case the previous day, and that my request for a review had been received and that a progress report would be required for the Board's meeting on 20 November 2013 (8 months hence and 6 months before my EED). I received no notification that the Board would be meeting on 22 March 2013. None of the questions I asked the Board in my letter dated 6 March 2013 were answered.

On 9 December 2013, the Board considered my case at its meeting held that day. I do not know which members of the Board were present. I received no notification that the Board would be meeting on 9 December 2013. The decision of the Board was the following:

Correspondence noted.
Progress Report noted.
Previous decision to stand.

s.74AA, *Corrections Act 1986* (Vic)

The possibility of my release on parole posed a number of legal and practical problems for successive State Governments. The possibility of introducing special legislation to keep me imprisoned beyond my EED was flagged by State Government ministers as long ago as 2002 (see "Vow to fight Knight parole", by John Ferguson & Mark Buttler, *Herald Sun*, 4 October 2002, page 7; "Doyle backs indefinite jail", by Richard Baker, AAP, *The Age*, 4 October 2002, page 7; "Never let him out – Premier", by Ashley Gardiner, *Herald Sun*, 10 August 2007, page 21; "Knight parole fears", by Peter Rolfe & Liam Houliham, *Sunday Herald Sun*, 15 June 2008, page 8; "Knight will never be free", by Stephen McMahon & Evonne Barry, *Herald Sun*, 5 August 2010, page 8; "Parole row looms on Hoddle Street murderer", by Peter Munro, *The Sunday Age*, 3 July 2011, page 5).

The State Government "solved" these problems by passing the Corrections Amendment (Parole) Bill 2014, which amended the *Corrections Act 1986* (Vic) to ensure that I could only be considered for release if I was near death or otherwise physically incapacitated. The Bill was passed by Parliament on 27 March 2014, received the Royal Assent on 1 April 2014, and came into operation the next day; five weeks before the expiry of my minimum term. The Bill introduced s.74AA into the *Corrections Act 1986* (Vic). Section 74AA provides that:

74AA Conditions for making a parole order for Julian Knight

(1) The Board must not make a parole order under section 74 in respect of the prisoner Julian Knight unless an application for the order is made to the Board by or on behalf of the prisoner.

(2) The application must be lodged with the Secretary of the Board.

(3) After considering the application, the Board may make an order under section 74 in respect of the prisoner Julian Knight if, and only if, the Board—

(a) is satisfied (on the basis of a report prepared by the Secretary to the Department of Justice) that the prisoner—

(i) is in imminent danger of dying, or is seriously incapacitated, and as a result he no longer has the physical ability to do harm to any person; and

(ii) has demonstrated that he does not pose a risk to the community; and

(b) is further satisfied that, because of those circumstances, the making of the order is justified.

(4) The **Charter of Human Rights and Responsibilities Act 2006** has no application to this section.

(5) Without limiting subsection (4), section 31(7) of the **Charter of Human Rights and Responsibilities Act 2006** does not apply to this section.

(6) In this section a reference to the prisoner Julian Knight is a reference to the Julian Knight who was sentenced by the Supreme Court in November 1988 to life imprisonment for each of 7 counts of murder.

It should be noted that these provisions do not apply to the 21 other murderers in Victoria serving longer minimum terms than mine or, indeed, those serving minimum terms shorter than mine. Such provisions have not been forecast in relation to any of these individuals.

It should also be noted that s.74AA was not introduced in the context of any public or parliamentary outcry over the expiry of my minimum term or to address any other social mischief or threat to community safety. There was, therefore, no impetus for the introduction of these provisions; it was the unprovoked, unilateral action of the previous State Government.

My case is distinguishable from those where a 'whole-of-life' sentence was originally imposed or recommended (i.e. the 12 "never to be released" prisoners in NSW), or where a minimum term was subsequently set on an original 'whole-of-life' sentence by an appeal court (i.e. Keith Ryrie & Paul Denyer), or where the prisoner at the expiry of his sentence was making threats as to post-release criminal conduct (i.e. Garry David & Gregory Kable).

