

Submission to the Queensland Productivity Commission's Inquiry on Imprisonment and Recidivism.

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Introduction

I welcome the Queensland Government's Inquiry on Imprisonment and Recidivism which is currently underway through the Queensland Productivity Commission and for an opportunity to provide input by way of consultation forums and written submission.

This submission addresses the issues pertaining to the prevalence of people with an intellectual disability (mainly those with mild intellectual impairment but also including those with borderline intellectual functioning) in the criminal justice system and ways for reducing their rates of imprisonment and re-offending.

To divert offenders with intellectual disability away from the courts, prison and from reoffending, the criminal justice system must identify that the person has an intellectual disability in the first place. In this submission issues of identification and diversion of persons with intellectual and cognitive impairment are discussed with a view to improving system effectiveness and efficiency in the management of this group of offenders. Where possible information about possible savings and averted costs to government of diversionary initiatives have been included.

The recommendations presented in this submission focus on initiatives for reducing the estimated over-representation of persons with intellectual and cognitive disability in the criminal justice system in Queensland.

Terminology

Mild intellectual disability is defined as having an IQ of 50-69 (World Health Organisation 2007), an onset of the impairment within the developmental period up to 18 years, and an impairment of social functioning as measured by a standard scale of social adjustment. For individuals with mild intellectual disability the assessments will likely indicate that some level of support is required to live semi-independently (O'Brien and Kumarevalu, 2008). Borderline intellectual functioning is described as having an IQ of 70 to 80. When seeking to identify persons who may benefit from adapted education and rehabilitation programs, consideration may be given to an IQ of up to 85 (O'Brien and Kumarevalu, 2008, Chaplin and Flynn, 2000). Some literature uses the terms below average IQ, low or lower intelligence, or lower intellectual functioning to denote borderline intellectual functioning (Bergman et al., 2015, Freeman, 2012).

Over-representation in prison

Interstate studies have demonstrated that persons with intellectual disabilities (mainly with mild intellectual impairment), while comprising less than 3% of the general population, comprise up to 10% of prison populations (Baldry et al., 2013, Bhandari et al., 2015). It is estimated that when including persons with borderline intellectual functioning together with those with mild intellectual impairment, this total estimated population may comprise 30% of the prison population (Peltopuro et al., 2014, Jones and Talbot, 2010, Talbot, 2009, Talbot and O'Brien, 2008).

A recent study undertaken in three English prisons (Murphy et al., 2017b, Murphy et al., 2015) showed that 7% of those entering prison was identified by the Learning Disability Screening Questionnaire (LDSQ) to have intellectual disabilities. Of 2825 persons across the three English prisons who were screened upon entry to prison, 169 were identified with intellectual disability. It can be surmised that if 7% of new inmates entering prisons have an intellectual disability, the proportion of the general prison population with intellectual disability at any one time is likely to be much higher than 7%.

In Australia and overseas correctional systems are becoming aware of the increasingly high prevalence of persons with FASD (Foetal Alcohol Spectrum Disorder) with a range of neuropsychological cognitive impairments as a consequence of organic brain damage due to pre-natal alcohol exposure. While standardised screening and diagnosis are still in development, nearly all offenders with FASD remain undiagnosed. Estimates in Canada place prevalence at 10%-22% and indicate that youths with FASD are 19 times more likely to be incarcerated than youths without FASD in a given year (Popova et al., 2015, Popova et al., 2011) . Reports in Australia demonstrate that up to 60% of adolescents with FASD have been in trouble with the law (Mutch et al., 2013). Initial involvement in the criminal justice system by persons with FASD often leads to repeat offending and long term imprisonment (Townsend et al., 2015). This is because many persons with FASD have limited understanding of their own behaviours and of how their actions resulted in involvement in the criminal justice system. For these individuals biological limitations such as poor comprehension are often coupled with psychological and mental health issues (Pei et al., 2016).

