



26 October 2018

Queensland Productivity Commission
Inquiry into Imprisonment and Recidivism

Dear Sir or Madam

Thank you for the opportunity to provide a submission to the Queensland Productivity Commission Inquiry into Imprisonment and Recidivism. The Queensland Network of Alcohol and other Drugs (QNADA) submission is attached.

QNADA represents a dynamic and broad-reaching specialist network within the non-government alcohol and other drug (NGO AOD) sector across Queensland. We have 53 member organisations, representing the majority of specialist NGO AOD providers. This submission is made following consultation with QNADA members.

QNADA is pleased to provide further information, or discuss any aspect of this submission. Please don't hesitate to contact me at Rebecca.Lang@qnada.org.au or by calling 07 3023 5050.

Yours sincerely



Rebecca Lang

CEO



Queensland Productivity Commission Inquiry into Imprisonment and Recidivism

Submission – October 2018

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). The content of this submission is informed by consultation with QNADA member organisations providing treatment services in Queensland, as well as a review of research and other jurisdiction's legislation.

QNADA welcomes the opportunity to provide a submission to the Queensland Productivity Commission Inquiry into Imprisonment and Recidivism. Queensland, like the rest of Australia, relies heavily on the criminal justice system to respond to alcohol and other drug use despite recognition that alcohol and other drug use is better framed as a health issue. As such, QNADA supports opportunities to reduce contact with the criminal justice system for people who use alcohol and other drugs and promote help seeking behaviour amongst those experiencing substance use disorders and dependence. A range of evidence informed, specialised treatment services should be available to anyone experiencing problems related to their alcohol and other drug use, irrespective of personal history, circumstances or socioeconomic status.

QNADA's position

- System responses to alcohol and other drug use should be health and treatment focused as distinct from criminal justice/law enforcement approaches.
- Investment should be directed into expanding access to treatment responses and include a diversity of treatment options and harm reduction strategies. These options should include residential and non-residential treatment and include culturally appropriate options for Indigenous Australians.
- Addressing stigma and discrimination experienced by people who use alcohol and other drugs will reduce the barriers to help seeking, decrease experiences of social isolation and exclusion and decrease interactions with the criminal justice system.
- Increase the investment in treatment because it works. It has been shown to reduce consumption of alcohol and other drugs, improve health status, reduce criminal behaviour, improve psychological wellbeing, and improve participation in the community. AOD treatment achieves positive outcomes for individuals and the broader community.¹

Trends in the rate of imprisonment in Queensland in recent years, including comparison with other sentencing options.

In Queensland, as in all states in Australia, there is a high prevalence of alcohol and other drug use among people who come in contact with the criminal justice system. A study of people detained in Queensland Police watch-houses found high rates of illicit drug use, with 73% of these people testing positive to an illicit substance.² Around one in five (23%) people detained in police watch-houses attributed their current charges to alcohol use and a third (35%) to their illicit drug use.³ There are

¹ Alison Ritter, Linda Berends, Jenny Chalmers, Phil Hull, Kari Lancaster, Maria Gomez, "New Horizons: The review of alcohol and other drug treatment services in Australia", National Drug and Alcohol Research Centre (2014), <https://ndarc.med.unsw.edu.au/resource/new-horizons-review-alcohol-and-other-drug-treatment-services-australia>.

² Arie Frieberg, Jason Payne, Karen Gelb, Anthony Morgan, Toni Makkai, "Queensland Drug and Specialist Courts Review", Queensland Courts (2016), https://www.courts.qld.gov.au/__data/assets/pdf_file/0004/514714/dc-rpt-dscr-final-full-report.pdf.

³ Ibid.

also generally high rates of recent illicit drug use amongst those entering prison, with one survey finding that 67% of people entering prison had used an illicit substance within the previous 12 months.⁴

In a study undertaken by QNADA for the Queensland Police Service, 98% of people voluntarily entering treatment had at least one prior interaction with the criminal justice system, primarily through the issuing of cautions from police or the courts and 16% of young people and 25% of adults experienced conviction or incarceration, which they often identified as related to their substance use.⁵

The Queensland criminal justice system has been experiencing increasing pressures and demands across the system, including increasing engagement with people for illicit drug offences. The growth in the number of people with problematic substance use coming into contact with the criminal justice system has far exceeded growth in the general population. Adding to this, over the same period there has been a reduction in the proportion of illicit drug matters resulting in a non-court action or diversion being taken, while the overall use of non-court action for other offences remained stable.⁶

Evidence about the causal factors underlying trends in the rate of imprisonment.