Section 74AA is copied from s.154A, *Crimes (Administration of Sentences) Act 1999* (NSW), which is itself taken from s.30(1) of the *Crime (Sentences) Act 1997* (UK).

The UK provisions, it must be noted, concern the release on compassionate grounds of 'whole-of-life' sentence prisoners by the Secretary of State. The criteria for the exercise of that discretion are set out in Prison Service Order ("PSO") 4700 *indeterminate sentence manual*, chapter 12 (available at www.justice.gov.uk/offenders/psos/pso-4700).

It needs to be further noted that, pursuant to s.269, *Criminal Justice Act 2003* (UK), a 'whole-of-life' sentence cannot be given to an offender aged under 21 years of age.

Likewise, in Victoria, s.3 of the *Sentencing Act 1991* (Vic) defines a 'young offender' as an offender who at the time of being sentenced is under the age of 21 years: I was 19-years-old at the time of the commission of my offences and 20-years-old at the time of sentencing.

Given that s.74AA remains the law in Victoria, my only possibility of release is by way of Your Excellency's exercise of the royal prerogative of mercy.

Conclusion

It is apparent that the prevailing opinion of the executive, and the intent behind s.74AA, is that my minimum non-parole term was undeserved and that I should have been given a 'whole-of-life' sentence. This also appears to have been the collective opinion of the Adult Parole Board of Victoria.

It is equally apparent that if Your Excellency seeks the advice of Cabinet in relation to this petition, the advice will be that the petition be denied (given that the executive introduced s.74AA into Parliament, it is inconceivable that they would advise otherwise).

It is also beyond comprehension that with the collective wisdom and experience of the members of the Adult Parole Board, and with the history of 178 years of releasing convicted murderers back into the community, combined with an unfettered power to impose *any* condition on a parole order, the Board is simply unable to devise a parole order that addresses my supposed but as yet unclarified risk to the community.

I note that sex offenders deemed to pose an unacceptable risk to the community at the end of their sentence are detained at "Corella Place" at Ararat. It is unclear to me why I could not be placed under similar restrictions if I supposedly continue 'to represent a danger to the community.'

I note that the Adult Parole Board has never explained what danger I pose or how my case differs from every other convicted murderer the Board has released before and after I reached my EED.

It also appears that the members of the Adult Parole Board did not understand – or willingly ignored – what 'unfettered power to impose any condition' means.

By way of highlighting the extent of this power, if the only way that my supposed risk to the community could be addressed would be to be placed under effective home detention, and by being forced to wear a straightjacket 24-hours-a-day, then there is no reason for me not to be released with these conditions. From a *legal* standpoint, the nature of the power held both by the Adult Parole Board and by Your Excellency allows such conditions to be imposed if they are considered to be in the interests of the person or the community.

...19./

I submit that I should be entitled, now that the punitive portion of my sentence has expired, to be held in the least not the most restrictive conditions of custody.

It seems that mine was not a case of the Adult Parole Board being unable to formulate an appropriate parole order (which they have managed to do in every other case) but a case of the Board refusing to do so.

This accusation is strengthened by the fact that the Board has released and continues to release convicted murderers who have been assessed as posing a greater risk of re-offending than I do (clearly evidenced by those who have been returned to custody for committing further murders), including those who suffer from mental illness or who have permanent brain damage and thus pose a everlasting risk (i.e. Kurt Dumas – see *R v Dumas* [1988] VR 65).

It is also apparent that my continued detention has been motivated by punitive not public safety motives. This is evident by the nature of the public comments by relevant ministers of the Crown and shadow ministers since 2002, such as the following:

- "I'm also Minister of Racing and being a betting man I wouldn't be putting any money on Mr Knight being released."
    - Attorney-General Rob Hulls quoted in "Vow to fight Knight parole", by John Ferguson & Mark Buttler, *Herald Sun*, 4 October 2002, page 7.