As many as 30% of persons who have contact with the juvenile and criminal justice systems have speech, language and communication difficulties which further compound other social and behavioural factors that lead to offending behaviour. Limitations in communication disadvantage those giving evidence or explaining themselves adequately within the justice processes that involve verbal communication (Bryan et al., 2015).

To understand the over-representation of persons with intellectual impairment in the criminal justice system, it is important to understand something of the limitations and difficulties experienced by persons with mild intellectual impairment and borderline intellectual functioning. Clinical studies of the behaviours of persons described as having mild to borderline intellectual functioning (MBIF) provide some insight to the potential pathways to offending. Studies show that compared to persons with average intellectual functioning, persons with MBIF have a poorer level of executive function (e.g. planning and problem solving), lower levels of sustained attention, lower reaction times, poorer levels of arithmetic and reading skills, and less advanced learning strategies, needing to focus on a single element of a task rather than on its entirety (Peltopuro et al., 2014). Studies by Emerson

show that persons with MBIF have more than double the levels of conduct difficulties, emotional difficulties and hyperactivity than persons with average intellectual functioning (Emerson et al., 2010). Many persons who experience MBIF may struggle on a daily basis to participate in the community, and, aware of their limitations, have a keen sense of not wanting to be labelled as having a disability.

Clinical studies also reinforce the prevalence in this population of impulsivity and risk taking, conduct disorders, behavioural disturbances, susceptibility to substance abuse, lack of self-control, memory and attention deficits, and mental health disorders and psychopathy (O'Brien and Kumarevalu, 2008, Lennox, 2007, Einfeld et al., 2006, Gillberg and O'Brien, 2000) and inability to cope well with transitions to adulthood which present them with stressful social interactions (Chaplin et al., 2009, Hartley and MacLean, 2008). Self-control is argued to be affected by cognitive ability as well as individual factors such as the effects of substance abuse and/or extreme stress which contributes to offending behaviour for this population (Wikstrom et al., 2012).

Higher rates of re-offending

Interstate and overseas studies have demonstrated that offenders with intellectual disabilities have higher recidivism rates than the general offender population. Studies in England (Barron et al., 2004) and Denmark (Lund, 1990) found that offenders with intellectual disabilities showed very high re-offending rates of 50% to 70% in a year or less. A study in Victoria, Australia showed that offenders had higher rates of recidivism than the general offender population (Holland and Persson, 2011). A large Australian study (Cockram, 2005) which tracked offenders with or without intellectual disability for 11 years reported that those with intellectual disability had a higher chance of re-arrest than those without intellectual disability.

A very recently published study in England (Murphy et al., 2017a) which endeavoured to follow up 69 men with intellectual disability from across 22 prisons found that at one month after leaving prison many could no longer be contacted or did not wish to be contacted so 38 men participated in the study. For most of these 38 men, sentence length was up to 12 months; most were convicted of only one crime; and the categories of crime were violent (15), non-violent (8); sexual (8); or related to breaches of orders (7). The study found that the men were grossly under-occupied outside the house, they had limited social networks compared with those from the general population, most struggled with high levels of anxiety and depression and alcohol and substance misuse, 22 of the men had a probation (parole) officer, 19 of the men had a social support worker from a community organisation. Significantly, 11 of these men, at one month after leaving prison, spent nights in police cells and eight had appeared in court, and seven (18.4%) received further convictions. Of these seven men, four were back in prison within one month of leaving prison. The study intended to also follow up with these men at 10 months after leaving prison at which point it would be possible to compare the reconviction rate of these men with intellectual disabilities with the general reconviction rate at within a year in the UK which is 24.5% of all disposals and 34.5% for those leaving prison (Ministry of Justice, 2016). However, these early findings at one month are concerning and reflect poorly on the re-entry experience for ex-prisoners with intellectual disability.

Cognitive abilities and antisocial behaviour amongst prisoners

The association between cognitive abilities and antisocial behaviour has long been the subject of empirical studies across psychology and criminology, and the issue has gained greater interest as prison populations continue to grow and concerns grow in relation to prisoner misconduct. Contemporary research has shifted focus from environmental explanations of misconduct towards individual level explanations supporting the notion that IQ could potentially moderate the relationship between environmental factors and antisocial behaviour (Silver and Nedelec, 2018b).

