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SUBMISSION TO THE ROYAL COMMISSION INTO VICTORIA'S MENTAL HEALTH SYSTEM

Prepared by: Law Institute of Victoria

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TABLE OF CONTENTS

Introduction	2
1. Accessibility of the Commission.....	2
2. Legislative Frameworks.....	4
3. Human Rights	5
4. Mental Health Services	6
5. Police and Emergency Services	7
6. Offending	7
7. Bail	9
8. On Remand	10
9. Courts.....	11
10. Sentencing.....	11
11. Prisons.....	12
12. Post-Prison Services.....	12
13. Accommodation	13
Conclusion	14

INTRODUCTION

The Law Institute of Victoria ('LIV') welcomes the opportunity to contribute to the Royal Commission into Victoria's Mental Health System ('Commission'). The LIV considers that the Commission represents a unique and critical opportunity to ensure best practice, prevention, treatment and support for Victorians experiencing mental illness. In addition to the issues facing the broader population, the LIV hopes the Commission will also take the opportunity to consider the unique impacts the current mental health system has on Aboriginal and Torres Strait Islander people and children, especially those who may be experiencing intersecting forms of disadvantage or discrimination, on the basis of race, mental illness or disability.

The LIV, founded in 1859, is the peak membership body for the Victorian legal profession, representing more than 19,000 lawyers and people working in the law in Victoria, interstate and overseas. Its members are legal professionals from all practice areas, and work in the courts, academia, policy, state and federal government, community legal centres and private practice.

The LIV's membership includes expert lawyers who specialise in assisting people with psychiatric disability and mental illness to exercise their legal rights. Every day, our members experience the ways in which the shortcomings of Victoria's current mental health system contribute to disproportionate entanglement with the justice system.

The LIV will be drawing from a vast pool of expertise, experience and relevant case studies for its formal submission to the Commission, and wishes to take this opportunity to outline the substantive issues of that submission.

1. Accessibility of the Commission

1.1. As a preliminary matter, the LIV is concerned that the structure and processes of the Commission may not facilitate inclusive engagement from those with a lived experience of mental illness.

Representation

1.2. The LIV acknowledges that the Commissioners appointed to the Royal Commission have high standing and expertise in mental health service provision. However, the LIV also notes that none of the appointed Commissioners identify as having a lived experience. Two Commissioners have experience as family members or carers. Whilst recognising that family members and carers do have lived experience from these perspectives, and commending their prominent inclusion in the process, the LIV agrees with organisations such as the Victorian Mental Illness Awareness Council and the National Mental Health Consumer and Carer Forum that steps should be taken to address this missed opportunity. Accordingly, the LIV joins the call of others for a Commissioner to be appointed to represent people with firsthand

lived experience, or at the very least, a co-Chair to the Expert Advisory Committee with that expertise. We note the requirement that the Advisory Committee must include people with lived experience – but given that means both firsthand and family/carer experience, it does not address the structural shortcoming of the current process.

- 1.3. It is important for people who have personal experience of mental illness to have a prominent voice and role at the Commission, just as it is important for people with other perspectives and expertise. Without this element of the process, giving equal status to the firsthand experience of seeking, receiving or needing mental health treatment in Victoria, the process will be flawed and lack full stakeholder confidence and engagement.

Timeframes

- 1.4. The LIV notes that the Commission has published a very tight timeline for the preparation of submissions and the presentation of oral evidence for the first phase of the process (April – May 2019). The LIV is concerned that this tight timeline may in fact disenfranchise participants who are unable to meet these deadlines. As a result, the Commission may not receive an optimum range and depth of firsthand experience and information from consumers.

Participation of persons with lived experience: a case study

- 1.5. An LIV member currently acts for Aggie (a pseudonym), an older consumer who lives an isolated life, and has not left her home for several decades. Her chosen way of life is made possible by neighbours and other community support. She recently had a traumatic admission to hospital. She welcomed the Royal Commission and wishes to make written submissions. Aggie telephoned the Commission to ask that she be placed on a mailing list to receive updates about the work of the Commission. Aggie was advised that this is not possible: that she had to provide an email address, and all information would only be sent electronically. She does not own a computer and is not computer literate. She is very upset. She feels disempowered.

