Submission to the Queensland Productivity Commission into their inquiry into imprisonment and recidivism

Thank you for the opportunity to provide a submission in response to the Queensland Productivity Commission's Inquiry into Imprisonment and Recidivism.

My comments are based on 15 years of research on prisons, punishment and alternative solutions. My research has included community-based punishment in Northern Ireland practiced by various paramilitary groups and restorative justice solutions to that; major works on Nordic Exceptionalism and Anglophone excess with regards to prisons and punishment, and a large comparative project which included Victoria, Queensland, and Norway where I conducted fieldwork in 14 prisons and interviewed 240 staff and prisoners. I have also conducted research on how the Infringement system in Victoria impacted disadvantaged groups, and on why people with an acquired brain injury are over-represented in Australian prisons.

The comments below are based on this research, both in terms of what works and what doesn't in Queensland (and wider Australia) as well as possible solutions that already exist in Australia as well as best-practice from the Nordic countries.

I would welcome the opportunity to discuss any aspects of this submission or my wider research on prisons and punishment in Australia and the Nordic countries.

Kind regards

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This submission is structured into seven sections:

1. Aims of sentencing and guide for practice

2. Cost effectiveness

3. Low security prisons

4. Staff training and education

5. Programs in prison

6. Indigenous prisoners

7. Barrier to reform

References and relevant literature

Aims of sentencing and guide for practice

There are several and competing aims of sentencing, such as rehabilitation, retribution, and deterrence. These aims offer too little guidance for everyday practice in our prisons. What does 'retribution' actually look like, and what does that mean for staff who sometimes have to make quick decision in a pressurised environment?

I would suggest adding 'normalisation' as a principle for practice, modelled on practice in the Nordic countries. Currently normalisation, as a principle for practice, emphasises that prisoners should maintain their citizen rights, apart from the right to liberty, as far as is possible without compromising prison security. These ideas emerged within the post-war welfare states, predominantly the Nordic region and northern Europe, that strongly emphasized the need for the protection of human rights and humane prison conditions. In practice, the focus is mainly on living conditions inside prisons. The principle of normalisation provides a guide for practice, but in my opinion, it does not go far enough. It is too focused on things, instead of on people, their activities and interactions. Normalisation, in my view, should focus on normalised personal interactions that mirror those in outside society (pro-social), interactions that we want people who are released from prison to have, interpersonal interactions that we would like our neighbours to have.

Indeed, one aim of imprisonment should be 'releasing people who can be your neighbour'. This is the case in Norway, and it provides a daily, common sense guide to practice across all activities and situation. This does not negate a focus on security, but rather highlights the importance of the core values that underpin good prison practice: responsibility, respect, certainty, hope, trust, and humanity.

Cost effectiveness

When it comes to rehabilitating offenders, reducing recidivism, reducing the social cost associated with punishment, and ensuring long-term community protection, prisons are the most expensive and least effective option.

For much of the non-violent offending, community corrections, fines and suspended sentences can be much better options. Such sentencing alternatives provides better access to treatment (particularly around drugs- alcohol- and gambling addictions), allows people to maintain family links, work, education and so on. All in all, it is cheaper, less harmful, and with better outcomes. Moreover, this is a category of offenders where electronic monitoring might be the best option. These people are not necessarily a risk to society, they may need to participate in various treatment/rehabilitation programs, but they should also be subjected to a severe restriction in liberty (but not total, as in the case in imprisonment), for the sake of the aims of retribution and deterrence, but also for victim satisfaction and sense of justice.

For violent offenders, and for those whose crimes necessitates a punishment that entails deprivation of liberty, prison might indeed be a reasonable option. However, the kind of prison, its' operation and staffing, needs to be radically altered to what Queensland currently have to offer for a reduction in recidivism to be possible.

Investment in early intervention, community-based support, and post-release support are all crucial for reducing the prison population in the first instance, and reducing reoffending in the second. For post-release support to be effective in this regard, it is important to view that time as a transition period where minor mistakes are allowed, which should then result in increased/modified support instead of re-imprisonment.

More low security prisons

For rehabilitation to have a chance to be successful, it needs to take place in physical and social environments that supports this, and which are characterised by values of responsibility, respect, certainty, hope, trust, and humanity.

Queensland need to invest in building a number of low-security prisons. Currently, almost all prisoners are released from high security institutions, meaning that they are ill equipped for a life in the community, with resulting high rates of recidivism. Moreover, effective rehabilitation programs are difficult to organise in high security, since the total character and lack of normalisation practice in such institutions, quickly negate the positive effects of good programs and education initiatives.

Hence, the principle of progression needs to be reintroduced in Queensland, in practice as well as in legislation. Prisoners should not be released from high security; it is absolutely vital that they get to progress to a medium and then a low security prison from which they will then be released. If prisoners are deemed 'too dangerous' to be in low security, then surely they are too dangerous to be released in to the community? Moreover, it is a requirement for parole that prisoners demonstrate that they have been rehabilitated, which is almost impossible to do in high security. Hence, prisoners need to demonstrate to themselves, and the wider community, that they are ready, and this can only be done in an environment that mirrors outside life as much as possible, including the skills and responsibilities that modern life necessitates.