In recent years there have been a few key studies that have examined the association between cognitive abilities and inmate misconduct. One study collected data from 2500 inmates across 30 different prisons (Diamond et al., 2012) and concluded that intelligence was a predictor of involvement with violent misconduct in prisons. The most recent and significant study in the US (Silver and Nedelec, 2018a) involved 88, 145 inmates across Ohio's prisons for a longitudinal period of five and a half years in an empirical assessment of the longitudinal association between cognitive abilities and the frequency of inmate misconduct. The results indicated that higher cognitive abilities were associated with a lower intercept (initially lower levels of frequency of misconduct) and a more gradual decline in the frequency of misconduct over time (continued but gradually declining frequency of misconduct) when compared to individuals with lower cognitive abilities. It was observed that lower cognitive abilities were associated with initially higher levels of the frequency of misconduct and declining but continuing frequency of misconduct.

The important findings from this study demonstrate that cognitive abilities have a lot to do with anti-social starting points and trajectories within prisons, and that misconduct in prison is not just about the environment of prisons but also about individual differences in the cognitive abilities of inmates. This serves also to emphasise the importance of assessment of incoming prisoners that can gauge cognitive ability as well as need and risk levels.

Screening for offenders with intellectual impairment

Screening and identification of persons with intellectual and cognitive impairment has been proven to be feasible when in police custody, prior to court, or in prison. Some examples have been included here. Reports indicate that identifying persons who are suspected of having intellectual or cognitive impairments have led to diversion from the courts and from prison for some offenders.

A number of studies have indicated that it is feasible to screen for level of ability and that it is important to screen so that prisons may put supportive arrangements in place and may offer education, work and treatment programs that aim to mitigate disadvantages and meet the needs of offenders with intellectual disability in prison.

HASI and LDSQ screening tools

However, the requirement to screen and assess remains poorly exercised (Board et al., 2015) even though easy-to-administer screening tools have been developed and tested for settings across the criminal justice system. The Hayes Ability Screening Index (HASI) and the Learning Disability Survey Questionnaire (LDSQ) were developed specifically for forensic applications and have been validated in homeless populations (Van Straaten et al., 2014) and in psychiatric and substance misuse contexts (To et al., 2015, Søndena et al., 2011). Developed in Australia and applied in the UK (Docherty, 2010), the HASI has also been validated with French Canadian (Farthing, 2011), Norwegian (Søndena et al., 2011)

and Dutch populations (To et al., 2015) . Most recently an examination of the HASI with a prison population in Australia indicated high levels on inter-rater reliability which was attributed not only to features of construction of the tool but also to the experience and training of the persons who administered the test (Young et al., 2015).

Developed in the UK for use in forensic settings the LDSQ has been validated in forensic settings (prisons) (McKenzie et al., 2012). A later study recommends the trialling of the LDSQ in other criminal justice settings (such police custody suites/watch-houses) (Silva et al., 2015). In 2015 it was reported that the LDSQ was being used in clinical and criminal justice services across the UK, in Europe, Japan and Australia and is used in the UK by probation, prison and police services (Murray et al., 2015).

The concern with using screening tools, such as the LDSQ or the HASI, remains that they must be seen for what they are-screening tools which, with a few questions that take no more than about 10-15 minutes to administer by a practitioner who is not required to have clinical qualifications. These screening tools tend to be over-inclusive in their conclusions (Silva et al., 2015, Young et al., 2015). Their developers and users do not claim that they are diagnostic tools and clearly expect that they will be used as a first step from which to refer participants suspected of having intellectual impairment to further detailed assessments of IQ and adaptive behaviour (Murphy et al., 2017b, Murphy et al., 2015).

