

**INQUIRY INTO JUDGE ALONE TRIALS UNDER S. 132 OF
THE CRIMINAL PROCEDURE ACT 1986**

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Date received: 2/07/2010

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2 JUL 2010

The Hon Christine Robertson MLC
Committee Chair
Standing Committee on Law and Justice
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Ms Robertson

Judge alone trials under s.132 of the *Criminal Procedure Act 1986*

Thank you for your letter of 20 May 2010 seeking a submission regarding proposed amendments to s.132 of the *Criminal Procedure Act 1986* ('the Act').

It is the view of Legal Aid NSW that the proposed model as set out in the Terms of Reference is appropriate. Of particular importance is the requirement that the consent of the accused is obtained before an order is made for a trial to proceed by judge alone. Without this requirement the right of an accused to a trial by jury is eroded.

Legal Aid NSW would, however, be concerned about an amendment to require a court to order that a matter proceed before a judge sitting alone where the court finds that there is a risk of jury tampering, as proposed in paragraph 6 of the Terms of Reference. A mere risk of jury tampering is a relatively low bar to set as the precondition for a mandatory judge-only trial. We submit that issues of potential jury tampering can be sufficiently dealt with under the existing bias and conflict of interest provisions of the *Jury Act 1977*.

Legal Aid NSW is grateful for the opportunity to make these submissions.

Yours sincerely



Alan Kirkland
Chief Executive Officer

30 JUN 2010