Accessibility support and communication

- 1.6. The *Charter of Human Rights and Responsibilities Act 2006* (Vic) ('the Charter') outlines a fundamental principle that 'every person in Victoria has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.'¹ Furthermore, Victoria's *Equal Opportunity Act 2010* places an obligation on service providers, including services provided by a government department or public authority, to provide reasonable adjustments for people with disabilities.²

¹ *Charter of Human Rights and Responsibilities 2006* (Vic), s 18

² *Equal Opportunity Act 2010* (Vic), s 45

1.7. If the Commission's laudable commitment to ensuring as many people with firsthand experience as possible can participate, every opportunity or necessary support/adjustment must be provided. People with firsthand experience will have a range of support needs in order to provide input to the Commission. Only some will be able to provide written submissions, whether on paper or electronically. Many people may have limited literacy or poor access to computers. For others, the impact of their condition or related socio-economic disadvantage may make it difficult to provide oral evidence if that process is limited and inflexible.

Reasonable adjustments and support

1.8. The LIV is concerned about reports that people are being advised that they can only communicate electronically. Reasonable adjustments could - and should - be made to the Commission's processes to ensure participation by people such as Aggie. It would appear more than reasonable to provide alternative communication methods to the Commission, especially when disabilities and manifestations of those disabilities are at the heart of the purpose of the Commission.

1.9. The LIV strongly recommends the availability of flexible communication methods to allow all persons who wish to follow the Commission and be regularly updated about its progress to do so. Many people who experience mental illness do not have access to computers either because they are unable to afford them, have concerns relating to their use or are in environments where it is not easy to access online resources.

1.10. As well as flexible means of communication and strategic planning of hearings and other consultation strategies, we see a role for advocates/support personnel whose role is to assist people to provide submissions or evidence in the most effective and efficient manner.

1.11. It is also important that free and confidential debriefing facilities be made available to those who prepare submissions and provide oral evidence to the Commission, so they are not adversely affected by revisiting what can be very traumatic events.

1.12. Attention to these issues will strengthen the process, findings and outcomes of this vitally important Royal Commission.

2. Legislative Frameworks

2.1. The LIV strongly supports legislative reform in the mental health space and notes that a key piece of legislation relating to mental health in Victoria - the *Mental Health Act 2014* (Vic) ('MHA') - is due for review in 2019. The LIV submits that it is imperative that the Commission conducts its own evaluation of the MHA, as identifying the shortcomings in existing legislation is critical to the success of the Commission in delivering a better mental health system for Victorians.

2.2. In critically reviewing the MHA, the Commission must also have regard to how the MHA interacts (successfully or otherwise) with other legislation, such as the *Crimes Mental Impairment and Unfitness to be Tried Act 1997* (Vic), and the *Medical Treatment Planning and Decisions Act 2016* (Vic).

3. Human Rights

3.1. The LIV notes that the practice of compulsory treatment conflicts with international human rights frameworks, and in particular the principles in the *International Convention on the Rights of People with Disability* ('CRPD'). The LIV submits that, in considering the design of a new mental health framework, the Commission should give greater weight to human rights principles, conventions and treaties.

3.2. The LIV recommends that a new mental health framework implements and promotes the CRPD. The principles that underpin this treaty are equal and full participation in society, non-discrimination and inherent dignity, autonomy and freedom of choice.³ This also aligns with the application of the rights of the Charter. It is submitted that a more cohesive approach between the Charter and the Convention will further promote human rights in the mental health framework.

3.3. For example, Article 1.1 sets out the need to respect the inherent dignity and individual autonomy including the freedom to make one's own choices.⁴ Article 14 prescribes that states shall ensure people with disabilities, on an equal basis with others, enjoy the right to liberty, and that the existence of disability shall in no case justify deprivation of liberty.⁵ An increased focus on the rights of individuals experiencing mental illness will facilitate and underpin a cultural and legislative shift towards a 'least aversive treatment' model for mental illness.

