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Our Ref: AR:cm
Date: 11 March 2019

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The Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

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Dear Committee Secretary

Criminal Code and Other Legislation Amendment Bill 2019

I refer to the letter from Mr Peter Russo, MP, Chair of the Legal Affairs and Community Safety Committee, inviting Legal Aid Queensland (LAQ) to comment on the Criminal Code and Other Legislation Amendment Bill 2019 and the Criminal Code and Other Legislation (Mason Jett Lee) amendment Bill 2019.

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives, seeking 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. This submission is informed by the experience of our criminal defence lawyers, who are amongst the most experienced in Queensland.

The proposed new section 575A of the *Criminal Code* raises the issue of how the Crown particularises its case, and how the case is defended. Under the current law, the accused is entitled to understand the case against them. This is achieved by the Crown providing particulars, usually in advance of the trial, and set out in the Crown's opening statement to the jury.

It is not entirely clear to us how the proposed section 575A would play out in practice. However it appears to have the effect that the Crown will simply have to establish that the accused was guilty beyond reasonable doubt of an unlawful killing to be convicted of Murder. Particulars drafted this broadly will be difficult for an accused to respond to and defend, and there will be the consequence of a mandatory sentence of life imprisonment, leading to injustice.

The wording of section 575A(2) will require judges to direct juries about every subsection of section 302, complicating their task as well as the task of the jury. There will be a risk of blurring the understanding of what is a killing involving reckless indifference under the new section 302(1)(aa) and a killing involving reckless indifference under section 303, the current manslaughter offence, such that it may have the unintended inappropriate consequence of cancelling out the option of manslaughter as a natural alternative verdict.

Such amendment may also make it difficult for the Office of the Director of Public Prosecutions to justify engaging in any meaningful negotiations with defence with a view of early resolution

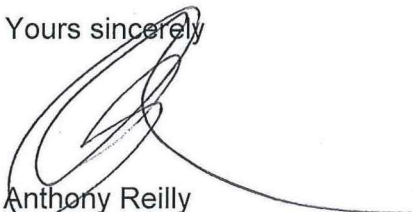
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and have a flow on effect on accused's willingness to cooperate and the running of costly trials.

Thank you for providing LAQ with the opportunity to comment on the Bills. If you have any further inquiry of LAQ, please contact Craig May, Principal Policy Officer, on [REDACTED] or at [REDACTED].

Yours sincerely

A handwritten signature in black ink, appearing to be 'Anthony Reilly', written over the words 'Yours sincerely'.

Anthony Reilly
Chief Executive Officer
Legal Aid Queensland