Progression through the system also gives prisoners a sense of hope, that they have influence over their own circumstances, that the decisions they make and the actions they take has real consequences, both good and bad. The majority prisoners in my research commented on this - that there are consequences for bad behaviour - but not for good behaviour. Progression to different security level is a strong incentive that supports a prison environment with less conflict, less violence (towards self and others), and better prisoner-staff interactions.

It is also important to recognize the different needs between long-term and short-term prisoners. Perhaps they should even be placed in different institutions. Long termers need skills and re-socialisation. Short

termers need meaningful work and access to education. Both might need programs addressing addiction, interpersonal interaction, and family relationships.

Programs in prison

As the inquiry document mention, there are many good programs currently operating across the State. However, their effectiveness is often limited due to the negative impact of the total institution, as mentioned above. To provide an example of this: Southern Queensland Correctional Centre has a guide dog program, where some prisoners gets to be the caretaker for a young dog, providing the initial training for these future assistance animals. This is a fantastic program that should be expanded, but the point is that these dogs has to leave the prisons on weekends since the environment in the prison is so superficial and under-stimulating, that they could never learn to be a proper guide dog while in there. For example, stopping in front of every door waiting for it to be unlocked; there is no traffic, a lack of colour and diversity, too much concrete and too little green spaces. The point is, that if we think that prisoners who spend years or even decades in such an environment are well prepared for a life in the wider community, then we are very much mistaken.

Preparation for release should start during the first week of incarceration. Needs, risk- and protective factors should be identified and a sentencing plan organised accordingly. Due to overcrowding and lack of progression from high security, this kind of preparation tends to happen a few months before release, which is woefully inadequate for supporting desistance.

And finally, programs in prison and post-release are in general too focused on risk; how to manage, reduce and/or contain it. In essence, the prisoner become a cluster of risk, and the potential for positive change becomes lost. Instead, these kinds of programs should focus on skills and abilities, and on strengthening protective factors. By doing so, risk is automatically reduced, while increasing the potential for desistance.

Staff training and education

Staff training, education, and ongoing support and mentoring is absolutely crucial for any change in corrections operation to be successful. Currently, strong staff cultures exist that dehumanise prisoners, that actively discourage prisoners to enrol in education programs, and who maintain a very large distance between staff and prisoner groups, as well as a between uniformed and non-uniformed staff, all contributing to a culture of risk management that undermines rehabilitation.

For this to change, several things need to be taken into account, but perhaps the first is a much more comprehensive training and education of new prison staff. For example, training should be six months full time, which includes practice work in different institutions, and it should be paid. Such training should include interpersonal skills, criminology (why people commit crimes, and what needs to happen to promote desistance), understanding of the complexity of the current prison population including prisoners with neuro-disabilities and mental illness. It also needs to include how to manage personal and professional boundaries, something the majority of staff struggle with. Staff should also receive training in all levels of security, for example a two-week field placement in different prison as part of their training. At the moment (and it is the same across Australia), staff only receives practical training in the penal institution in which they will later work. This means that staff who works in a low security environment have never been inside a high security prison; yet they are supposed to support prisoners in managing that transition, something which prisoners commented on as deeply unsuccessful.

The job itself should be adequately renumerated, both adding to an increase in status of the profession. This is necessary, since staff at the moment feel isolated, that they have to fight a battle to stay safe every day, under-supported by management in the city, and looked down upon by the wider community; in effect 'tainted' by the people they work with. In the research I did in Queensland, it was clear that there are a lot of extraordinary individuals working in the various prisons, but the lack of support from management, lack of freedom and responsibility to impact their own work, under-staffing and overcrowding, political interference (such as the Newman government's bikie legislation, which had serious negative consequences across the entire prison system), and 'old' staff values that may not fit well in a modern penal system, are all barriers to change. As mentioned by a staff member in one prison, and which was echoed across two States: "Being a Prison Officer is a very unsupported profession, both by the government and by society … It is seen as low-status but it is one of the most important jobs in society" (S9MV).

We need to recognise this and provide the needed training and ongoing support.

Indigenous prisoners

There are people better placed to comment on this than I am, but I want to make one point based on my research in Australia, and that is to look at the West Kimberly prison in WA as a source of inspiration and a model for practice. This is a prison that places Indigenous culture and needs at its centre, and where the physical environment and infrastructure supports appropriate rehabilitation activities and daily life, including being on country.

Those design principles could be utilised to build two new prisons in Queensland, one north and one south of the State. This would lead to a decrease in recidivism, a reduction in deaths in custody, and a repurposing of resources in existing prisons.

Barrier to reform

Politics is clearly the main barrier. Any government running on a law and order platform tend to see more prisons and longer sentences as a sure way to more votes. And when governments talk about community protection as a reason, they only focus on the short term when offenders are actually in prison, and very little focus on community protection in the long term, e.g. post-release.

There are many good initiatives across Australia, and many fantastic staff who really wants to help turn prisoners' life around for the better. But anything that is seen as 'being nice' to prisoners (humane treatment leading to a reduction in recidivism), is constructed as a failure by the government, led by the tabloid press.