3.4. The LIV calls for further legislative reform that complies with the aspirations of the CRPD. In 2014, legislative reforms were made to the MHA which were informed by the CRPD and the Charter. The LIV commends this move towards a human-rights based approach, however more reform is required in areas of compulsory treatment and involuntary detention regimes. Furthermore, there should be greater consideration towards providing 'least aversive treatment' where possible within the Act. It is clearly stated in the MHA that one of the MHA's objectives is to provide for people to receive treatment in the least restrictive way possible, with the least restrictions on human rights and human dignity.⁶ The LIV recommends that there should be greater attention to this objective when applying the Act.

³ *Convention on the Rights of Persons with Disabilities*, opened for signature 13 December 2006, 1577 UNTS 3 (entered into force 3 May 2008).

⁴ Above n 3, art 1.

⁵ *Ibid.*

⁶ *Mental Health Act 2014* (Vic) s 10(b).

3.5. The LIV submits greater observance of the Charter is required in administering the MHA. Those who are living with mental illness continue to be denied the fundamental human rights which are promoted in the Charter. The mental health system must be assessed and implemented with reference to clear legislative protections of human rights. The 2018 Supreme Court judgment of *PBU & NJE v Mental Health Tribunal*,⁷ highlights the need for greater incorporation of the Charter by decision makers. In this case, it was found that mental health patients were being unlawfully provided electroconvulsive treatment against their will, in breach of the Charter. The decision affirms that the test for capacity under the MHA stems from the best-interests framework and suggests that the decision requires consideration of patient's autonomy and self-determination. People with mental illness are highly vulnerable to intrusion upon their human rights, especially their right to self-determination, to be free of non-consensual medical treatment and to personal inviolability, making improved regard for the Charter vital in administering the MHA.

4. Mental Health Services

4.1. The LIV acknowledges the Victorian government's \$705M investment in mental health announced in the 2018/19 Victorian Budget. However, as observed by the Victorian Auditor-General's Office March 2019 report,⁸ 'DHHS has done too little to address the imbalance between demand for, and supply of, mental health services in Victoria.' The LIV supports the report's observation that the intended outcome of reforming Victoria's mental health system funding models will not be achieved without an adequate quantum of funding.

4.2. The Commission must look to develop an integrated service model that ensures consumers are supported by 'wraparound' services outside of purely mental-health based assistance, including housing, employment, disability, and drug and alcohol services. Wraparound support plays a critical role in preventing mental illness – which, with appropriate treatment, may be only a short-term circumstance – from escalating into family breakdowns, criminal offending, homelessness, or hospitalisation which may irreversibly change the course of an individual's life.

4.3. The Commission should also consider that the ability of a new mental health system to provide truly holistic mental health support is dependent on efficient and effective communication and information sharing between all bodies, to prevent consumer frustration and 'postcode injustice' in the support that they are able to access.

4.4. The LIV is currently considering ways in which the delivery and accessibility of mental health support services can be improved. A possible option may be the development of new legislation that creates and enshrines a right to access mental health services. Such an act would have the dual aims of ensuring the

⁷ *PBU and NJE v Mental Health Tribunal* [2018] VSC 564.

⁸ Victorian Auditor-General's Office, *Access to Mental Health Services* (Independent assurance report to Parliament 2018-19: 16, March 2019) 8.

provision of quality mental health services that are accessible for all consumers, and ensuring that those services are and remain properly resourced to carry out their legislative functions.