- "Julian Knight was convicted of multiple murders and was given multiple life sentences. Whether he gets parole will be a matter for the Parole Board. But I would repeat that he was sentenced to multiple life sentences and I would expect he would be serving multiple life sentences. It is certainly my view he should be serving multiple life sentences."
    - Premier John Brumby quoted in "Never let him out – Premier", by Ashley Gardiner, *Herald Sun*, 10 August 2007, page 21.

- "It is my view that he should remain behind bars for the rest of his life."
    - Premier John Brumby quoted in "Fury as a monster says 'set me free'", Mark Dunn, by Geoff Wilkinson & Paul Anderson, *Herald Sun*, 3 June 2009, page 3.

- "Life means life. No one in Victoria wants Julian Knight released. A Baillieu government will never release Julian Knight from prison. If necessary a Baillieu government will introduce legislative changes to ensure people like Julian Knight are never released. Under no circumstances will he get out of jail."
    - Shadow Minister for Corrections Andrew McIntosh quoted in "Knight will never be free", by Stephen McMahon & Evonne Barry, *Herald Sun*, 5 August 2010, page 8.

- "Quite frankly, his prospects of getting parole are something between zero and zilch. The situation is not going to change with Julian Knight. He has been in jail for many years and has shown no signs of remorse. He is going nowhere."
    - Minister for Police Bob Cameron quoted in "Knight will never be free", by Stephen McMahon & Evonne Barry, *Herald Sun*, 5 August 2010, page 8.

- "Victorians expect Julian Knight to be behind bars for the rest of his life."
  - Minister for Corrections & Crime Prevention Andrew McIntosh quoted in "Knight wins another day in court", *Sunday Herald Sun*, 2 January 2011, page 12.

- "Life means life. No one in Victoria wants Julian Knight released. A Baillieu government will never release Julian Knight from prison. If necessary a Baillieu government will introduce legislative changes to ensure people like Julian Knight are never released. Under no circumstances will he get out of jail."
  - Premier Ted Baillieu on Neil Mitchell program, 3AW, 29 July 2011, 0933hrs.

It is equally apparent that, despite its wording, s.74AA of the *Corrections Act 1986* (Vic), was motivated by punitive not public safety attitudes. The extraordinary nature of this legislation was commented on adversely by both academic and media commentators (see comments of Australian Catholic University Vice-Chancellor Greg Craven & UNSW law professor George Williams in "Bill to curb freedom 'open to challenge'", by Jane Lee, *The Age*, 19 February 2014, page 10; "The case for Julian Knight legislation: public safeguard or political stunt?", by John Silvester, *The Age*, 19 February 2014, pages 10-11; "Knight law is not the way to keep him in jail", by Justin Quill, Kelly Hazell Quill Lawyers, *Herald Sun*, 20 February 2014, page 31; "Editorial: Knight a matter for justice, not Parliament", *The Age*, 21 February 2014).

For instance, John Silvester wrote in *The Age* ("The case for Julian Knight legislation: public safeguard or political stunt?") that:

> The mass killer has been declared a vexatious litigant after he appeared in court 15 times in [2003], launching actions over prison conditions, computer access and his desire to be allowed to ready himself for release.
>
> The backstory here is simple. Knight has been denied access to pre-release programs because authorities were not prepared to do anything that increased his chances of freedom.
>
> And Knight's long-term strategy (backed by some legal heavy hitters) was to take his case to the High Court to argue the government, prison authorities and the Parole Board were effectively and unlawfully re-sentencing him to life.
>
> His argument was and remains that he should simply be dealt with as any other inmate and allowed to have his case decide by the Parole Board on its merits. He wanted to put his case that he should be judged, not solely on what he had done, but what he was likely to do.
>
> The government's legal advice must have been he had a good chance of success, which is why the Knight legislation is being introduced to Parliament in a bid to close that opportunity. Because if there is no chance, then it is nothing but a pre-election publicity stunt.

In answer to the statement that even if my risk of re-offending is assessed as low, the harm that would ensure from my re-offending would be enormous, I submit the following:

First, my offences occurred in a set of unique circumstances that are impossible to reconstruct. This is not the case with the vast majority of convicted murderers who have been released.