It is thought that many prisoners with mild to borderline intellectual functioning (MBIF) at the initial reception assessment are not referred for screening for possible cognitive impairment because, in reality, such referrals in prisons occur only when the limitations are very noticeable (Hayes, 2007, cited in Farthing, 2011). However, where these screening tools have been used, there has been great value in being able to identify those with MBIF for whom services could then be adapted based on identified needs and cognitive deficiencies (Murphy et al., 2017b, New and James, 2014).

Examples of screening for offenders with intellectual impairment in prisons

It is noted in the literature that reception staff in some prisons have been able to identify mild to borderline intellectual functioning during the initial processing of prisoners through their observations of prisoner behaviour, and in some cases prison staff were alerted to the likelihood of attention deficit hyperactivity disorder (ADHD) or, for example, dyspraxia, both of which affect the ability to remember and follow instructions and to complete tasks involving multiple steps (New and James, 2014).

A preliminary evaluation of intellectual disability screening in women prisoners has demonstrated how screening may be effectively undertaken as a two or three step process (Board et al., 2015). Firstly, the reception questionnaire for prisons was modified to enable reception staff to pick up on practical difficulties experienced by the women and to document any self-report or previous diagnosis of disability. The reception questionnaire did not require that a clinician administer it. Where indicated by the first reception screening, a second assessment using the HASI screening tool may have been triggered. Even for some women who did not score at the cut-off for referral to tertiary assessment by a clinician, but who exhibited a level of functional disability, consideration was given to possible adjustments to arrangements in the prison. Those women who were confirmed to have an intellectual

disability through tertiary assessment were identified for diversion from the mainstream prison to a more specialised unit considered to be able to provide suitable supports.

It is important to note that while reliance upon self-report is used across a number of prevalence studies and in some areas of the criminal justice system, it has been shown to be unreliable (Board et al., 2015). It appears that where administration of screening tools is not applied, there will continue to be reliance upon the experience and observational abilities of practitioners, but there is scant literature on the extent to which practitioner observational skills are relied upon and the implications of an approach that lacks rigour and evidence.

Examples of screening for offenders with intellectual impairment in Police custody suites (watch-houses)

Ideally, persons entering the criminal justice system should be screened upon arrest or at court and several studies have shown the value of early identification

Persons with intellectual disabilities, Attention Deficit Hyperactivity Disorder (ADHD), and conduct disorder (CD) have been shown to be vulnerable in police interviews and court proceedings. As part of a study (Young et al., 2013) in the police custody suites (watch-houses) using the LDSQ, 6.7% screened positive for intellectual disability, 32.1% screened positive for ADHD in childhood and 23.5% currently in adulthood, and 76.3% for conduct disorder. This was the first study in police custody suites (watch-houses) to screen not only for intellectual disabilities but also for ADHD. Further analysis showed significant correlation between ADHD and conduct disorder. The study also investigated the demands on staff time and the results indicated that ADHD predicted higher consumption of staff time, likely due to symptoms of ADHD including increased behavioural disinhibition, impatience and restlessness leading to additional requests of staff time.

There have been several studies of the use of screening (Murphy and Mason, 2014) with detainees within police custody suites (watch-houses). All police custody officers in the UK have responsibility to administer a police reception screening questionnaire to identify health and welfare concerns. Specific questions about intellectual disability were not included. However, a recent study (McKinnon et al., 2015), developed a new screen which added four additional components. These were whether the detainee had any access to intellectual disability services, whether subjectively the detainee could read, whether the detainee required extra help in class or needed special schooling, and an observational cue to prompt officers to look for evidence of cognitive problems in the apparent absence of intoxicating substances. The study demonstrated that there is potential to substantially improve how detainees in police custody can be identified as suspected of having intellectual disability or other development disorders. Importantly, pilots of the new screen also led to identification (through false positives) of persons with borderline intellectual functioning and low average intelligence.