In Queensland, people who use substances are seven times more likely than dealers or traffickers to find themselves facing action in the criminal justice system (35,752 of 40,404 drug related arrests in 2014-15).⁷ Whilst we acknowledge the important role of law enforcement in reducing supply of illicit drugs and in regulating the supply of licit drugs, a recent study found drug policy investments by Australian Governments were heavily weighted towards law enforcement, at 64%, with 22% invested in treatment and just 2.2% invested in harm reduction. We argue that future activities and investment should focus on rebalancing the scale between harm, demand and supply reduction strategies.

Stigma and discrimination has a major impact on the lives of people who use alcohol and other drugs, with illicit drug use recognised as the most stigmatised health condition in the world and often cited as a barrier for people wishing to enter treatment. Criminal records for personal drug use and possession can contribute to ongoing social exclusion and loss of opportunities. A recent report from the Queensland Mental Health Commission⁸ confirms what we have long known – experiences of stigma and discrimination are common in the everyday lives of people experiencing problems related to their alcohol and other drug use. When asked how these experiences of stigma and discrimination made them feel, people involved in the research described feelings of degradation, shame and anger. This can contribute to further problematic use for people and creates a barrier to help-seeking behaviour.

⁴ Australian Institute of Health and Welfare. (2018). "The health of Australia's prisoners 2015" (2018), <https://www.aihw.gov.au/reports/prisoners/health-of-australias-prisoners-2015/contents/table-of-contents>.

⁵ Queensland Network of Alcohol and Other Drug Agencies (QNADA). "Drug Diversion: An exploration of individual client experience. (2014).

⁶ Arie Frieberg, Jason Payne, Karen Gelb, Anthony Morgan, Toni Makkai, "Queensland Drug and Specialist Courts Review", Queensland Courts (2016), https://www.courts.qld.gov.au/__data/assets/pdf_file/0004/514714/dc-rpt-dscr-final-full-report.pdf.

⁷ Australian Criminal Intelligence Commission, "Illicit Drug Data Report 2014-15" (2014-15), <https://www.acic.gov.au/files/illicit-drug-data-report-2014-15>.

⁸ Queensland Mental Health Commission, "Changing attitudes, changing lives: Options to reduce stigma and discrimination for people experiencing problematic alcohol and other drug use" (2018), https://www.qmhc.qld.gov.au/sites/default/files/downloads/changing_attitudes_changing_lives_options_to_reduce_stigma_and_discrimination_for_people_experiencing_problematic_alcohol_and_other_drug_use.pdf

The factors driving Aboriginal and Torres Strait Islander imprisonment and recidivism and options to improve matters.

Aboriginal and Torres Strait Islander peoples are over represented in both the criminal justice and alcohol and other drug treatment systems. Indigenous Australian people who interact with the criminal justice system report higher levels of alcohol and cannabis use, are younger, report lower levels of education, and are less likely to have been employed than non-Indigenous people. There is also evidence that males who commit offences are more likely to have earlier and more serious contact with the criminal justice system.⁹ Increased investment in a range of culturally appropriate support and alcohol and other drugs treatment options is essential to improve health outcomes and reduce imprisonment and recidivism for Aboriginal and Torres Strait Islander peoples.

The factors driving the imprisonment and recidivism of women and options to improve matters.

In late 2016, we provided a submission to the review of child protection legislation options paper on ways to support parents experiencing substance use problems. Currently, parents who require residential rehabilitation to address their substance use are disadvantaged by a lack of access to appropriate services. There is only one Aboriginal and Torres Strait Islander family residential option in far North Queensland. A residential service for parents is currently being developed in South East Queensland, however this will do little to address the unmet demand for services that can support parents to keep their children with them whilst addressing their alcohol and other drug problems.

We acknowledge that the early years from 0 to 8, in particular 0 to 3 are recognised as a crucial developmental stage, with the experiences children are exposed to during this time having significant impacts on their future development.¹⁰ The impact of the removal or absence of a parent in those early years for any extended length of time is particularly acknowledged as it relates to developing attachment. Therefore, it is critical that parents have access to residential treatment options that are family friendly as well as evidence based non-residential treatment options of varying intensity.

Factors affecting youth offending and corresponding imprisonment rates and options to improve matters.