Second, my risk of committing another multiple killing has been assessed as 'remote'. My general risk of re-offending violently, therefore, has been assessed as no more than moderate alongside those other convicted murderers who have been released and continue to be released. Besides which, the type of firearms I used in 1987 were all banned nationwide in 1996 following the Port Arthur massacre (and it is noteworthy that there has not been a mass shooting in Australia since then).

Third, convictions for multiple murders or otherwise unlawful deaths has not prevented the release of those individuals (i.e. Gregory Brown), including those which arose out of a mass shooting (i.e. Sulejman Kraja). Nor has a conviction for a murder arising out of a shooting spree prevented the parole of that person (i.e. Kai Korhonen). Is the principle to be taken from these cases that 1-6 deaths is acceptable but 7 is not? (Except if the cause of death is arson, in which case 10 deaths is acceptable, *viz.* the case of "Black Saturday" arsonist Brendan Sokaluk).

In the event that Your Excellency is not prepared to exercise the power to grant mercy under ss.106-107 of the *Sentencing Act 1991* (Vic), I ask that Your Excellency request of the Honourable Attorney-General that he refer my case to the Court of Appeal or to the Supreme Court pursuant to s.327 of the *Criminal Procedure Act 2009* (Vic). I submit that the question to be answered on such a reference would be whether s.74AA of the *Corrections Act 1986* (Vic) is constitutionally valid.

Since the introduction of s.74AA into the *Corrections Act 1986* (Vic), I have intended to challenge its constitutional validity in the High Court. I do not, however, have the funds to fund a legal challenge and despite lodging an application for legal assistance with Victoria Legal Aid in May 2014, which was supported by a memorandum of advice by counsel, VLA has declined to make any decision regarding a grant of legal aid.

If Your Excellency considers that this petition is in any way deficient, I ask that I be notified of these deficiencies so that I may make supplementary submissions.

In the event that Your Excellency is not minded to grant me mercy, I ask that Your Excellency provide me with the reasons for Your Excellency's decision not simply a one sentence notification from your Official Secretary that my request is refused.

In light of the above, I seek Your Excellency's intervention by way of this petition.

Yours sincerely,

Jn Knight

JULIAN KNIGHT
PRISONER 49821

His Excellency Alex Chernov AC, QC
Governor of Victoria
DX21-0670
MELBOURNE

Mr Julian Knight
Port Phillip Prison
DX-39334
LAVERTON

Att: Mr Charles Curwen, CVO, OBE
Official Secretary

12 January 2015

VIA FAX: (03) 9650 9050

PAGES: 4

RE: PETITITON OF MERCY

Dear Mr Curwen,

In further to my petition of mercy submitted on 5 January 2015, please find attached copies of Victoria Legal Aid's refusal of my application for assistance to challenge the legality of s.74AA of the *Corrections Act 1986* (Vic) and my request for a reconsideration of their decision.

Yours sincerely,

JULIAN KNIGHT
PRISONER 49821

His Excellency Alex Chernov AC, QC
Governor of Victoria
DX21-0670
MELBOURNE

Mr Julian Knight
Port Phillip Prison
DX-39334
LAVERTON

Att: Mr Charles Curwen, CVO, OBE
Official Secretary

13 February 2015

VIA FAX: (03) 9650 9050

PAGES: 8

RE: PETITITON OF MERCY

Dear Mr Curwen,

In further to my petition of mercy submitted on 5 January 2015, please find attached copies of Victoria Legal Aid's refusal of my request for a reconsideration of their decision to refuse me legal assistance, and of the following newspaper articles:

(1) "Bill to curb freedom 'open to challenge",
Jane Lee, *The Age*, 19 February 2014, page 10.

(2) "The case for Julian Knight legislation: public safeguard or political stunt?",
John Silvester, *The Age*, 19 February 2014, pages 10-11.

(3) "Army abandoned Knight before massacre, nurse says",
Christopher Knaus, *The Age*, 19 January 2015, page 6.