Screening and assessment by Liaison and Diversion (L&D) teams in the UK

L&D teams have operated across England for some 25 years, established initially with courts and later in police stations to provide linkages between the criminal justice system and health or social care services. The Bradley Report (Lord Bradley, 2009) investigated the provision of services for persons with mental health problems and persons with intellectual disability in the criminal justice system. His report's recommendations led to the

establishment of The National Model for L&D which required that the new L&D teams have the following features:

1. services for all ages (adults and young people)
2. twenty-four hour, seven days a week coverage of services
3. strong links to existing services and provision
4. available at all points within the adult and youth justice pathway (including police custody, courts and voluntary attendance)
5. cover a wide range of vulnerabilities including acquired brain injury, autistic spectrum, intellectual impairment, mental health, substance misuse and personality disorder.

Additionally for children and young people, L&D teams would also address

- Attention deficit hyperactivity syndrome
- Child protection issues
- Speech, language and communication needs.

Effectively, the new L&D brief in 2014 was to improve access to health, divert individuals out of the youth and adult criminal justice systems, deliver efficiencies within the youth and adult criminal justice systems, and to reduce re-offending or escalation of offending behaviours.

The 10 trial sites for the new L&D teams were evaluated, although somewhat prematurely in 2014-15 with a report in 2016 noting that much of the data had not yet been available (Disley et al., 2016). However, findings of the evaluation published in 2016 showed a number of significant improvements and efficiencies:

- More L&D staff were being co-located in police stations, magistrates courts and some crown courts,
- L&D staff based in police custody suites were able to gain access to patient information from mental health and other services
- Courts and police stations were covered for more days of the week and hours of the day with access to L&D staff
- L&D services were screening and assessing a wide range of vulnerable persons and, as a result, information was being provided to police and courts that was not previously available.
- Increased numbers of people in the population groups targeted by the L&D teams were identified in custody.
- There was evidence that information from the L&D services had informed police charging and remand decisions for vulnerable persons screened and assessed by the L&D staff.
- L&D was perceived to lead to more efficient processing of detainees in police custody.
- The L&D service provided relevant and timely information to the court.
- The majority of interviewees including magistrates, probations officers, and court staff indicated that the introduction of the L&D meant that court processes had been sped up, and in some cases, avoided the need for adjournment.

However, due to missing data at these early stages of the evaluation, it could only be concluded that a small reduction in the proportion of cases remanded to custody

followed the introduction of the new L&D model. Again, due to limits in available data, conclusions could not be reached about the impacts of the new L&D teams on re-offending.

Cost-benefit studies of Liaison and Diversion teams in the UK

Note: In the following cost-benefit and cost-analysis studies, it is not always clear if the researchers have used fully-loaded or marginal costs and if they have calculated actual cost savings or projected averted costs.

The evaluation report published in 2016 (Disley et al., 2016) provided some preliminary information in relation to the cost-benefit of the new National Model L&D teams compared to the pre-existing L&D teams. This was provided for five selected areas where both had operated. (In pounds)

Table 1: Comparison of activities/outputs and costs between pre-existing and new model L and D teams in the UK

	Pre-existing L&D teams	New National Model teams
Total L&D service costs	2,215,400	3,956,994
Number of arrests	107,317	113,856
Cost per 1,000 arrests	20,640	34,750
Number of L&D cases	5,182	10,061
Cost per L&D case	428	393

The report highlighted that the incremental cost of moving from the pre-existing L&D model to the National Model of L&D was 14,110 per 1000 arrests (the relative increase of 68% but a relative decrease of 8% (34.30) per service user). This decrease in the cost of the service user occurred because the relative increase in the number of arrestees entering the L&D (83%) was greater than the relative increase in cost (68%).

In four sites included in the economic evaluation, the new National Model diverted a higher proportion of service users away from remand compared to the pre-existing L&D service.

However, a case study of the new L&D team in Cornwall and the Isles of Scilly, England, using a before and after intervention review of 3 months of operations, provided a more positive report on preliminary findings in relation to health, criminal and economic outcomes from the new L&D service (Forbes et al., 2017). The results showed that after L&D intervention, the individual's contact as either victim or perpetrator reduced significantly, and that preliminary data suggested that L&D enabled reduced use of police and criminal justice resources. This was due in no small way to the fact that, for many individuals involved in the criminal justice system, this was the first time that they had received screening, assessment and referral.

