

Annexure L: Committal instructions

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R -v- (CLIENT)
File No:(FILE NUMBER)

MAGISTRATES COURT COMMITTAL INSTRUCTIONS

I, **(CLIENT)**, born (DOB) of **(ADDRESS)** in the State of Queensland, instruct my legal representative at Legal Aid Queensland that:

1. I understand I have been charged with the following offence:
2. I confirm my legal representative has explained to me the elements of the charge.
3. I confirm my legal representative has taken me through the _____ in relation to the charge.
4. I have no comments about this material and I have no issues about the conduct of the police who investigated these matters.
5. I confirm I understand the evidence and allegations against me in relation to the charge, including the strengths and weaknesses of the prosecution case.
6. I understand my matter is next listed for (COURT TYPE) at the (COURT) on (DATE)
7. I confirm I have had my rights explained to me by my legal representative and I understand that I:
 - 7.1. am presumed innocent of the charge;
 - 7.2. have the right to make the prosecution prove that I am guilty of the charge by proving beyond a reasonable doubt all the elements of the offence which it alleges against me.
8. I confirm that my legal representatives have explained to me my options about committal proceedings.
9. I understand that I have the following options:
 - 9.1. to request that the Director of Public Prosecutions (DPP) produce an ex officio indictment so I can plead "Guilty" in the District/Supreme Court. I understand that if the Director agrees to this option I will not have a committal hearing ; or
 - 9.2. to have a Registry committal where:
 - 9.2.1. the clerk of the court receives all the evidence by way of written statements
 - 9.2.2. I do not attend court

9.2.3. I enter a plea of "Guilty" and my matter is sent to the District/Supreme Court for sentence, or

9.2.4. I enter no plea at this stage or I enter a plea of "Not Guilty" and my matter is sent to the District/Supreme Court for trial

9.3. to have a "full hand up" committal hearing where:

9.3.1. my legal representative does not cross examine any witnesses and does not test the strength of the prosecution case;

9.3.2. the Magistrate receives all evidence by way of written statements and;

9.3.3. the Magistrate decides whether there is sufficient evidence for my matter to be transferred to the District / Supreme Court

9.3.4. I enter a plea of "Guilty" and my matter is sent to the District/Supreme Court for sentence, or

9.3.5. I enter no plea at this stage or I enter a plea of "Not Guilty" and my matter is sent to the District/Supreme Court for trial

9.4. to apply to have a committal hearing where:

9.4.1. there is cross examination by my legal representatives of some or all of the Crown witnesses;

9.4.2. the prosecution evidence is tested by my legal representative; and

9.4.3. the Magistrate decides whether there is sufficient evidence for my matter to be transferred to the District / Supreme Court

I understand that, unless the prosecution agree to cross-examination of witnesses, my lawyer will have to make an application to the court to have a committal and provide the court with reasons as to why they should be permitted to cross examine witnesses. I understand that the court will decide whether or not the witnesses can be cross examined.

I understand that if the court does not permit my lawyers to cross examine witnesses, my matter will proceed by way of "full hand up" committal as described above.

9.5. I understand that if I choose option 9.3 or 9.4 and the magistrate decides that there is sufficient evidence, I can:

9.5.1. enter no plea and be committed for trial to the District / Supreme court

9.5.2. enter a plea of guilty and be committed for sentence in the District / Supreme court

9.5.3. enter a plea of not guilty and be committed for trial to the District / Supreme court

10. My lawyer has explained to me the nature of an alibi. I understand that if I intend to rely on an alibi, I must notify my lawyer as soon as possible, and my lawyer has to notify the prosecutor within 14 days of my committal.

11. I understand that, if my matter proceeds by way of committal, my grant of legal aid will continue and that I have an ongoing obligation to contact Legal Aid if my financial situation changes.

12. I know that if my matter proceeds to the higher court there is no absolute guarantee that negotiations with the prosecution about charges or penalties will be honoured by them.

13. I have been advised by my legal representative of the provisions of the *Penalties and Sentences Act*. I understand that if I am later to be found guilty or plead guilty to the offence in the Court,

that I may not receive the benefit of a reduction in my sentence from the Sentencing Judge if I require the complainant or other witnesses to give full evidence, or be made available for cross examination at committal proceedings. I understand that having a hearing may reduce any benefit I may get for a plea of guilty. I understand that this is because:

- 13.1. the requirement for the complainant to give evidence may be regarded as causing them anguish and stress; and
- 13.2. this decision may indicate a lack of remorse on my part to the Judge who ultimately sentences me.

- 14. I understand that if I am found guilty or plead guilty to the charge, that I may be sentenced to a term of imprisonment. I also understand that the court will impose any sentence it deems appropriate and is not bound by the submissions made by the Prosecutor or my legal representative in relation to the penalty it should impose.
- 15. I understand and acknowledge that while I have received legal advice from my legal representative, the decision as to how I wish to proceed with my charge is entirely my own and that no one can take this right from me.
- 16. I confirm I understand my rights, the options available to me, and the evidence and allegations against me. Having considered these matters, I instruct my legal representative of my own free will and without coercion, threat, promise or inducement that I would now like to proceed as follows:

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- 17. I confirm I fully understand the instructions I am giving and do not require any more time to seek further legal advice or to think more about my instructions.

Signed:..... Dated: .../.../....

Signed:..... Dated: .../.../....

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Name of witness