



## BRIEFING PAPER

Number 07890, 1 February 2017

# "Helen's Law" - Parole for murderers who conceal the whereabouts of victims' remains

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### Contents:

1. Background
2. The Bill
3. Further reading



# Contents

<b>Summary</b>	<b>3</b>
<b>1. Background</b>	<b>4</b>
1.1 The campaign for "Helen's Law"	4
1.2 The scale of the problem	4
1.3 The Government's position	4
1.4 Courts and sentencing	5
1.5 Parole Board	5
1.6 Parole Board review of the rules	6
1.7 Legislation in South Australia	7
<b>2. The Bill</b>	<b>8</b>
2.1 What about prisoners who maintain their innocence?	9
<b>3. Further reading</b>	<b>10</b>

## Summary

'Helen's Law' refers to a proposal that the law should be changed to prohibit the release on parole of offenders who were convicted of murder and have failed to reveal the location of the body of their victim.

The campaign for 'Helen's Law' is led by Marie McCourt whose daughter, Helen, was murdered in 1988. Ian Simms, who was convicted of Helen's murder, has to date not revealed the location of her body.

The [change.org petition](#) calling for Helen's law has been presented to the Government by Marie McCourt. As at 1 February 2017, it had over 390,000 signatures.

Conor McGinn introduced a Ten Minute Rule Bill, [Unlawful Killing \(Recovery of Remains\) Bill 2016-17](#) which was given a first reading on 11 October 2016. The Bill has not yet been published. In theory, it is due to receive its Second Reading on 3 February 2017, but it may well not be reached. Amongst other proposals, the Bill would deny parole to murderers for as long as they refuse to disclose the whereabouts of their victim's remains.

Mr McGinn has called for the Government to support his proposal or incorporate it into its legislative programme.

The Government has written to the Parole Board asking it to review its guidelines on the issue. This is part of a wider review of Parole Board guidance, the results of which have not yet been published. The Government also points out that, in sentencing and parole decisions, the courts and the Parole Board already take refusal to reveal the location of victims' remains into account

# 1. Background

## 1.1 The campaign for "Helen's Law"

'Helen's Law' refers to a proposal that the law should be changed to prohibit the release on parole of offenders who were convicted of murder and have failed to reveal the location of the body of their victim.

The campaign for 'Helen's Law' is led by Marie McCourt whose daughter, Helen, was murdered in 1988. Ian Simms, who was convicted of Helen's murder, has to date not revealed the location of her body.<sup>1</sup>

The [change.org petition](#) calling for Helen's Law has been presented to the Government by Marie McCourt.<sup>2</sup> As at 1 February 2017 it had over 390,000 signatures. A Petition to the UK Government and Parliament, [Introduce Helen's Law where hiding a body becomes a criminal offence](#), closed on 2 October 2016 with 63 signatures.

## 1.2 The scale of the problem

There are no published statistics on this. However, when Conor McGinn MP introduced his Ten Minute Rule Bill on this subject in October 2016<sup>3</sup> he reported that the Home Office had told him there had been 30 murders since 2007 where no body had been recovered:<sup>4</sup>

Just yesterday, the Home Office revealed to me that since 2007 alone there have been 30 murders in England and Wales where no body has been recovered, but as it currently stands the English legal system does not require a convicted murderer, at the end of their determined tariff, to admit guilt or reveal the location of a victim's remains before being released. Marie believes that if parole is granted to Helen's killer, her hopes of finding her daughter will never be realised.

## 1.3 The Government's position

The Government position was given in response to a Parliamentary Question in the Lords in February 2016. This made it clear that the then Prisons Minister Andrew Selous had written to the Parole Board asking it to review its guidelines on the issue. The response also made the point that courts and the Parole Board already take refusal to reveal the location of bodies into account in sentencing and parole decisions:<sup>5</sup>

Asked by Lord Maginnis of Drumglass

Ministry of Justice

Homicide: Parole

HL6108

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<sup>1</sup> [Helen McCourt: Law change plea over killers who refuse to say where victims are](#), *BBC News*, 14 December 2015

<sup>2</sup> [Helen McCourt murder: Mother hands in petition to Downing Street](#), *BBC News*, 4 February 2016

<sup>3</sup> See section 2 of this Briefing Paper

<sup>4</sup> [HC Deb 11 October 2016 c163](#)

<sup>5</sup> [Lords PQ - HL6108 \[on Homicide: Parole\] 23 February 2016](#)

To ask Her Majesty's Government what stage they have reached in their consideration of amending legislation in order to ensure that convicted murderers who persist in refusing to reveal the location of bodies of victims are prevented from being released on parole; and when they expect to introduce legislation to that effect.