A wide array of factors contribute to the reasons a young person may encounter the youth justice system. It is important to note that young people are just as likely to be victims of crime as they are to be perpetrators of crime, particularly where substance use is a factor. There is a need to re-orient the youth justice system toward prevention, as well as early intervention and diversion options which can most effectively be provided by the non-government alcohol and other drug treatment service sector.

For example, Tasmania now invests in a range of community youth justice programs where young people may be either supervised by NGOs or Youth Justice staff.¹¹ As of 2015, their social return on this investment is estimated at \$3.50 for every dollar invested in community based programs ‘though

⁹ Judy Putt, Jason Payne, Lee Milner, “Indigenous Male Offending and Substance Abuse”, Australian Institute of Criminology Trends and Issues in crime and criminal justice”, no. 293 (2005), <https://aic.gov.au/publications/tandi/tandi293>.

¹⁰ McAlpine C, Courts-Marshall C, Harper-Doran N. Combining child welfare and substance abuse services: A blended model of intervention. Child Welfare. 2001;80(2):129–149. [PubMed]

¹¹ Tasmania Department of Health and Human Services: Community Youth Justice http://www.dhhs.tas.gov.au/youth/youth_justice/community_justice.

a reduced number of young people in detention and improved management of young people under community based supervision'.¹²

The alcohol and other drugs sector has a history and expertise in providing services to young people with complex needs, including supporting vulnerable young people to avoid encountering or break an entrenched cycle of contact with the youth justice system.

Substance use contributes to a young person's interaction with the justice system however, social exclusion poses the greatest risk to the best possible outcomes for our young people. Early intervention and diversion programs, which help prevent young people apprehended for drug use from entering the criminal justice system by diverting them to treatment interventions, has become an established and successful part of a harm minimisation approach.

Whilst diversion programs are currently limited in their scope, opportunity exists to include measures such as sourcing of safe accommodation as addressing a young person's homelessness is often a key factor in assisting them to 'turn their life around'. Non-government alcohol and other drug services often support their clients to source and maintain tenancy even where this is outside the scope of their funded activity.

Greater investment is required, which may be achieved through a re-orientation of funding priorities within the current system towards prevention, early intervention and responding to the cause of crime and away from the costs associated with detention.

Measures of prisoner recidivism rates, trends in recidivism and causes of these trends.

A lack of support for people who have used drugs prior to and insufficient support programs for people exiting incarceration are cited as reasons why incarceration and recidivism rates amongst people who use substances are so high. A high level of demand for alcohol and other drug treatment services shows there needs to be a significant investment in the sector including in opportunities for people to engage in treatment as part of the judicial process which has been found to be highly effective in reducing recidivism and improving health outcomes.

We believe increased investment in alcohol and other drug treatment services will provide more opportunities to support people who are entering, already in and exiting prison. This may include the provision of more therapeutic justice programs, including the Alcohol and Drug Court program.

Efforts to support individuals to recover from problematic substance use must include access to treatment inside our prisons, in addition to programs which divert people from the prison system and into treatment programs. There is currently a significant under investment in treatment and intervention opportunities for people who are incarcerated.

There is currently limited options for opioid pharmacotherapy treatment (OPT) in male prisons in Queensland and where it is presented as an option, the person can only qualify for treatment if their prison sentence is less than 12 months. This prevents a person from accessing treatment when they may need it and placing them at future risk, particularly when they exit prison. Research shows

¹² Save the Children Australia, Social Return on Investment of Tasmanian youth justice programs (2015), 51.

offering OPT in the prison system reduces the risk of post-release death by drug overdose.¹³ We note work currently underway by Queensland Health to expand access to OPT to all prisons.

Other harm reduction practices which should be offered in prisons, include access to sterile injecting equipment through Needle and Syringe Programs and education about the spread of blood borne viruses, HIV and/or Hepatitis C. It is our recommendation that all Queensland prisons provide people with options to access pharmacotherapy treatment during their incarceration, as well as other harm reduction programs. We further recommend these programs are offered to all people by removing the requirement to base eligibility on the length of a prison sentence.

There are currently very few options for a person who may be seeking treatment upon re-entering the community. Whilst Probation and Parole currently offer a brief assessment for the person and establish a plan depending on the individual needs, this may or may not include entry into a non-government residential treatment program, or other forms of alcohol and other drug support. There is a need for a more integrated response between Probation and Parole and the alcohol and other drug treatment sector to ensure a person can be linked with appropriate, specialist treatment if and when they need it. Obviously, this strategy would require further investment in the specialist treatment sector to ensure capacity to meet need.

