

In the matter of

**NELSON ANDRAE PATEA
(Applicant)**

SECTION 193A CORRECTIVE SERVICES ACT 2006

PROCEEDING: An application for parole

DELIVERED ON: 6 December 2018

DELIVERED AT: Brisbane

HEARING DATE: 15 November 2018

MEETING DATE: The Board met to further consider the matter on 4 December 2018

CHAIRPERSON: Mr Peter Shields, Deputy President of Parole Board Queensland

DECISION: The Board is satisfied, in terms of section 193A(2) of the *Corrective Services Act 2006*, given that the applicant did not have the capacity to give cooperation in the investigation of the offence to identify the victim's location.

Application for parole order

- [1] A prisoner may apply for a parole order under s 180 of the *Corrective Services Act 2006* (Qld) ('CSA'). After receiving a prisoner's application for a parole order, Parole Board Queensland ('the Board') must decide to grant the application or to refuse to grant the application.¹

Application for a parole order where victim's body or remains have not been located

- [2] Pursuant to s 193A(1)–(2) of the CSA the Board must refuse to grant an application for parole where the applicant is serving a period of imprisonment for a homicide offence and --
- (a) the body or remains of the victim of the offence have not been located; or
 - (b) because of an act or omission of the applicant or another person, part of the body or remains of the victim has not been located.

unless the Board is satisfied that the applicant has cooperated satisfactorily in the investigation of the offence to identify the victim's location.

Section 193A(8) of the CSA states:

victim's location means-

- (a) the location, or the last known location, of every part of the body or remains of the victim of the offence; and
- (b) the place where every part of the body or remains of the victim of the offence may be found.

Amendment to CSA

- [3] Section 193A was inserted into the CSA by s 4 of the *Corrective Services (No Body, No Parole) Amendment Act 2017* (Qld) ('the Amendment Act'), which was assented to and commenced on 25 August 2017.
- [4] This amendment implemented Recommendation 87 of the Queensland Parole System Review Report ('the Report') which recommended the establishment of a No Body, No Parole policy in Queensland.
- [5] The Report acknowledged that
- ...withholding the location of a body extends the suffering of victim's families and all efforts should be made to attempt to minimise this sorrow.*
- [6] The Amendment Act is designed to help victims' families and aims to encourage and incentivise prisoners to whom s 193A applies to assist in finding and recovering the remains of a victim by making parole release contingent on his/her satisfactory cooperation in the investigation of the homicide offence to identify the victim's location.²

¹ *Corrective Services Act 2006* (Qld) ('CSA'), s 193(1).

² Explanatory Notes, *Corrective Services (No Body, No Parole) Amendment Bill 2017*, page 1.

[7] As stated in the Report

...such a measure is consistent with the retributive element of punishment. A punishment is lacking in retribution, and the community would be right to feel indignation, if a convicted killer could expect to be released without telling what he did with the body of the victim.

Application of s 193A of the CSA

[8] Section 193A(7)(a) of the CSA provides that, in determining whether the applicant has 'cooperated satisfactorily' in the investigation of the offence to identify the victim's location, the Board must have regard to:

- (i) a written report of the Commissioner of Police stating whether the applicant has cooperated in the investigation of the offence to identify the victim's location and, if so, an evaluation of:³
 - (a) the nature, extent and timeliness of the applicant's cooperation; and
 - (b) the truthfulness, completeness and reliability of any information or evidence provided by the applicant in relation to the victim's location; and
 - (c) the significance and usefulness of the applicant's cooperation; and
- (ii) any information the Board has about the applicant's capacity to give the cooperation; and
- (iii) the transcript of any proceeding against the applicant for the offence, including any relevant remarks made by the sentencing court.

[9] Further, s 193A(7)(b) of the CSA provides that the Board may have regard to any other information the Board considers relevant.

[10] When determining whether the applicant has 'cooperated satisfactorily' in the investigation, the Board is to give the phrase 'cooperated satisfactorily', as part of a statutory provision, the meaning that the legislature is taken to have intended it to have.