Answered by: Lord Faulks

I can sympathise with the anguish caused to the families of victims where the whereabouts of their loved one is unknown and the offender wilfully fails to co-operate. Such behaviour is already taken into account by the court when sentencing the offender, and by the independent Parole Board when assessing an offender's eligibility for possible release. The Prisons Minister has written to the Parole Board asking it to consider reviewing its guidelines on this issue.

## 1.4 Courts and sentencing

Concealment of a body is an aggravating factor when setting minimum term for a life sentence for murder. Further detail on mandatory life sentences is in Library Briefing Paper 3626, [Mandatory life sentences for murder](#).

## 1.5 Parole Board

The Parole Board is an independent body that carries out risk assessments on prisoners to determine whether they can be safely released into the community.

The Parole Board has an [Information Booklet for Victims](#) which is intended to help victims and members of the public understand how the Parole Board makes its decisions. It does not specifically deal with the particular point of an offender refusing to give the location of a victim's body, but it usefully summarises the wider process. Further detail is in the Parole Board's [Oral Hearings Guide](#).

The Board must not direct release unless it is satisfied that it is no longer necessary for the protection of the public that the prisoner be detained.<sup>6</sup>

Schedule 1 of the [Parole Board Rules 2016](#) (SI 2016/1041) sets out information to be included in reports on prisoners which go to the Parole Board. The rules do not explicitly mention co-operation over location of victims' bodies, but presumably information on this could be included under a number of the headings (emphasis added):

- 1. If available, the pre-trial and pre-sentence reports examined by the sentencing court on the circumstances of the offence.**
2. Reports on a prisoner who was subject to a transfer direction under section 47 of the Mental Health Act 1983(a).
- 3. Current reports on the prisoner's risk factors, reduction in risk and performance and behaviour in prison, including**

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<sup>6</sup> section 28(6)(b) of the *Crime (Sentences) Act 1997*

**views on suitability for release on licence as well as compliance with any sentence plan.**

4. A current risk management report prepared for the Board by an officer of the National Probation Service, including information on the following where relevant

- a) details of the prisoner's address, family circumstances and family attitudes towards the prisoner;
- b) alternative options if the offender cannot return home;
- c) the opportunity for employment on release;
- d) the local community's attitude towards the prisoner (if known);**
- e) the prisoner's attitude to the offence for which the offender received the sentence which is being considered by the Parole Board ("the index offence");**
- f) the prisoner's response to previous periods of supervision;
- g) the prisoner's behaviour during any temporary leave during the current sentence;
- h) the prisoner's attitude to the prospect of release and the requirements and objectives of supervision;
- i) an assessment of the risk of reoffending;
- j) a programme of supervision;
- k) if available, a current victim personal statement setting out the impact the index offence has had on the victim and the victim's family;**
- l) a view on suitability for release, and
- m) recommendations regarding any licence conditions.

## 1.6 Parole Board review of the rules

A PQ was tabled in May in the House of Commons asking the Ministry of Justice when it expects the Parole Board to complete its review of the rules. This made it clear that this was part of a wider review of all the Parole Board's guidance:<sup>7</sup>

Asked by Mr Alistair Carmichael

(Orkney and Shetland)

Ministry of Justice

To ask the Secretary of State for Justice, when he expects the Parole Board to complete its review of the rules on releasing convicted murderers from prison if they refuse to reveal the locations of their victims' bodies.

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Answered by: Andrew Selous

Answered on: 11 May 2016

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<sup>7</sup> [PQ 36743 \[on Prisoners' Release: Homicide\] 11 May 2016](#)

When assessing an offender's continuing risk for the purposes of deciding whether he or she is eligible for possible release, the independent Parole Board already takes into account any wilful failure on the part of the offender to disclose the whereabouts of their victim's body. The Parole Board has at my request, agreed to review its guidance on this particular issue as part of a review of all its guidance in 2016.