The benefits and costs of imprisonment, including its social effects, financial costs and effectiveness in reducing/preventing crime.

The Queensland criminal justice system incurs a significant cost burden due to illicit drug related offences. In 2016-17, as in previous years, Queensland continued to record the highest number of people detected for use/possession of illicit drugs in Australia with 16,923 offences in Queensland or 399.6 per 100,000 population (compared with New South Wales at 13,467 or 198.1 per 100,000 population).¹⁴ However, there are opportunities to reduce the use of criminal proceedings for these offences.

The cost-effectiveness of diversion for personal possession of illicit drugs versus criminal justice responses has been explored and found to be significantly more cost effective with costs of between six to 15 times higher for criminal justice system responses.¹⁵ In addition, diversion options have been associated with a range of positive social outcomes including less disruptive relationships and fewer employment problems.¹⁶

It is also noted that a recent National Drug Law Enforcement Research Fund study found that 72.6% of people who participated in cannabis diversion were “classified as having nil or negligible dependence” and likely to be employed or studying, meaning most people who encounter police for possession offences are not experiencing problems related to their substance use.¹⁷

¹³ Sarah Larney, Barbara Toson, Lucy Burns, Kate Dolan, “Opioid substitution treatment in prison and post-release: Effects on criminal recidivism and mortality”, National Drug Law Enforcement Research Fund, no. 37 (2011), <http://www.ndlerf.gov.au/publications/monographs/monograph-37>.

¹⁴ “Australian Bureau of Statistics”, Recorded Crime – Offenders, 2016-17, accessed October 29, 2018, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4519.02016-17?OpenDocument>

¹⁵ Marian Shanahan, Caitlin Hughes, Tim McSweeney, “Australian Police Diversion for Cannabis Offenses: Assessing program outcomes and cost-effectiveness”, National Drug Law Enforcement Research Fund, no.66 (2017), <http://www.ndlerf.gov.au/publications/monographs/monograph-66>.

¹⁶ Ibid.

¹⁷ Ibid.

Adding to this concern, Australian Bureau of Statistics data shows that Queensland has the highest rate of detections of offenders for use/possession and also has the highest rate of defendants being finalised and sentenced in court. This data suggests that people using/possessing illicit drugs in Queensland are more likely than in any other state/territory in Australia to be detected by police and the least likely to receive alternative criminal proceedings. Analysis of data on prosecutions and sentencing for use/possession offences by state show Queensland has significantly more defendants finalised for use/possession in court, but are also significantly more likely to lead to guilty findings in the court. We are also concerned by the fact that Queensland has the lowest incidence of diversion by police of all states/territories in Australia.

All states/territories in Australia provide police diversion for the use/possession of cannabis either by civil penalty schemes or cannabis caution schemes. Currently, six states/territories also provide police diversion for use/possession of other illicit drugs however, there is no police diversion for use/possession of drugs other than for cannabis in Queensland (though we note this is an option through the Court Diversion program).

The effectiveness of programs and services in Australia and overseas to reduce the number of people in and returning to prisons, including prevention and early intervention approaches, non-imprisonment sentencing options, and the rehabilitation and reintegration of prisoners.

Programs like the Alcohol and Drug Court in Queensland provide people with the opportunity to engage in treatment as part of the judicial process and have been found to be highly effective in reducing recidivism and improving health outcomes.¹⁸ A range of evaluations on other diversionary programs including QIDDI, QMERIT and QIADP show that diversion to specialist alcohol and other drug treatment are a successful mechanism by which to reduce harm and promote opportunities for engagement. The cost and time savings from diversion programs are also significant, with the Magistrates Court citing a community saving equivalent to ‘588 years of actual imprisonment time’ in the 2010-2011 annual report.¹⁹

Decriminalisation of personal use and possession of illicit drugs provides the opportunity for a health response rather than a criminal justice response and facilitates greater treatment seeking and opportunities for recovery. Learnings from efforts to improve criminal justice policy responses to drug use and distribution, such as have occurred in Portugal, conclude that decriminalisation does not lead to increases in drug use and in fact, evidence indicates reductions in problematic drug use, drug-related harms and criminal justice overcrowding.²⁰ Decriminalisation in Portugal has enabled police to focus their attention on more serious drug trafficking offences.

