

INQUIRY INTO FAMILY RESPONSE TO THE MURDERS IN BOWRAVILLE

Organisation: NSW Government

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Partially Confidential

NSW GOVERNMENT SUBMISSION

1. In 1991 over a five month period three Aboriginal children, Colleen Walker-Craig, Evelyn Greenup and Clinton Speedy-Duroux were murdered or went missing in the town of Bowraville on the mid north coast of New South Wales. No person has been convicted in relation to these cases despite several trials of an individual and a coronial inquest being held. The man accused of committing the murders, _____ was acquitted, and now lives away from Bowraville under an assumed name.
2. The Department of Attorney General and Justice is aware of the Legislative Council Inquiry by the Law and Justice Committee established on 26 November 2013 to inquire into and report on the family response to the murders in Bowraville, and in particular, give the families the opportunity to appear before the Committee and detail the impact the murders of these children have had on them and their community.
3. The Attorney General the Hon Greg Smith SC MP has had an intimate and detailed involvement in this matter over its life, both during his former role as Deputy Director of Public Prosecutions and more recently, as Attorney General for New South Wales, when he considered and declined a petition to refer the prosecution of _____ back to the Court of Appeal under the provisions of the *NSW Crimes (Appeal and Review) Act 2001*.
4. The purpose of this submission is to place on record the very extensive consideration given to the impact which these murders had on the community

but does not canvas any of the legal issues, which have been dealt with separately.

5. In 2010, the former NSW Attorney General, the Hon John Hatzistergos MLC, on two occasions, declined a petition in similar terms made by the family.
6. In June 2011, the Speedy Duroux Association made a further petition to the Attorney General (through Allens Lawyers), seeking to have the Attorney General exercise his powers under the *Crimes (Appeal and Review) Act 2001* to exercise the function of the Director of Public Prosecutions by applying for a retrial. Following receipt of the advice of the then Acting Crown Advocate David Arnott SC, the Attorney General wrote to the Minister for Police asking for information about the original police investigation and asking that the Police conduct new interviews with certain witnesses.
7. In early 2012, following correspondence from the Minister for Police, the Attorney General sought the advice of the new Crown Advocate, Ms Natalie Adams SC. Ms Adams was extensively briefed by the Department of Attorney General and Justice, and worked on this matter over several months with a team of lawyers from the Crown Solicitor's Office and Counsel assisting, Ms Joanna Davidson.
8. This group of lawyers prepared an advice of over 80 pages for the Attorney General, which considered in great detail the evidence said to be compelling and fresh, before concluding that the evidence would not, ultimately, be sufficient to satisfy the Court of Appeal to retry

9. The team met with Police, including Chief Inspector Jubelin, on three separate occasions in May 2012 and again in August 2012 to explain their preliminary views and their particular concern to identify relevantly 'fresh' evidence.
10. On 13 June 2012, two solicitors from the team travelled to Bowraville to meet members of the community.
11. On 10 July 2012, a solicitor from the team met with Professor Larissa Behrendt (Director of the Jumbunna Indigenous House of Learning (IHL)) and Mr Craig Longman (Senior Researcher at the Jumbunna IHL). At this meeting, Professor Behrendt and Mr Longman provided the solicitor with a document setting out their thoughts concerning the potential for a retrial of . These views were taken into account by the Crown Advocate and the Attorney General in their determination of the matter. A further meeting was then held with Professor Behrendt in August 2012.
12. On 13 September 2012, Professor Behrendt and Mr Longman provided the Crown Advocate with a further document addressing certain additional evidence known as the 'prison informer' evidence, the 'Norco Corner' evidence and the likely outcomes of an application under the *Crimes (Appeal and Review) Act 2001*.
13. In December 2012, the Attorney General declined to refer the matter back to the Court of Appeal.
14. In April 2013, the Attorney General met personally with representatives of the Speedy Duroux Association to discuss the decision to decline the petition.

Present at this meeting were Clinton Speedy-Duroux's father Thomas Duroux, his sister in law Leonie Duroux and Jasmin Speedy (who represented Clinton's mother June Speedy).

15. The Attorney General met with the representatives to explain his decision which had been made on legal grounds and which he acknowledged had caused the Bowraville community enormous difficulty.

16. The Attorney General discussed face to face with family the evidentiary burdens that could not be overcome in the *Crimes (Appeal and Review) Act 2001* petition. The Attorney General noted the overwhelming likelihood that the evidence said by the applicants to be 'fresh and compelling' would have been disqualified, and the reasons why. The Attorney General also discussed how, if the Court of Criminal Appeal ultimately determined not to retry ; any further opportunity to have retried should new evidence arise, or in the event that confessed would be lost.

17. The Attorney General discussed with the group the evidence the families wanted to take to trial, specifically the 'Norco Corner evidence', where a local truck driver saw an unconscious Aboriginal youth lying on the road in the early hours of the morning in front of a white man matching description. The evidence then available but considered irrelevant by Police was not used at trial for Clinton Speedy's murder. It would therefore not be accepted by the Court of Criminal Appeal as 'fresh evidence' in the absence of exceptional circumstances, which were not present in this case.

18. The Attorney General accepts that the Bowraville community, and the families of the deceased children remain devastated by the decision not to ask the Court of Appeal to consider a retrial of .

19. The Attorney General is aware that one persistent concern of the families' and their supporters is that racism operated to flaw both the initial police investigation into the murders, and also the investigation conducted in the course of determining the *Crimes (Appeal and Review) Act 2001* petitions.

20. The Attorney General assures the family that racist views or attitudes did not play a part in the determination of the petition submitted to him in 2012. Concerns of the family and the ongoing impact these murders have had on them and the community have always been at the forefront of the Attorney's mind when considering the matter.