The results of the review have yet to be published.

## 1.7 Legislation in South Australia

The state of South Australia passed the [Correctional Services \(Parole\) Amendment Act 2015](#) section 6 of which would prevent the Parole Board from releasing a person serving a life sentence for murder "unless the Board is satisfied that the prisoner has satisfactorily cooperated in the investigation of the offence". What the Board must take into account is spelt out in section 6(7):

For the purposes of subsection (6), the Board must take into account any report tendered to the Board from the Commissioner of Police evaluating the prisoner's cooperation in the investigation of the offence, including—

- (a) the nature and extent of the prisoner's cooperation; and
- (b) the timeliness of the cooperation; and
- (c) the truthfulness, completeness and reliability of any information or evidence provided by the prisoner; and
- (d) the significance and usefulness of the prisoner's cooperation.

The Bill was assented to on 6 August 2015 and the Act was proclaimed on 11 February 2016.<sup>8</sup> Similar legislation is being proposed in other states.<sup>9</sup>

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<sup>8</sup> Website of Jay Weatherill, Premier of South Australia, [A Safe South Australia](#), scroll down to "Parole Reforms"

<sup>9</sup> See for example "[No Body, No Parole](#)" Bills Introduced By Oppositions In Victoria and WA", *TimeBase*, 7 March 2016 and "['No body, no parole' laws probed in Queensland parole review](#)", *Brisbane Times*, 7 September 2015, "[Peter Falconio case: 'No body, no parole' rule for killer](#)", *BBC News*, 10 March 2015

## 2. The Bill

Conor McGinn introduced the [Unlawful Killing \(Recovery of Remains\) Bill 2016-17](#) under the [Ten Minute Rule](#). It was given a first reading on 11 October 2016. The Bill has not yet been published (often Ten Minute Rule Bills are never published) but was described by Mr McGinn as follows: <sup>10</sup>

My Bill seeks to acknowledge, and in some cases mitigate, the pain and distress caused to the families of missing murder victims. There are three main elements to it: first, denying parole to murderers for as long as they refuse to disclose the whereabouts of their victim's remains; secondly, passing a full-life tariff, denying parole or release, until the murderer discloses the location and enables the recovery of their victim's remains; and thirdly, applying the rarely used common-law offences in murder trials without a body of preventing the burial of a corpse and conspiracy to prevent the burial of a corpse, disposing of a corpse or obstructing a coroner. In essence, the proposals are simple: if a convicted killer refuses to give information to reveal the location of a victim's body, they should not be considered eligible for parole and they should stay in prison. The proposals would effectively mean a whole-life tariff for murderers who refuse to disclose the location of their victims and enable their remains to be recovered to give families a chance to pay their last respects.

The Bill is down for its Second Reading on 3 February 2017. However, as it is fourth on the list for debate, it may well not be reached.<sup>11</sup>

Mr McGinn called for the Government to adopt his proposal at Business Questions on 17 November 2016:<sup>12</sup>

Asked by: Connor McGinn

Thank you very much, Mr Deputy Speaker. My Bill to introduce Helen's law would deny parole to murderers who refuse to reveal the location of their victims' remains. It has the support of 400,000 members of the public and many Members on both sides of the House, but will only become law if the Government support it or incorporate it into their legislative programme. Will the right hon. Gentleman and perhaps the Justice Secretary meet me and Helen's mum, Marie McCourt, to discuss how we might work together on this?

Answered by: David Lidington | Department: Leader of the House

I will ask the relevant Minister in the Justice Department to make contact with the hon. Gentleman about this case. No one in the House today will have anything but unreserved sympathy for the family involved, or indeed for any other family in the same appalling situation. There will be also opportunities for him to highlight this issue further through Adjournment debates.