Ordinarily, that meaning (the legal meaning) will correspond with the grammatical meaning of the provision. But not always. The context of the words, the consequences of a literal or grammatical construction, the purpose of the statute or the canons of construction may require the words of a legislative provision to be read in a way that does not correspond with the literal or grammatical meaning.⁴

[11] The Board formed the view that, in these circumstances, the legal meaning (in accordance with the legislative intention referred to in [6]) of 'cooperated satisfactorily' corresponds with the grammatical meaning of that phrase.

³ CSA (Qld) s 193A(7)(a) read in conjunction with s 193A(6).

⁴ *Project Blue Sky Inc v Australian Broadcasting Authority* 194 CLR 355, 384 [78].

[12] The Board determined that the grammatical meaning of 'cooperated satisfactorily' may be derived with reference to the *Shorter Oxford English Dictionary*, which provides the following definitions:

'satisfactory' - 'sufficient, adequate; convincing'.⁵

'cooperate' - 'act jointly with another (in a task, to an end)'.⁶

The present application

[13] On 3 September 2018 the applicant filed his application for parole ('the application'). The application was received by the Board on 4 September 2018.

[14] The application was listed for hearing on 15 November 2018.

[15] On 14 November 2018, the solicitor representing the applicant provided detailed written submissions to the Board. In the written submissions it was conceded by the applicant that s 193A of the CSA applies to the prisoner's application for parole.⁷

[16] The applicant attended the hearing via video link. At the hearing the applicant was legally represented by his solicitor. At the commencement of the hearing the applicant's solicitor confirmed the applicant was appearing via video link by consent and the applicant had received all documents⁸.

[17] During the hearing the applicant gave evidence.

Background

[18] The deceased is Greg Dufty. On the evening of 6 July 2015 the deceased was assaulted by a group of men and died as a result of that assault. The assault was planned in retaliation for the deceased's earlier theft of cannabis from Aaron Crawford. His body was disposed of in a fire and has not been recovered⁹.

[19] To date, the following persons, in addition to the applicant, have pleaded guilty and been sentenced for a 'homicide offence'¹⁰ in relation to the unlawful killing of the deceased.

- a. **Clinton Stockman** pleaded guilty to manslaughter¹¹ and misconduct with regard to corpses¹² and was sentenced on 23 February 2018 by the Honourable Justice Boddice to an effective term of six (6) years imprisonment with an order that he is eligible for parole be fixed at 23 February 2018.

⁵ Oxford University Press, *Shorter Oxford English Dictionary* (5th ed, Volume 2), 2674.

⁶ Oxford University Press, *Shorter Oxford English Dictionary* (5th ed, Volume 1), 513.

⁷ Written submission on behalf of the applicant at [1].

⁸ List of documents as at 15 November 2018, attached to these reasons and marked, Annexure "1".

⁹ Taken from the overview in the agreed statement of facts, Annexure "2".

¹⁰ As defined in s.193(8) of the *Corrective Services Act 2006*.

¹¹ *Criminal Code Act 1899* (Qld), ss 303 and 310.

¹² *Criminal Code Act 1899* (Qld), s 236(2).

- b. **Liam Bliss** pleaded guilty to manslaughter¹³ and was sentenced on 23 February 2018 by the Honourable Justice Boddice to an effective term of five (5) years imprisonment with an order that the sentence of imprisonment be suspended after he had served 206 days, for an operational period of five (5) years.
- c. **Aaron John Crawford** pleaded guilty to manslaughter¹⁴ and misconduct with regard to corpses¹⁵ and was sentenced on 29 May 2018 by the Honourable Justice Burns to an effective term of ten (10) years imprisonment.
- d. **Lionel John Patea** pleaded guilty to murder¹⁶ and was sentenced on 29 May 2018 by the Honourable Justice Burns to life imprisonment with an order that he not be released from prison before 29 May 2048.

[20] On 28 May 2018 **the applicant** entered a plea of guilty to the offence of manslaughter¹⁷. On 29 May 2018 the applicant was sentenced by the Honourable Justice Burns to an effective term of eight (8) years imprisonment with an order that the date the applicant is eligible for parole be fixed at 11 January 2019.

[21] The sentence hearing before Burns J proceeded on the basis of an agreed statement of facts¹⁸ which was tendered¹⁹.