5. Police and Emergency Services

- 5.1. The LIV understands that currently, where there is no Crisis Assessment and Treatment (CAT) team available to respond to a non-violent welfare check, a welfare check is conducted by police officers. LIV members report that, through their casework in police misconduct and excessive force allegations, they have identified a trend that non-violent welfare checks which are attended by police officers, rather than CAT teams, tend to escalate and become violent.
- 5.2. Where police respond, it reinforces the notion that mentally ill people are sometimes treated as criminals, rather than people suffering from an illness. This characterisation is problematic and may prevent individuals from accessing appropriate treatment during a time of crisis.
- 5.3. The LIV suggests that this may be mitigated in two ways: firstly, investment of adequate resourcing of CAT teams to ensure that a CAT team is always available to attend non-violent mental welfare crisis assessments. Secondly, that police only be permitted to be the first responders to a non-violent mental welfare check if they are also attending with a CAT responder.
- 5.4. The LIV notes that the Victorian Government has recently announced a trial of partnering specialist mental health staff with paramedics when attending a call-out where mental health may be a factor. The LIV recommends that this trial be expanded state-wide. Further, the LIV supports a trial of specialist psychiatric ambulances to respond to mental health welfare checks or crises when a CAT team is unable to attend.
- 5.5. In any event, the LIV submits that Victoria Police develop education modules and formal protocols that ensure that any police response to individuals experiencing mental illness are appropriate, proportionate, and do not exacerbate the situation or cause the individual further distress (for example, minimising the use of multiple police units attending where it is unnecessary, which may appear threatening to the individual and cause additional panic).

6. Offending

- 6.1. The correlation between mental illness and criminal offending is well established. It is a significant contributory factor behind an individual's criminal offending. Nationwide, almost half (49 per cent) of all prisoners have been advised by a medical professional that they have a mental illness.⁹ The Victorian

⁹ This statistic is inclusive of drug and alcohol misuse; Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, 37

Ombudsman identified this figure to be 40 per cent in the Victorian prison population.¹⁰ The Youth Parole Board recorded in the 2017-18 period, 53 per cent of detainees had presented with mental illness.¹¹

6.2. In Victoria, offenders aged in their 20s and 30s have the highest rate of incarceration.¹² One-third (32 per cent) of this prisoner population has been diagnosed with a psychiatric illness within a 10-year period of their arrest.¹³ Commonly, the first contact these prisoners have with a mental health service occurs after they have been arrested. This is therefore a crucial period in an individual's life for meaningful mental health intervention. Therefore, there needs to be significantly more and properly resourced supports and services to address their mental health and addiction issues. This includes treatment in terms of medications, in addition to therapeutic and psychosocial supports. Mental health and addiction are undoubtedly the greatest contributory factors to offending and therefore intervention is the greatest opportunity to prevent reoffending.

6.3. Children who reside in DHHS housing, particularly with mental illness, are especially vulnerable to coming into contact with the criminal justice system.¹⁴ Offences that are common with youthful acts of defiance such as threats, aggression and minor property damage are often referred to police. This is in contrast to children residing in a family setting, where juvenile misbehaviour is typically dealt with internally by parents or guardians. The LIV suggests the Commission consider the introduction of a protocol between police, DHHS and relevant stakeholders, that aims to minimise police involvement in the lives of children in out-of-home care who are at significant risk of 'crossing over' into the youth justice system.

6.4. The LIV strongly advocates for an approach of early intervention that makes more diversion options available at all stages of criminal legal process, including culturally appropriate and responsive diversion programs." The LIV's view is that diversion should not necessarily be a 'one-time' offering, especially for young or mentally ill people who may have otherwise have a number of interactions with the criminal justice system throughout their life.

6.5. The LIV also supports including raising the age of criminal responsibility to at least 14 years. This would have a significant impact on diverting people out of the criminal justice system, and keeping them connected to family and community support structures that may underpin their mental health.

¹⁰ This statistic does not include drug and alcohol misuse; Victorian Ombudsman, Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria, September 2015, 6

¹¹ Department of Justice and Regulation (VIC), *Youth Parole Board Annual Report*, 2018, 15

¹² 20-39 year olds make up 63 per cent of the Victorian prison population as of 2018; Corrections Victoria, Annual Prisoner Statistical Profile 2006-07 to 2017-18

¹³ V.A. Morgan et al, *A whole-of-population study of the prevalence and patterns of criminal offending in people with schizophrenia and other mental illness*, Psychological Medicine Vol 43, 2013, 1869–80

¹⁴ Victoria Legal Aid, *Care Not Custody - A new approach to keep kids in residential care out of the criminal justice system* (2016).