Across the 12-month period for a cohort of three months, the following cost savings were attributed as set out in **Table 2** and **Table 3**.

Table 2: Cost savings attributed for the criminal justice system across a 12 month period for the new L&D model

Analysis 1 criminal justice (£)

Police attendance	152,119
Court and criminal proceedings	291,660
Offender management	11,728
Custodial sentences	266,818

Table 3: Cost savings attributed for victims and society across a 12 month period for the new L&D model

Analysis 2 Victim and Society (£)

Defensive expenditure	82,517
Insurance administration	12,245
Physical and emotional impact on direct victims	857,522
Value of property stolen/damaged /destroyed	174,134
Victim services	2,140
Lost output	188,408
Health services	139,912

The study reports that, combining the analyses for a cost saving, this equates to an estimated £2,179,203 difference for L&D clients seen in the time period “before” and “after” intervention. Pro-rating to a year’s worth of L&D activity and assuming a similar degree of re-attenders results in an estimated cost difference saving of £8,716,812 per annum, for the CJS and society; with a service which cost around 300,000 per annum to deliver.

Cost analysis of problem-solving courts

Problem-solving courts were established from about the late 1980s in the US as a means of addressing the over-representation of vulnerable groups entering the criminal justice system placing pressure on over-burdened court lists and over-crowded jails. Since then many jurisdictions have established, drug courts, mental health courts and special circumstances courts to divert vulnerable offenders from prison. Cost-benefit analyses of problem-solving courts in Australia could not be sourced and evaluation reports are dated (Walsh, 2011, Payne, 2006).

The national audit in 2004 identified 19 programs operating across Australia but did not reference information useful for benchmarking costs-benefits. Most evaluations in Australia of speciality courts have been process evaluations. Some cost-analysis of drug court programs indicated that the programs were at least cost-effective as the alternative to imprisonment and that benefits reduced recidivism and improved health outcomes (CRC 2003, Lind et al 2002, SPRC 2004 cited in Payne, 2006).

While there have been many cost-benefit analyses of problem-solving courts in the US, only a few that have considered the costs longitudinally following the courts intervention and completion of the court's program/supervision.

The recent cost analysis of long-term outcomes of a mental health court in the US stands out as a first of its kind and provides useful information on the court as a cost-effective diversionary mechanism (Kubiak et al., 2015). This study analysed the data available at 12 months post-court intervention and utilised a comparison group of probationers (parolees) who had not received intervention by the mental health court.

Cost analyses included per person standard costs for mental health treatment; substance abuse treatment; arrests for non-violent offenders (because this was an eligibility criterion for the mental health court); jail booking (remand); traditional court case; confinement (in jail or in prison); and victimization costs (a range of tangible and intangible costs of crime).

Three cohort groups were established (one group was successfully discharged from the court for more than one year; another group was unsuccessfully discharged; and a further group which proceeded through the traditional court process with one year's straight probation). The following table details the average outcome costs per participant post MHC against the compare group (US dollars), and total savings per participant and for the groups referred through the MHC.

Table 4: Average participant outcome costs post MHC and compare group

Outcome transactions	Included	Success	Unsuccess	Compare group
Mental health treatment	Low, medium, high levels	89 to 1349	86 to 867	187 to 1318
Substance abuse treatment	Residential day Outpatient episode	0 0	76 0	1041 0
Criminal justice processing	Arrest Jail booking Court case	104 169 765	115 186 842	190 308 1395
Confinement	Jail day Prison day	543 528	2668 12769*	5666 4776
Criminal justices	Victimization	13150	14481	23994
Total		16964	32258	39870
Total average savings in the 12-month post-MHC period when compared to the compare group		22906 per participant 916240 for 40 participants in study	7612 per participant 494780 for 65 participants in the study	
Combined savings		1,411,020		

*Unsuccessful group members are significantly more likely to serve a greater number of prison days than members of the other two groups.

Discussion

What is the cost to the Queensland Government of not having data about the intellectual impairment and cognitive limitations of persons in the custody of police, in the courts, in the prisons and in community corrections?