[22] In sentencing Aaron John Crawford, Lionel John Patea and the applicant, Burns J referred to the agreed statement of facts at [2]:

*"The circumstances of the indictable offences are the subject of a statement of facts, exhibit 2, that has been agreed by each of you. Those facts have also been the subject of extensive submissions by Mr Cash QC, who appears on behalf of the Crown. However, in brief, the victim was Mr Greg Dufty. He was attacked on the evening of 6 July 2015 and died in consequence of that attack. The attack had been planned in retaliation for Mr Dufty's theft of a quantity of cannabis from you, Mr Crawford. **After he died, his body was disposed of in a fire. No trace remains.**"²⁰ [Emphasis added]*

[23] A copy of the agreed statement of facts is attached to these reasons and marked 'Annexure 2'.

[24] It was common ground at both sentence hearings that the applicant took part in the physical assault upon the deceased and did not have any part to play in the removal of the deceased and the disposal of his body in a fire. That much is made clear during the applicant's sentence hearing²¹:

¹³ *Criminal Code Act 1899* (Qld), ss 303 and 310.

¹⁴ *Criminal Code Act 1899* (Qld), ss 303 and 310.

¹⁵ *Criminal Code Act 1899* (Qld), s 236(2).

¹⁶ *Criminal Code Act 1899* (Qld), ss 302 and 305.

¹⁷ *Criminal Code Act 1899* (Qld), ss 303 and 310.

¹⁸ Transcript, page 4, lines 32 – 46 (page 66 of the PBQ file).

¹⁹ Exhibit 2.

²⁰ *R v Crawford, Patea & Patea* [2018] QSC 122 (page 501 – 514 of the PBQ file).

²¹ Transcript, page 18, lines 13 – 16 (page 52 of the PBQ file).

HIS HONOUR: *Now. At that point, that's the end of the involvement of Lionel Patea and Nelson Patea, correct?*

Mr CASH: *That's so. Yes. That's so...*

The submissions of the applicant

[25] The solicitor for the applicant in both his written²² and oral submissions²³, relied upon the content of the agreed statement of facts and the sentencing proceedings, as evidence that the applicant did not have any knowledge of where the deceased was taken after the assault, and where and how the deceased was disposed of.

[26] It was further advanced on behalf of the applicant that by entering a plea of guilty and accepting as true the content of the statement of facts, he has in fact cooperated to the extent that he can²⁴.

DP SHARP: *And so your submission would be that that cooperation by entering the plea of guilty and accepting those facts, he's cooperated to the extent that he can?*

MR MacCALLUM: *Absolutely, yes. He can't cooperate any further, in my submission. And, in fact, the only thing I'll say about whether it's benefited him, it seems to have benefited Stockman more than anyone because the parole board accepted that he was cooperative and released him on the basis that he was able to demonstrate or locate or show the investigators the location of where the body was initially or where it was burnt and he necessarily was the one who benefited from that. But he was able to - -*

DP SHIELDS: *Well, with - - -*

MR MacCALLUM: *My client wasn't able to avail himself of any - of that opportunity to demonstrate where the remains are because it was not in his knowledge.*

²² Written submission on behalf of the applicant at [2].

²³ Transcript, page 9 , lines 30 – 46. (pages 575 – 574 of the PBO file).

²⁴ Transcript, page 6 , line 45 to page 7 line 44. (page 572 of the PBO file).

[27] During the hearing the applicant gave evidence confirming his lack of knowledge or involvement in the disposal of the deceased²⁵:

Q. Yes. Can I ask you this, Nelson; at any time did you have knowledge of the disposal of Mr Dufty's remains?

A. No.

Q. Is the first – or sorry when was the first time you gained knowledge of how his remains may have been disposed?

A. When I received the brief – the statement, sorry, first from the brief.

Q. Yes. And whose statement was that specifically?

A. I think it was Clint Stockman's.

Q. Did you have any knowledge prior to that of how the body was disposed?

A. No, I didn't have any knowledge.

Q. After reading that particular statement, could you confirm or deny that was how the body was disposed?

A. I don't know if that's what happened, but I guess, yeah, that may have been what happened.-

Q. Yes?

A. But I don't know that.

Discussion

[28] Pursuant to section 193A(7)(a)(i) of the CSA, the Board must have regard to a written report of the Commissioner of Police ('the report') stating whether the applicant has given any cooperation in the investigation of the offence to identify the victim's location.