It is necessary that individual prisons and the overarching service stands firm in their support of good practice, and be allowed to do their job based on best-practice principles, and not on short-term political ambitions.

Relevant Publications and References

Books and Edited Collections

Segrave. M., Spivakovsky, C. and **Eriksson. A** (eds.) (2017), 'The Maelstrom of Punishment, Mental Illness, Intellectual Disability and Cognitive Impairment', Special Issue of *Punishment & Society* 19(3).

Eriksson, A. (ed.) (2016) *Punishing the Other: The Social Production of Immorality Revisited.* Oxford: Routledge.

Eriksson, A. and Flynn, C. (eds.) (2015) 'Making the invisible visible: Responding to children of prisoners', *Law in Context (32):* Federation Press.

Tubex, H. and **Eriksson, A.** (eds.) (2015) 'The Aims and Purposes of Prison Research', *The International Journal of Crime, Justice and Social Democracy,* 4(1)*.*

Saunders, B., **Eriksson, A.,** Lansdell, G., and Brown, M. (2013*) An Examination of the impact of unpaid infringement notices on disadvantaged groups and the criminal justice system – Towards a best practice model.* Monash University Criminal Justice Research Consortium.

Pratt, J. and **Eriksson, A.** (2013). *Contrasts in Punishment: Explaining Anglophone Excess and Nordic Exceptionalism.* Oxford: Routledge.

Eriksson, A. (2009). *Justice in Transition: Community Restorative Justice in Northern Ireland.* Oxford: Routledge.

Peer-reviewed journal articles

Lansdell, G., Saunders, B., **Eriksson, A.** Rebecca Bunn, and Susie Baidawi (2018), "I am not drunk, I have an ABI": Findings from a qualitative study into systematic challenges in responding to people with acquired brain injuries in the criminal justice system, *Psychiatry, Psychology and Law.* Published online 13 June: https://www.tandfonline.com/eprint/JPdSC93JAwnUJAZ9XUtm/full

Lansdell, G., **A. Eriksson**, Saunders, B., Bunn, R. and S. Baidawi (2018) Enhancing the rights and well-being of people with acquired brain injuries in the criminal justice system: some findings from a qualitative study, *Australian Journal of Social Issues,* 53: 88-106.

Bartlett, T. and **Eriksson, A**. (2018) 'How fathers construct and perform masculinity in a liminal prison space', *Punishment & Society.* First published on line 2 February.

Eriksson, A. and Flynn, C. (eds.) (2015) 'Introduction: Children of Prisoners', *Making the invisible visible: Responding to children of prisoners'*, *Law in Context* (32): 1-4. Federation Press.

Eriksson, A. and Tubex, H. (2015) 'Challenges of Contemporary Prison Research: Introduction'. Anna Eriksson and Catherine Flynn (eds.) The Aims and Purposes of Prison Research', *The International Journal of Crime, Justice and Social Democracy,* 4(1): 1-3*.*

Saunders, B., Lansdell, G., **Eriksson, A.** and Brown, M. (2014) 'The impact of the Victorian Infringements system on disadvantaged groups: Findings from a qualitative study', *The Australian Journal of Social Issues,* 49(1)

Pratt, J. and **Eriksson, A.** (2011), 'Mr Larson is walking out again: The origins and developments of Scandinavian prison policy', *Australian and New Zealand Journal of Criminology,* 44(1): 7-23.

Eriksson, A. (2011), 'Researching community restorative justice in Northern Ireland: A comparative challenge', *Victims & Offenders (Special Issue on Comparative Criminology.* 6(3): 260-274.

Eriksson, A. (2008). Challenging Cultures of Violence through Community Restorative Justice. In H. Ventura Miller (ed.), Sociology of Crime, Law and Deviance: *Restorative Justice: From Theory to Practice*, (11), 231-260. Bingley, UK: JAI Press, Emerald.

Book Chapters

Flynn, C. and **Eriksson, A.** (2017) 'Children of Prisoners', in *Australian and New Zealand Handbook of Criminology,* Palgrave.

Eriksson, A. (2016) 'Othering in penal policy and practice: A comparative study', in Eriksson, Anna (ed.) *Punishing the Other: The social production of immorality revisited,* Oxford: Routledge.

Eriksson, A. (2015) 'Restorative Justice in the Northern Ireland Transition', in *Criminal Justice in Transition: The Northern Ireland Context,* (eds.) Anne-Marie McAlinden and Clare Dwyer, Oxford UK: Hart Publishing.

Pratt, J. and **Eriksson, A.** (2013)'Penal policy and the social democratic image of society', in Carrington, K., Ball, M., O'Brien, E. and Tauri, J. (Eds.) *Crime, Justice and Social Democracy: International Perspectives,* Basingstoke: Palgrave Macmillan.

Eriksson, A. (2012), 'Restorative justice in the welfare state', in I. Vanfraechem and E. Zinsstag (eds.) *Restorative conferencing in Europe,* Oxford: Oxford University Press