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Ms K Wood
Principal Commissioner
Imprisonment and recidivism inquiry
Queensland Productivity Commission
PO Box 12112
GEORGE STREET QLD 4003

Dear Ms Wood

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission on the Queensland Productivity Commission's (QPC's) draft report on its Inquiry into Imprisonment and Recidivism.

We would like to take this opportunity to commend the QPC on the report, and its timely, important and considered findings about imprisonment and recidivism in Queensland. Queensland government policy makers will be well served by the report, and we hope that it provides a platform for improvement to the criminal justice system.

As confirmed by your draft report, some of the most concerning aspects of Queensland's growing prison population relate to Aboriginal and Torres Strait Islander Queenslanders, including overrepresentation, increasing rates of imprisonment and higher rates of recidivism, when compared to non-Indigenous Queenslanders. Halting and reversing these trends must be a priority for policy makers.

LAQ's role in law reform

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of "giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way" and is required to give this "legal assistance at a reasonable cost to the community and on an equitable basis throughout the State".

Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the giving of legal assistance to financially disadvantaged legal persons, and the cost-effectiveness of LAQ's services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ seeks to offer policy input that is constructive and based on the extensive experience of LAQ's lawyers in the day to day application of the law in courts and tribunals. In 2017-18 we provided 87,844 criminal law duty lawyer services, and arranged for legal representation in 24,162 criminal law matters. Our criminal law in-house legal practices, located in Brisbane and

In relation to judicial self-monitoring, LAQ's experience is that the current s222 appeal process adequately addresses these issues.

Draft recommendations 6 to 8 – Reduce the use of remand

Each day LAQ duty lawyers represent hundreds of people in bail applications at their first return date in the magistrates court. The critical issues for duty lawyers impacting on the capacity for clients to apply for bail are often related to matters such as accommodation or the availability of counselling for drug issues. Addressing these issues is as likely to produce positive outcomes as any further legislative reforms.

LAQ does not believe that a statement of guiding principles in the Bail Act is likely to result in greater use of bail as there is already clear guidance within the Bail Act and established case law (e.g *Williamson v DPP* [2001] 1 Qd R 99). If guiding principles of the type proposed were adopted, it is difficult to see how they would be consistent with the legislated presumptions against bail already contained in the Bail Act, noting that the number of types of offences caught by these provisions has expanded in recent years.

LAQ believes that it is important to look at strategies to reduce time spent on remand. It is the experience of LAQ lawyers that many of our clients who are sentenced to imprisonment have served most or all of that period on remand in custody by the time they are sentenced, and this is consistent with comments in the QPC report as to the average duration of sentences in Queensland. These clients are generally denied any access to programs or meaningful counselling. It makes more sense to have the appropriate resources in the community to support these clients while they are on bail awaiting their sentence. The use of specialist courts and diversionary options may also help to reduce remand times overall and ensure that clients are provided with more timely counselling and support.

Recommendation 16 – Expand diversionary options

As per our comments in relation to recommendations 1 and 2, LAQ supports processes that divert people away from a court process and provide them with appropriate support and counselling referrals. LAQ also believes that an expansion in the use of specialist courts, in conjunction with diversionary processes, has a great potential to reduce incarceration rates. For example, our involvement in the Queensland Drug and Alcohol Court and Court Link courts has provided numerous examples to us of situations where clients, who would otherwise have been destined for a prison sentence, are instead provided with targeted support to address their underlying issues. There are likely to be more positive impacts on the rate of recidivism where a person has been provided with appropriate support rather than spending several months on remand without any such exposure.

If you require any further information, please contact Michael Moloney, Assistant Director, Criminal Law Services at michael.moloney@legalaid.qld.gov.au or on 3917 0270.

Yours sincerely



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Legal Aid Queensland