[29] The report details the applicant's lack of cooperation with police up until 13 September 2018. The report concludes by stating²⁶:

*Nelson Patea has not cooperated with police at any stage of the investigation. **No evidence was forthcoming during the investigation to indicate that he was present or involved in the disposal of the deceased body.** He has denied any knowledge of what happened to the deceased's remains, and initially on 2 November 2015 denied knowing the deceased. He has not offered any cooperation.*

[emphasis added]

²⁵ Transcript, page 16, lines 13 – 29 (page 565 of the PBQ file).

²⁶ Queensland Police Service Prisoner Cooperation Report dated 19 September 2018 (page 517 of PBQ file).

[30] As aforementioned, the applicant did take part in a recorded conversation with Detective S/Constable Kidd on 13 September 2018, which included the following:

Kidd: *Yep, did you want to make any comment at this point in time?*

Patea: *No, I wasn't charged with um interfering with the corpse.*

Kidd: *Yep.*

Patea: *You can read the transcripts I had nothing to do with it.*

Kidd: *Yep, I'm aware of the job. I'm involved in the investigation so, as I said at the very beginning anyone who is charged in relation to the*

Patea: *I know what you said, **but I can't tell you something that I don't know.***

[emphasis added]

[31] The statement made by the applicant to police on 13 September 2018 is consistent with what police uncovered during their investigation and the agreed statement of facts tendered during the applicant's sentence hearing. It is also consistent with the sentencing remarks of both Justices Boddice and Burns.

[32] In addition to the report, the Board must²⁷ have regard to any information the Board has about the prisoner's capacity to give the cooperation. In this case, the applicant had no knowledge of or involvement in the disposal of the deceased's body.

Conclusion

[33] In this matter, the Board is satisfied, in terms of section 193A(2) of the *Corrective Services Act 2006*, given that the applicant did not have the capacity to give cooperation in the investigation of the offence to identify the deceased's location.

²⁷ Section 193A(7)(ii) of the *Corrective Services Act 2006*.

Annexure "1"

IN THE MATTER OF:

NELSON ANDRAE PATEA

(Applicant)

Section 193A *Corrective Services Act*

LIST OF DOCUMENTS AS AT 15 NOVEMBER 2018

1. Outline of Submissions from Campbell MacCallum, undated (556-559);
2. Submissions on sentence behalf of the prosecution, dated 29 May 2018 (551-555);
3. Statement of facts, undated (545-550);
4. Letter of Apology from Nelson Patea's sister, undated (544);
5. Correspondence from Parole Board Queensland to Campbell MacCallum dated 09 November 2018 (540-543);
6. Parole Board Assessment Report (PBAR) dated 09 October 2018 (528-539);
7. Accommodation Risk Assessment (ARA) dated 07 September 2018 (526-527);
8. Form 29 – Parole Application dated 04 September 2018 (525);
9. QPS Cooperation Report with enclosed Annexures A – Y (provided in USB) dated 25 September 2018 (75-524);
10. Sentence Calculation dated 12 July 2018 (73-74);
11. Attendance Notice – Video link dated 26 October 2018 (72);
12. Attendance Notice dated 25 October 2018 (71);
13. Verdict and Judgment Record dated 29 May 2018 (70);
14. Transcript of Proceedings (Supreme Court of Queensland, Justice J. Burns, Day 1 – The Queen v Aaron John Crawford, Lionel John Patea and Nelson Andrae Patea dated 29 May 2016 (23-69) ;

15. Transcript of Proceedings (Southport Magistrates Court, Magistrate B. Callaghan, Day 1- Committal Hearing – Police v Nelson Patea and Lionel Patea dated 20 September 2016 (10-22);
16. Queensland Court Outcomes dated 04 September 2018 (6-9);
17. Correspondence from Campbell MacCallum – Authority to Act on behalf of Nelson PATEA dated 09 October 2018 (5);
18. Correspondence from Parole Board Queensland to Commissioner of Police dated 05 September 2018 (4);
19. Correspondence from Parole Board Queensland to Nelson PATEA dated 05 September 2018 (2-3);
20. Correspondence from Parole Board Queensland to Legal Aid dated 05 September 2018 (1);
21. Rehabilitation Needs Assessment document dated 06 July 2018 (not paginated).