Based on the evidence, and working on an informed estimate that one third of prisoners have mild intellectual impairment or borderline intellectual functioning, the following areas for cost benefits and savings are highlighted for consideration.

1. When information about an alleged offender's intellectual impairment is made available to police, processing procedures which have been adapted to accommodate communication difficulties and cognitive limitations of the person lead to greater efficiencies in processing, and inform the use of safety strategies in watch-houses and court holding cells.
2. When information about an offender's intellectual impairment is made available to the courts, it can be used by the judge to divert the offender from remand or from a custodial sentence. Bail and community sentencing options which are more appropriate to the circumstances and needs of the offender may be reasonably considered as an alternative to detention.
3. When information about an offender's intellectual impairment is made available to prisons, prisoner entry processing procedures are adapted to accommodate communication difficulties and cognitive limitations. Initial screening of needs and placement within the prison are informed by knowledge of cognitive ability and functioning. This becomes valuable information required for safety and good order within the prison, contributing to the reduction of inmate to inmate abuse and violence and, by consequence, possible harm to prison officers. Additionally, and significantly, information about lower intellectual functioning levels of prisoners informs the development and delivery of education, treatment, rehabilitative and vocational and work programs which are adapted to meet the needs of prisoners with lower intellectual functioning. Mismatch between programs and learning needs of prisoners leads to considerable wastage of the cost of programs in prisons, with less likelihood of program completion by participants effectively contributing to successful re-entry and reduction in recidivism.
4. When information about an offender's intellectual impairment is made available to community corrections, probation and parole officers, being mindful of any communication difficulties and cognitive limitations of probationers and parolees, may engage more effectively with them, make appropriate referrals to support services, and apply appropriate discretion in matters of technical breach of an order by the offender so that return to prison may be avoided.
5. When information about an offender's intellectual impairment is made available to non-government organisations which are funded by QCS to provide prisoner re-entry services, community practitioners can develop appropriate support plans, make informed referrals to other support services, and advocate on behalf of their clients to mainstream community services to support an ex-prisoner with complex needs. At

present, without this information from QCS, community practitioners are not aware of the nature and complexity of the caseloads within the re-entry program, potentially reducing effectiveness of the program.

Avoidable costs accumulate when information about persons with intellectual impairments is not made available across the criminal justice system. These include costs associated with:

1. reduced efficiencies in police processing;
2. possible court adjournments due to judges requiring an assessment of the alleged offender's mental functioning,
3. greater likelihood of remand and prison outcomes from the court in the absence of bail and community options that would be supportive of an offender with intellectual impairment;
4. reduced safety and good order in prisons due to anti-social behaviour and misconduct linked to cognitive abilities;
5. wastage of prison program costs not matched to cognitive abilities and learning needs of prisoners; and
6. reduced efficiencies when referrals for support by Probation and Parole and prisoner re-entry services are not matched to the cognitive abilities of ex-prisoners.

Recommendations

That the inquiry note and give consideration to:

1. the efficiencies which would accrue to the criminal justice system of identifying offenders/prisoners with intellectual impairment and borderline intellectual functioning as soon as possible after arrest
2. the value of having information about intellectual impairment available to police and to the court in order to consider options for diversion from prison
3. the efficiencies of administering intellectual impairment screening of offenders using the LDSQ which requires 10-15 minutes for administration and does not require a qualified clinician for its administration
4. the cost benefit and efficiencies of the identification of intellectual impairment in prisoners to inform better targeting of programs and activities to individual prisoners
5. the cost benefit and efficiencies of the identification of intellectual impairment in prisoners to inform better management of inmate interactions and reduce prisoner anti-social behaviour
6. the cost benefit to the criminal justice system of establishing liaison and diversion teams working with police and attached to the courts to identify and provide clinical advice in relation to offenders with acquired brain injury, autistic spectrum, intellectual impairment, mental health issues, substance misuse and personality disorder and to inform sentencing options with an emphasis on diversion from prison.

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