

Friday, 29<sup>th</sup> August 2008

## **SUPREME COURT BACKS TRUTH IN SENTENCING LAWS**

The Attorney-General Michael Atkinson has welcomed a judgement by the full bench of the South Australian Supreme Court, which ensures that prisoners who pose a risk to public safety won't be automatically released from jail.

“This decision affirms the validity of Truth in Sentencing laws and recognises the legislation was always intended to apply to all prisoners, regardless of when they were sentenced,” he said.

Convicted murderer Shane Andrews claimed that he had a right to ‘automatic parole’ because he was sentenced before Truth in Sentencing laws took effect in 1994.

The laws were introduced by the then Liberal Government and were further strengthened in July by the Rann Government to close any possible loophole.

“The Rann Government has always believed the Truth in Sentencing laws were water-tight and would not allow unrepentant and potentially dangerous prisoners such as Andrews to walk free.

“The amendments passed by Parliament in July and the Court’s decision today remove any doubt about the effectiveness of the laws,” Mr Atkinson said.

Andrews was convicted in 1991 of the shooting murder of Brian Lyden outside the Aberfoyle Park Primary School. He was sentenced to life in jail with a non-parole period of 23 years.

At that time, under the *Correctional Services Act 1982* Andrews and other prisoners were entitled to instant release upon the expiry of their non-parole period, which was discounted further through a remissions system in jail.

In 1994, that Act was amended by the *Statutes Amendment (Truth in Sentencing) Act*. The law was changed so that prisoners now have to apply for release to the Parole Board. Many factors are considered before an inmate with a life sentence can be recommended for release to the Governor. The paramount consideration is public safety.

The Parole Board has ruled three times that Andrews is not fit to be let out, chiefly because he has expressed no contrition and has little insight into the effect of the murder he committed.

“The Rann Government has stuck to its promise to take all possible steps to make sure Andrews and other unrepentant violent criminals can't escape through a legal loophole,” Mr Atkinson said.

The three Supreme Court judges unanimously dismissed Andrews’ application and ruled that the Truth in Sentencing Act applied prospectively as per Parliament’s intention. They also ruled that even if there were a loop-hole that had been fixed by the amendments passed in July.

Today's decision is in line with a similar decision by a single judge of the Supreme Court in 1994, in which armed robber Edward Ray Summers made a similar argument to Andrews' (*Summers v Nelson 1994*).

Supreme Court Justice Bruce Lander rejected Summers' argument and validated the legislation affirming that it applies to all prisoners regardless of the date they were sentenced.