STATEMENT OF FACTS

Lionel John PATEA, Aaron John CRAWFORD and Nelson Andrae PATEA

Offences:

Murder (Lionel Patea)

Manslaughter (both Crawford and Nelson Patea)

Interfering with a corpse (Crawford only)

Overview:

The deceased is Greg Dufty. On the evening of 6 July 2015 the deceased was assaulted by a group of men and died as a result of that assault. The assault was planned in retaliation for the deceased's earlier theft of cannabis from Aaron Crawford. His body was disposed of in a fire and has not been recovered.

Six people have faced charges in relation to Dufty's death: the present three defendants; Clinton Stockman (manslaughter and interfering with a corpse) and Liam Bliss (manslaughter) who both pleaded guilty and have been sentenced; and Ethan Clarke who faces committal hearing (Clarke is also facing a separate charge of murder and it seems likely his proceedings will be referred to the Mental Health Court).

The three defendants faced trial with proceedings to commence on Monday 28 May 2018. Aaron Crawford had offered to plead guilty to manslaughter soon after he was charged, but on a version of facts that was contradicted by other evidence and now accepted by Crawford to not be accurate. This offer was not accepted. Crawford again offered to plead guilty to manslaughter in mid-May 2018. This offer was accepted by the prosecution following the resolution of matters concerning Lionel and Nelson Patea.

On the afternoon of Thursday 24 May 2018 lawyers for Lionel and Nelson Patea raised the possibility of Lionel Patea pleading guilty to murder and Nelson Patea to manslaughter. Discussion followed and on Monday 28 May 2018 the pleas were entered.

Background:

Crawford had known the deceased for some time. They worked together occasionally building pools. Crawford knew Stockman well, and is related to Lionel and Nelson Patea. Bliss, Lionel Patea, Nelson Patea and Clarke knew each other beforehand. Stockman knew only Lionel and Crawford.

The deceased was a cannabis and methylamphetamine user and dealer in the Northern Territory, North Queensland and Gold Coast. Crawford supplied him with drugs and as a result it is likely the deceased was in debt to Crawford. The deceased also owed a debt of \$17,000.00 to a Reece Price for cannabis.

In early 2015 the deceased became involved with Crawford in the management of a crop of cannabis at 1850 Busby's Flat Road, Busby's Flat, NSW (near Casino). Stockman was also involved in the maintenance of the crop though he said he did not gain any financial benefit. Around mid-May 2015 the deceased stole a substantial quantity of cannabis from Crawford

from the Busby's Flat Road plantation with the intention of giving the profits of its sale to Price to clear his debt. Crawford was at this stage unaware that it was the deceased who had stolen the cannabis. The cannabis was driven to Cairns by Price and stored in Price's garage.

In mid-June 2015 the deceased travelled to Cairns where he was to sell the cannabis stored at Price's residence. Instead, he took half the cannabis for himself and did not repay any money to Price. In late June, while Price was away, the deceased broke into Price's residence and stole about \$7,000.00 cash, hunting equipment and the remainder of the cannabis that he had stored there. Price suspected the deceased, who was not returning any of his calls, had committed this theft.

On 2 July 2015 Price travelled to the Gold Coast and told Crawford that the deceased had stolen Crawford's cannabis and given it to him. Crawford indicated to Price that the deceased needed a beating, although did not indicate any intention to kill.

The day of the assault:

On 6 July 2015 Crawford contacted Price and indicated he would be meeting with the deceased that night with the intention to bash him. Crawford told Price he wanted to be able to call Price during the assault so Price could tell the deceased why he was getting bashed. Crawford made reference to the assault as involving "the boys".

That morning Crawford inquired with the deceased's former partner, Shani Mill, as to the deceased's whereabouts. The deceased had rented a ute from Bunnings and attended Mill's residence at Ashmore at around 2.30pm to 3.30pm. The deceased, Mill and the two children attended McDonald's for a late lunch. Between 5.00pm and 6.41pm the deceased left the house in the Bunnings hire ute to an unknown location.