6.6. It is accepted that alcohol and drug abuse may influence a person's mental state presentation, or mask symptoms of an underlying mental disorder. Further, 'the resulting lack of inhibition and the depressant effect on the central nervous system may increase the risk of harm to self and others and exacerbate the risk of suicide.'¹⁵

6.7. Victoria and Queensland are the only states where a person can be arrested for being intoxicated in a public. The LIV believes that there are more suitable alternatives to treat and care for intoxicated people rather than criminalising and detaining them in custody. Offences that criminalise behaviours that require a public health response, rather than a criminal one, should be abolished; particularly the offences of drinking in a public place, drunk and disorderly in a public place, and drunk and behaving in a riotous or disorderly manner. The LIV notes that Coroner English has foreshadowed her intention to make a recommendation at the conclusion of the inquest into the death of Ms Tanya Day that the Victorian government should abolish the offence of public drunkenness.

7. Bail

7.1. Following the 2017 *Bail Review* undertaken by the Hon Paul Coghlan QC, Victoria expanded the list of offences for which there is a presumption against bail.¹⁶ This has resulted in people who commit minor indictable offences such as shop theft, minor property damage or possessing marijuana, being remanded when they commit a subsequent indictable offence whilst either on bail or a community corrections order (CCO). This has resulted in individuals being held on remand for breaching bail conditions, such as curfews, contacting prohibited persons, failing to report for bail or missing court hearings.

7.2. The presumption against bail has resulted in an 11 per cent increase in the prison population since 2015 and has created a backlog in the courts. LIV members have reported that the court delays mean their clients are remanded for minor offending for weeks and sometimes months. These remand periods are often longer than any sentence they would have received for the offences they have been charged with. In fact, 40 per cent of those held on remand have either been found not guilty or were sentenced to a period equal to or less than, the period of time they served on remand.¹⁷

7.3. Remand has a significant impact on people struggling with mental illness. Remand removes normalcy and stability from an individual's life. Factors believed to assist in mitigating mental illness such as employment, education and support services, are needlessly interrupted for offences that do not warrant incarceration.

¹⁵ Department of Health & Human Services (Vic), *Assessment of Intoxicated Persons*, Chief Psychiatrist Guidelines: Intoxicated Persons, 2018

¹⁶ Paul Coghlan, *Bail review: first advice to the Victorian government*, State Government of Victoria, 2017; Paul Coghlan, *Bail review: second advice to the Victorian government*, State Government of Victoria, 2017

¹⁷ Matthew Ericson & Tony Vinson, *Young People on Remand in Victoria: Balancing Individual and Community Interests*, Jesuit Social Services, 2010, 20.

Whilst the prison system has some support services for mental illness, the record increase in incarcerated persons means these services are at capacity, limiting access to assessments, programs and treatments.

7.4. The LIV strongly recommends the Commission review the current bail laws and promote therapeutic justice programs as the preferred response to accused persons suffering mental illness.

8. On Remand

8.1. The changes to bail laws in Victoria has consequently increased the number of accused persons being held on remand. As of 2018, 42 per cent of women being held in prison were on remand.¹⁸ In addition to the LIV advocating for changes to the bail laws to ensure those on remand are only held when it is appropriate to do so, the LIV also recommends that remand be utilised as an opportunity for early intervention. Currently, when a person is on remand there are limited opportunities to access early intervention programs to address the underlying issues that have resulted in that person's offending. This is a missed opportunity.

8.2. There is a lack of beds for individuals on remand at secure therapeutic facilities. Instead, people suffering mental illness are held with the broader prison population. Therapeutic facilities are specially designed to assist in reducing substance abuse, mental illness and other behavioural problems that are linked to offending and should therefore be a readily accessible for appropriate remandees.

8.3. In addition to a lack of secure therapeutic facilities, the LIV is further concerned with the lack of resources to address significant delays and lack of access to risk and mental health assessments, diagnosis and appropriate medication and medical treatment of remandees. As stated, a considerable number of offenders initially learn of their mental health diagnosis after coming into contact with the criminal justice system. Appropriately diagnosing and equipping individuals with the tools to manage their diagnosis could significantly reduce the risk of reoffending.