(4) "Dark trail of brutality that led to Hoddle St",
Andrew Rule, *Sunday Herald Sun*, 25 January 2015, page 24.

I would also appreciate it if you would acknowledge receipt of my petition.

Yours sincerely,

JULIAN KNIGHT
PRISONER 49821

cc. *Mr Andrew Zingler*
Rob Stary Lawyers
Fax: (03) 9670 8923

His Excellency Alex Chernov AC, QC
Governor of Victoria
DX21-0670
MELBOURNE

Mr Julian Knight
Port Phillip Prison
DX-39334
LAVERTON

Att: Mr Charles Curwen, CVO, OBE
Official Secretary

17 February 2015

VIA FAX: (03) 9650 9050

PAGES: 3

RE: PETITITON OF MERCY

Dear Mr Curwen,

In further to my petition of mercy submitted on 5 January 2015 and my letters dated 12 January 2015 and 13 February 2015, please find attached a copy of my letter to the Honourable Premier.

I would appreciate it if you would acknowledge receipt of this and my previous letters.

Yours sincerely,

JULIAN KNIGHT
PRISONER 49821

cc. Mr Andrew Zingler
Rob Stary Lawyers
Fax: (03) 9670 8923

The Hon Daniel Andrews MP
Premier of Victoria
DX21-0753
MELBOURNE

Mr Julian Knight
Port Phillip Prison
DX-39334
LAVERTON

VIA FAX: (03) 9651 2062

17 February 2015

RE: PAROLE & s.74AA, *CORRECTIONS ACT 1986* (VIC)

Dear Premier,

I write in response to your public comments on 16 February 2015 regarding the parole of Russell Street bomber Craig Minogue.

You are reported as stating in today's edition of the *Herald Sun* newspaper ("No law for Minogue", *Herald Sun*, page 9 – copy attached), that the State Government is not considering any "one-man legislation" to keep prisoner Minogue in prison beyond his earliest eligibility date for release on parole. You are also reported as stating that consideration of prisoner Minogue's parole was a matter for the Adult Parole Board of Victoria.

On the basis that your reported comments reflect the policy of your government, would you please advise me whether, consistent with that policy, you intend to repeal s.74AA of the *Corrections Act 1986* (Vic)?

If you do not intend to repeal s.74AA, would you please advise me why not?

Yours sincerely,

JULIAN KNIGHT
PRISONER 49821

cc. *Mr Andrew Zingler*
Rob Stary Lawyers
Fax: (03) 9670 8923

Ms Donna Williamson
Darebin Community Legal Centre
Fax: (03) 9484 9442

Dunns Lawyers
Fax: (03) 9687 7779

Mr Julian Knight
Port Phillip Prison
PO Box 376
LAVERTON VIC 3028

10 February 2015

AN OPEN LETTER

If there had been no bastardization at Duntroon, there would have been no massacre in Hoddle Street. It is as simple as that. I made this clear in my submission to the Defence Abuse Response Taskforce and have done so again during my ongoing civil proceedings in the ACT Supreme Court. The DART operated for over two years with a total budget of over $157 million, investigated over 2,400 complaints and referred 80 'matters' to various State and Territory police forces – with 47 matters still under consideration – and recommended a Royal Commission into the rapes at ADFA, and what has resulted? Still no Royal Commission and not a single reported case of any abuser being charged by police. In December last year I gave formal statements to detectives from the ACT Police regarding two instances of assault I suffered whilst at Duntroon. I also made full and frank admissions in relation to my stabbing of a senior staff cadet for which I was charged in 1987 and for which I was on bail when I committed the Hoddle Street shootings in Melbourne. After 27 years I finally confessed to his attempted murder. If I am prepared to be held to account for my actions, then shouldn't others be held similarly accountable? If after years of investigations into abuse in the Australian Defence Force and the expenditure of millions of dollars no action is taken, then what was the point of it all?

WORD COUNT: 242

Signed;

JULIAN KNIGHT