In the afternoon Crawford and Stockman attended Lionel Patea's residence at 62 Davis Cup Court, Gold Coast to meet with Patea and Stockman about the deceased.

Stockman later told police that he and Crawford bought truck supplies including a tyre checker (shaped like a small aluminium baseball bat) and zip ties, both of which were used during the assault. These were placed in either Stockman's Ford Territory or Crawford's truck.

At 6.41pm the deceased returned to Mill's house and put the children to bed. Mill and the deceased packed clothes as he indicated he was to fly to Darwin the next evening at 8.00pm to receive a shipment of cannabis. He also intended to meet with Crawford that night to 'move some stuff locally', a reference to drugs.

He left at 8.30pm in the hire ute. He took with him a 'swiss+tech' multi tool that was later recovered at the scene of the assault.

The deceased met Crawford at Ashmore Steak and Seafood restaurant (cell tower records placed the deceased in this location from 7.20pm). They departed together in the cab of a Mack truck driven by Crawford and left the hire ute behind. CCTV footage showed the Mack truck leaving the restaurant at 8.54pm and a champagne Ford Territory (consistent with Stockman's vehicle) travelling in the same direction eight minutes ahead of the truck.

Lionel Patea asked Bliss to collect him, Nelson and Clarke and drive them to Mount Nathan Homestead Road, Nerang. Bliss later told police that Lionel asked him for help because someone owed Lionel money. Lionel said: "*I might have to smoke this cunt, so just watch over me. If there's a passenger in his car just keep an eye on him.*" Bliss understood this as a threat to assault.

Stockman said Lionel Patea directed him to the meeting. Stockman followed Bliss for the later portion of the trip. Bliss was driving Tara Brown's (Lionel's partner) Mazda.

Crawford drove the deceased to Mount Nathan Homestead Road in his white truck where they were met by Clarke, Bliss, Lionel and Nelson Patea and Stockman. Phone data showed Crawford at this location between 9:12 pm and 9:24 pm.

What followed is the subject of a number of versions given to police by Crawford, Stockman and Bliss, respectively. What is not in dispute is that the deceased was assaulted by at least some of those present and was rendered unconscious shortly after the commencement of the assault such that the first blow did not kill him. He was still alive at the cessation of the assault.

The assault:

Bliss told police that when he, Lionel, Nelson and Clarke arrived at the scene, he saw a large grey/brown car (Stockman's vehicle) and a white truck. Lionel greeted the driver of the truck (Crawford). Bliss saw the deceased greeting some of the men, who he apparently did not already know. As this occurred Lionel Patea struck the deceased in the head with an object. Bliss later saw a 40 cm shifting spanner and concluded this is what had been used to strike the deceased. He described the sound of the deceased being struck as that of metal on wood. The deceased fell to the ground and was kicked by Crawford, Nelson Patea and Clarke.

Stockman told police that when he arrived only three people got out of Patea's vehicle, being Lionel, a little man and a big man (the identity of these two men is unconfirmed, however is likely Nelson and Clarke). Stockman was unable to identify Nelson, Bliss or Clarke. Five minutes later the truck with Crawford and the deceased arrived. The deceased introduced himself to the people in Lionel's car.

Stockman saw Crawford approach the deceased while holding the tyre checker, although did not see if he used it. He saw the deceased struck with a weapon of some description, causing him to fall to the ground. He saw Crawford strike the deceased in the stomach area with the tyre checker, describing the motion as, "Aaron didn't wind up hard". Crawford, Lionel, Nelson and Clarke started kicking the deceased on the ground. Crawford said to the deceased words to the effect of, "*Bite the fucking hand that feeds you*". At some point after the initial assaults on the deceased Stockman told Crawford to stop. Crawford told him to "*mind his own fucking business*".

Lionel held a bright green kitchen knife to the deceased's throat and asked where the money was. The deceased refused to talk. Lionel continued to kick the deceased on the ground. Both Stockman and Bliss saw the deceased being hit in the legs with a spanner or a baton by one of the men at the scene. It is not clear who this was. At some point a person kicked away an object from the deceased that looked like a knife (likely the swiss+tech multi-tool).