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<sup>10</sup> [HC Deb 11 October 2016 c162](#)

<sup>11</sup> House of Commons, [Future Business for Wednesday 1 February 2017](#)

<sup>12</sup> [HC Deb 17 November 2016 c407](#)

## 2.1 What about prisoners who maintain their innocence?

Under the law as it stands, for a prisoner to be released the Parole Board must be satisfied that he or she no longer poses a risk to the public.<sup>13</sup> The fact that the prisoner maintains innocence is not itself an automatic bar to being released.<sup>14</sup> The Parole Board is required to carefully assess all the competing factors in coming to a conclusion as to whether or not a prisoner's risk has been sufficiently reduced so as to allow for a recommendation that he can be safely released.<sup>15</sup> The Parole Board's [Information Booklet for Victims](#) sets out the position in simple terms:

### **What if the offender maintains that they are innocent?**

If an offender continues to maintain their innocence, the Parole Board must assess whether their risk is still high enough that the public can only be protected by their continued imprisonment against the fact that they are unlikely to show any remorse, while they continue to deny their guilt. The Parole Board does not treat such offenders any differently or more leniently; we accept the Court's verdict that they are guilty and assess them on the basis that they are guilty. However, denial of guilt is not a lawful reason by itself for the Board to refuse to release an offender, or assess them as suitable for open conditions. When the Board is assessing the risk of offenders who maintain their innocence, it looks at the circumstances of the offence, how and why it happened, what sort of life the offender was living at the time, whether there were things like drugs or alcohol involved and so on. If there are factors like anger management, as an example, offenders can still undergo offending behaviour 11 courses, even though they deny the offence. With all of those sorts of issues under consideration, it's possible to assess what has changed about the offender and whether that change is a lasting one and one that means they are less or as likely to re-offend in the same sort of way again.

Conor McGinn touched upon this point when he introduced his Bill:

Let me make it clear that the proposals in the Bill would not affect any individual's fundamental right to maintain their innocence. The law changes I propose would not impinge in any way on the rights of convicted killers to retain full access and full recourse to the appeals process. It is worth noting, however, that in the case of Helen McCourt's killer, his guilt has only been further confirmed at every single appeals stage because of enhanced DNA evidence against him.<sup>16</sup>

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<sup>13</sup> [Crime \(Sentences\) Act 1997, s28 \(6\)](#)

<sup>14</sup> *R (on the application of Austin) v Parole Board for England and Wales* [2011] EWHC 2384 (Admin)

<sup>15</sup> [R. v Parole Board for England and Wales Ex p. Oyston \[2000\] Prison L.R. 45](#)

<sup>16</sup> [HC Deb 11 October 2016 c163](#)

### 3. Further reading

#### Press

Bournemouth Echo

[No body, no parole: family of murdered Carole Packman back 'Helen's Law'](#)

Jane Reader 13 October 2016

BBC online

['Helen's Law' to deny unrepentant killers parole backed by MPs](#)

11 October 2016

Huffington Post

[Why we need 'Helen's Law' – a 'no body, no parole' rule for murderers](#)

Conor McGinn 25 July 2016

Telegraph

['Helen's Law': Murder victim's mother demands change in law for killers who refuse to reveal location of bodies](#)

Danny Boyle 4 February 2016

#### Early Day Motion

[PAROLE FOR MURDERERS WHO REFUSE TO REVEAL WHERE REMAINS OF THEIR VICTIMS ARE HIDDEN](#)

EDM 166 | 8 June 2016 | Roger Godsiff | 15 signatures

That this House notes the recent campaign by Marie McCourt, whose daughter Helen was murdered in 1988 and whose body has never been found, for the law to be changed to prevent convicted murderers who refuse to disclose the location of their victims' bodies from being released on parole; further notes that proper burial can help to provide closure for victims' families and help to ease their suffering; believes that it is right for the law to be changed to ensure that deliberately prolonging the suffering of victims' families by preventing a burial counts against murderers who apply for parole; notes that more than 330,000 people have supported Marie's campaign; notes that as a result of this campaign the Prisons Minister asked the Parole Board to review its guidelines on such cases; is concerned that this review still has not been completed; is further concerned that the Minister for Criminal Justice and Victims assured Marie that he would discuss this issue with the Justice Secretary and respond to her, but that more than two months later she has not received a reply; and urges the Ministry of Justice to respond to Marie as soon as possible and consider whether to change the law to strengthen provisions to ensure that refusal to reveal the location of remains is fully taken into account when deciding on parole for convicted murderers.

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