8.4. As the number of remandees continues to grow to record numbers, the burden on these key areas of resource is further exacerbated. The LIV strongly believes that early intervention and therapeutic facilities are imperative in reducing recidivist offending. The LIV will be making recommendations to the Commission that the current system following the filing of charges is failing people with mental illness. The priority for these individuals should be on referral and treatment services, such as those presently made through the Assessment and Referral Court (ARC) and the Drug Court.

¹⁸ Corrections Victoria, *Prisoner Profile*, 2018

9. Courts

- 9.1. At all stages of a defendant's interaction with the criminal justice system, access to a mental health assessment is frequently problematic due to a lack of allocated resources. This becomes particularly relevant once a matter commences in court. In the absence of a mental health assessment, fitness to be tried and mental health factors to be considered during sentencing, are not adequately factored into these crucial decisions.
- 9.2. Practitioners have also raised concerns about when assessments have been performed, reporting that judicial officers are sometimes unwilling to fully consider the weight certain diagnoses have in regard to their correlation with offending. It is the LIV's view that this is a systemic culture of not fully comprehending the significance of mental illness in all its forms. The LIV will be collating case studies in this area to report further, with the intention of identifying trends of diagnoses that are and are not given weight by the courts.
- 9.3. In addition to the evident interaction between mental illness and the criminal justice system, LIV members have reported experiences of the effects of mental illness in family law matters. Mental illness can often result in relationship breakdowns, and, in turn, these people have difficulty in reaching a sensible negotiated solution. For judges working with such litigants (often self-represented) it can be very difficult, with the process being slow, fraught, and stressful. One LIV member, for example, reported acting in a family law matter where a party was threatening suicide if the court orders made were unfavourable to her. There are issues around when a case guardian is appropriate, and determining when a litigant is 'vexatious'. There are additional concerns in such matters proceeding, as they can compromise the rights of others and could lead to appeals.

10. Sentencing

- 10.1. In the context of sentencing, the LIV wishes to state its strong support for the current therapeutic justice programs such as the Court Integrated Services Program (CISP), Drug Court, Assessment and Referral Court (ARC) List, bail referral programs and the Neighbourhood Justice Centre. However, members report that there is a need for a wider range of programs to cover the breadth of issues facing their clients. In addition, the programs currently in place are insufficiently available to meet the demand. Members have reported the lack of resources has on occasion resulted in appropriate candidates for therapeutic justice being excluded as there was no availability. For example, often securing bail is only possible if the defendant can secure a CISP placement. Practitioners then reportedly perform the role of social workers, desperately attempting to secure CISP placements for their clients, with little to no notice. Failure to do so, which is commonplace due to their limited intake capacity, results in appropriate therapeutic justice candidates instead being remanded. Further issues are exclusions due to postcodes, such as ARC not being available in high volume courts such as Sunshine, Werribee or Dandenong. In addition, therapeutic justice is very limited, if accessible at all, in regional areas.

- 10.2. The LIVs formal submission will discuss in greater detail the benefits and importance of sufficient funding for and availability of therapeutic justice.

11. Prisons

- 11.1. Through casework, LIV members have reported occasions where prisoners with severe mental illness such that they may pose a threat to themselves and others, are nevertheless allocated to mainstream cells with other inmates. Unfortunately, this has created circumstances where the mentally ill prisoner has seriously harmed a cellmate. This has occurred despite there being single cells available in those prisons, as well as specific units for prisoners with mental illness.
- 11.2. In addition to the requirement of additional mental health unit beds within prisons, the LIV recommends that Victoria's prisons adopt more stringent policies regarding the cell allocation of prisoners who have been identified to have serious mental illness such that they pose a risk to themselves, are seriously vulnerable, or pose a threat to others.
- 11.3. Further, the LIV acknowledges the importance of prison practices and procedures that ensure the safety and protection of inmates, staff and visitors. However, the LIV is concerned about the traumatic impact of particular prison practices, including frequent strip searches and the use of solitary confinement which isolates and further alienates those with mental illness.