Stockman told police that on Crawford's direction he obtained the zip ties from the truck, fashioned them into handcuffs, and gave them to Crawford. He said Crawford used the zip ties to handcuff the deceased's hands behind his back after he had lost consciousness. (This is consistent with Bliss' statement to police that he saw the driver of the Ford Territory [Stockman] return to the truck twice during the course of the assault – zip ties were later found in the truck.) Stockman said he saw the 'big guy' punch the deceased in the back of the head four times after he had been zip tied. The deceased did not move in response to this.

The assault lasted one to two minutes. After about 30 seconds the deceased was silent.

Immediately post-assault:

Some of the defendants put the deceased into Crawford's truck. The deceased's hands were still zip tied behind his back and he slumped forward on the dash. Crawford told Stockman to meet him at the truck yard and they all left.

Bliss noticed blood on Lionel's hand when he returned to the car. Lionel denied anything had happened. Bliss saw them place something in the boot. Bliss drove Lionel, Nelson and Clarke back to Lionel's residence. Bliss recalls Ethan Clarke telling the group not to worry as he had checked the deceased's pulse and he was still alive, after which Lionel Patea telephoned Crawford or Stockman and told them to take the deceased straight to the hospital. On the way there Lionel directed Bliss to stop at a location on Kopps Road where they disposed of their weapons. Bliss later directed police to this location and SES volunteers recovered a shifting spanner and a bright green knife at this location.

At the truck yard, Stockman saw Crawford kick the deceased out of the passenger's seat onto the ground. Crawford dragged the deceased into a shed and tried unsuccessfully to rouse him. At one point Crawford splashed water on the deceased while saying, "Wake up you dog, I've got a lot of torture in store for you." The only visible injury Stockman could see was a graze to the left side of the deceased's face. Over a number of hours Crawford and Stockman spoke. Stockman said he told Crawford to go to the police and take the deceased to hospital. Stockman also searched the internet to find ways to wake up an unconscious person.

Crawford came to realise the deceased was not breathing. Crawford told Stockman to help him dispose of the body. Stockman refused. Crawford threatened Stockman's family and so he complied.

They wrapped the body in a tarpaulin. Stockman noticed the deceased had a black eye, which is evidence of the deceased having been alive post-assault. Stockman helped Crawford put the deceased into the bin of the truck. Stockman initially told police that he then dropped Crawford at Hungry Jacks and went home, however he later admitted he and Crawford disposed of the deceased's belongings before doing so. At Crawford's direction, Stockman said he used gloves to pull apart the deceased's phone and throw it from the car into the bushland. He similarly threw the deceased's wallet and bank cards out of the car individually into the bushes at intervals of 500m to 1km. Stockman said he also disposed of the tyre checker which Crawford had placed in his car.

Disposal of corpse:

The following morning, 7 July 2015, Crawford phoned Stockman and told him there was work to be done. Stockman and Crawford drove to a storage shed somewhere in northern New South Wales, where they retrieved two plastic drums. Crawford told Stockman that the drums were so the deceased's body would not be crushed when the truck was loaded with rock. They returned to Crawford's residence at Surfers Paradise.

On 8 July 2015 Stockman met Crawford at the truck yard. Crawford had already placed the deceased's body inside a drum. Crawford put the clothing they had been wearing during the assault in a vacuum sealed bag inside the cabin of the truck. They drove the truck to the Pro Skips yard and had it loaded with 10 tonnes of crushed rock before driving to Busby's Flat.

At Busby's Flat Stockman unlocked the gate to allow Crawford to drive the truck onto the property. Stockman locked it once Crawford had entered. Stockman waited at the gate with a

walkie talkie to ensure no one came in. Stockman initially told police that he only kept watch at the gate while Crawford burned the body, however he subsequently admitted that after 10 minutes Crawford asked Stockman to come and help him, which he did.

Crawford and Stockman removed the deceased's body from the drum and placed it on a pyre of felled timber, the result of timber clearing at the property. Crawford poured diesel fuel over the body and timber and lit the fire. Onto the fire they also placed the drums, clothes from the assault and the clothes they were presently wearing. They tended the fire for a few hours until there was no sign of the corpse left.