Following decriminalisation in Portugal, there was a substantial reduction in the number of people with alleged drug offences being arrested and sent to the criminal courts. The number of people arrested for criminal offences related to drug offences reduced from over 14,000 in the year 2000 to an average of 5,000 – 5,500 offenders per year.²¹ The number of people detected under the new law

¹⁸ Toni Makkai and Keenan Veraar, “Final Report on the South East Queensland Drug Court”, Australian Institute of Criminology: Technical and Background Paper Series No.6 (2003), <https://aic.gov.au/publications/tbp/tbp006>.

¹⁹ Magistrates Court of Queensland, “Annual Report 2010-11”, p31 (2011), https://www.courts.qld.gov.au/__data/assets/pdf_file/0012/131610/mc-ar-2010-2011.pdf.

²⁰ Caitlin Elizabeth Hughes and Alex Stevens. “What can we learn from the Portuguese Decriminalization of Illicit Drugs?”, *British Journal of Criminology* 50, (2010), 999-1022.

²¹ *Ibid.*

for administrative drug use/possession offences has remained fairly constant at about 6,000 per year, thereby indicating no overall increase in the amount of formal contact between people who use drugs and the Portuguese police.²²

The proportion of drug-related offences or offences committed under the influence of drugs and/or to fund drug consumption, in the Portuguese prison population, has dropped from 44% in 1999 to 21 % in 2008. A survey of drug use and related problems in prison found that between 2001 and 2007, the number of drug users and general rate of drug use within prisons had fallen significantly. Rates of intravenous use before and inside prison had also fallen, as have the prevalence of HIV amongst prisoners.²³

The efficacy of adopting an investment approach, where investments in prevention, early intervention and rehabilitation deliver benefits and savings over the longer term.

Alcohol and other drugs treatment has been shown to be effective and is value for money.²⁴ “For every \$1.00 invested in alcohol or drug treatment, society gains \$7.00.”²⁵ Additional savings are possible not only through reducing the adverse social consequences of contact with the criminal justice system, but through the cost of processing people through the justice system itself. Justice reinvestment approaches have demonstrated efficacy in Australia, such as Tasmania, where as previously noted, the Tasmanian youth justice reinvestment produced estimated returns of \$3.50 for every dollar invested into community based programs.

Barriers to potential improvements and how these barriers could be lowered.

Our members provide a range of services including education and information, early intervention, outreach, detoxification, residential rehabilitation, psychosocial and medical treatment, relapse prevention, and justice diversion will play a vital role in the effective implementation of the strategy. However, a positive outcome will only be possible if governments address current underfunding by investing significantly in the sector to meet the current level of unmet need.²⁶ Availability of and access to treatment services is crucial to ensuring that people can utilise the right services, at the right time, and in the right place. Providing people access to this support will enable them to make a meaningful contribution to their communities.

QNADA would be pleased to expand further on this submission and can be contacted on (07) 3023 5050 or at Rebecca.Lang@qnada.org.au to arrange this.

²² Ibid.

²³ Ibid.

²⁴ Alison Ritter, Linda Berends, Jenny Chalmers, Phil Hull, Kari Lancaster & Maria Gomez (2014), *New Horizons: The review of alcohol and other drug treatment services in Australia*, Drug Policy Modelling Program, National Drug and Alcohol Research Centre, UNSW

²⁵ Ibid.

²⁶ Ibid.

About the Queensland Network of Alcohol and Other Drug Agencies (QNADA)

QNADA is the peak organisation representing the views of non-government alcohol and other drug treatment services. Through our knowledge of the sector, network of experienced members and links across complementary human service delivery sectors, QNADA is well placed to provide practical advice and front-line service delivery experiences to inform policy and program advancement for the sector.

The sector consists of organisations involved in the continuum of care for individuals and their families affected by alcohol and drug use. QNADA members provide drug education and information, early intervention, outreach, withdrawal management, residential rehabilitation, psychosocial and medical treatment, relapse prevention, justice diversion, and social inclusion.

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²⁷ Alison Ritter, Linda Berends, Jenny Chalmers, Phil Hull, Kari Lancaster & Maria Gomez (2014), *New Horizons: The review of alcohol and other drug treatment services in Australia*, Drug Policy Modelling Program, National Drug and Alcohol Research Centre, UNSW.