12. Post-Prison Services

- 12.1. Upon release from prison, a significant number of offenders face homelessness. As of 2015, for example, the Victorian Ombudsman found 40 per cent of female prisoners are released into homelessness.¹⁹ As discussed below, a deficiency of secure and appropriate accommodation is a significant risk factor for reoffending. In addition, prisoners who have at some point been diagnosed with a mental illness have an increased likelihood of experiencing substance abuse issues, reoffending and poorer health outcomes in the six months post-release from prison.²⁰
- 12.2. The LIV therefore recommends that the transition of ex-prisoners back into the community is given considerable attention by the Commission. Evidence indicates that transitional support for prisoners in Victoria is four times more likely to reduce reoffending within the first two years post-release from

¹⁹ Victorian Ombudsman, Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria, September 2015, 5

²⁰ Z Cutcher et al, *Poor health and social outcomes for ex-prisoners with a history of mental disorder: a longitudinal study*, Australia and New Zealand Journal of Public Health, Vol. 38, 2014, 424–9

prison.²¹ However, despite these positive outcomes and the clear correlation of accommodation and reducing offending, only 1.7 per cent of those released from prison gain access to public housing.²²

13. Accommodation

- 13.1. There is a clear correlation between criminal offending and a lack of secure accommodation. Furthermore, it is difficult for a person without fixed accommodation to be granted bail, comply with their bail conditions or to perform responsibilities such as reporting for bail or attending court hearings. LIV members have reported that the frequency in which clients who are discharged from mental health hospitals or prison into homelessness or shared rooming houses, resulting in a prompt decline in mental health and a heightened risk of reoffending.
- 13.2. Homelessness, in which an individual lives without security or privacy, including being subject to CCTV surveillance and police checks, creates fertile grounds for reoffending. Offences such as trespassing, theft and substance abuse are commonplace. Evidence indicates that stable housing is akin to reduced crime and improvements in health and employment.²³ However, as of 31 March 2018, there were 82,499 people, including 24,622 children, waiting on the Victorian Housing Register for public or community housing.²⁴
- 13.3. Securing parole is also particularly difficult for those without secure housing. Many people with mental health issues face economic and familial issues, meaning affording their own place or staying with loved ones are not viable options. In refusing parole due to a lack of accommodation, these people remain as prisoners costing taxpayers on average \$391.18 per prisoner per day.²⁵ In contrast, those living in public housing are expected to pay rent. This can work out to be considerably cheaper for the government, in addition to the aforementioned benefits that come with stable accommodation such as employment, whereby the individual can contribute to society in many other ways.
- 13.4. The LIV therefore recommends that the matter of accommodation be viewed as a priority issue by the Commission.

²¹ Victorian Ombudsman, *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria*, September 2015, 7

²² *Ibid.*

²³ Parliament of Victoria, *Inquiry into the Public Housing Renewal Program*, Legal and Social Issues Committee, June 2018, 17

²⁴ *Ibid.*

²⁵ Australian Institute of Criminology, *Executive Summary*, Research Report 05, 2018, x

CONCLUSION

As outlined above, the LIV views the Commission's work as providing a valuable opportunity to consider how to overcome the institutional and systemic issues facing Victoria's current mental health system. In the coming months, the LIV will be drawing on decades of practitioner experience in consulting with those with expertise and knowledge within our membership base, across a broad range of practise areas, to develop the substantive content of the LIV's formal submission. Our practitioner members will also act as conduits for their clients: individuals with lived experience of mental illness, and primary consumers of mental health services. In doing so, the LIV intends to provide the Commission with helpful case studies to better illustrate the shortcomings and opportunities for improvement across Victoria's mental health system, aiming to provide recommendations for substantive legal policy reform.

In the meantime, the LIV would welcome the opportunity to be involved in any further stakeholder consultation or discussion that the Commission may wish to conduct.

Should you wish to discuss any aspect of this submission further, please do not hesitate to contact Jacquie Goodwin, Policy Lawyer (jgoodwin@liv.asn.au) or Maurice Stuckey, Policy Officer (mstuckey@liv.asn.au) on (03) 9607 9311.

Yours sincerely,

A handwritten signature in blue ink that reads "Stuart Webb". The signature is written in a cursive, flowing style.

Stuart Webb
President
Law Institute of Victoria