Police investigation:

Crawford and Stockman's stored communications confirmed their meeting with Lionel at Davis Cup Court in the afternoon of 6 July 2015. Cell tower records were used to trace Stockman, Crawford and the deceased's whereabouts in the evening. Stockman's vehicle GPS also revealed he was at Mt Nathan Homestead Road (about 2km from the assault location) at 9.02pm.

Police searched the assault location and found the deceased's swiss+tech multi tool, two connected black zip ties, electronic scales and a shoelace. In bushland near Kopps Road police located a bright green kitchen knife (matching the description of the knife that Lionel had used) and a rusted shifting spanner. Bliss directed police to this location as being where the property was disposed of. The spanner and knife tested mildly positive for blood or rust (Combur). The areas were tested for DNA but no comparable profiles were obtained.

At 10 Rosalie Court (the truck yard) police located personal property of the deceased and further zip ties. A number of stains were located that tested positive for blood, however they did not test positive on the Haematrace (for human or primate blood). No DNA profiles were obtained. At Lionel's residence police located further used zip ties.

At the Busby's Flat plantation police located a receipt for crushed concrete collected by Crawford on 8 July 2015. Police also located extensive earthworks, tree clearing and evidence of recent fires. There were also scraps of plastic that could be consistent with a cannabis crop. No cannabis was located.

Witness Rogers-Falk told police he saw both Crawford and Stockman tending to a large fire on the property in July 2015. He indicated to police where the fire was. No human remains were located and the area had been bulldozed.

The Mack truck (registration 941LVF) was located at a truck stop in Mount Kempsey, NSW. Zip ties were located in the cabin. Two locations tested positive under luminol. There was no DNA found.

Undercover police were placed in holding cells with the various defendants, none of whom made any specific admissions. However, Lionel told an undercover police officer that unless someone talked there was no evidence against him.

Cooperation from defendants:

Stockman took part in a formal interview on 16 July 2015, in which he denied any involvement. On 21 September 2015 he contacted police and said he wished to speak with them. He took part in a recorded interview where he indicated his involvement but withheld some information.

He provided a statement on 23 September 2015 and an addendum on 15 November 2015 clarifying elements of this statement. He also took part in two re-creations at Mt Nathan Homestead Road and 10 Rosalie Court (the truck yard). On 26 February 2016 he participated in a video re-creation at Busby's Flat Road. Stockman provided a further addendum on 28 April 2016. He provided a final statement to police on 4 May 2017, in which he made, *inter alia*, admissions to assisting with the disposal of the deceased's corpse.

Bliss gave a statement to police on 2 November 2015, in which he admitted to driving the Pateas and Clarke to the assault location. Bliss also participated in formal interviews on 2 and 25 November 2015, as well as various field recordings and re-enactments. His evidence assisted to identify the Pateas, Clarke and Stockman.

Crawford was interviewed and made some admissions. He said he arranged to meet the deceased to talk about the money he owed and to work out a payment plan. He said that he accepted an offer from Lionel Patea to come along as Crawford's earlier attempts to resolve the matter with the deceased had been unsuccessful. As to the assault Crawford initially claimed to have been retrieving his phone when he heard a squeal and returned to see the deceased on the ground being assaulted. In more recent versions Crawford has claimed to have seen the deceased struck with an object in a manner consistent with the descriptions of Bliss and Stockman.

Basis for liability

Lionel Patea struck the deceased a blow to the head with a heavy metal object, probably a 40 cm shifting spanner, and participated in a joint assault on him. Lionel Patea did so intending to cause the deceased grievous bodily harm. He is liable for murder pursuant to section 7(1)(a).

Nelson Patea participated in the prosecution of the unlawful common purpose of assaulting the deceased. While it is not clear what Nelson Patea knew before the drive to Nathan Homestead Road it must be inferred that he became aware that the group of men with whom he was travelling meant to offer violence to a person. It was a probable consequence of this intended joint assault that the deceased could very well be unlawfully killed (section 8). Nelson Patea did not himself intend to cause death or grievous bodily harm and his knowledge of the plan was not such that murder was a probable consequence.

Crawford is similarly responsible for manslaughter as someone who prosecuted the unlawful common purpose of assaulting the deceased (section 8).