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[REDACTED]

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Queensland Productivity Commission
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Dear Commissioners,

RE: SUBMISSION. DRAFT REPORT – INQUIRY INTO IMPRISONMENT AND RECIDIVISM.

Thank you for the opportunity to make a submission on the draft report of the Inquiry into Imprisonment and Recidivism.

This is vitally important work and, as you note, there have been a number of previous reviews in Queensland into the same and related issues. Research into the psychology of criminal conduct and the derived models of desistance and ‘good lives’, which together inform much of the work on recidivism and rehabilitation, is decades old now. Many years of under-investment in academic-quality Australian research means too much of the evidence-base is dated and potentially of questionable relevance in some contexts.

Not enough attention is paid to these limitations in formulating recommendations for change, particularly as they relate to First Peoples, women, and people with disability. As the draft report emphasises, these are people grossly over-represented in our correctional system, especially in prison. These are the unmistakable symptoms of a failing criminal justice system.

At heart, these are political issues requiring bipartisan solutions. Many commentators have noted the effect of ‘tough on crime’ rhetoric on the criminal justice system. I fear little will change until political leaders publicly engage in discussions about what communities want from their criminal justice system and what they are willing to pay. We would do well to look to New Zealand’s recent efforts to address similar issues. There are important lessons in that work for us.

My submission takes the form of responses to some of the questions and requests for information contained in the report and is attached as a separate document. I have tried to limit my submission to issues not already well covered in the draft report or other submissions. I’ve also included in the submission a brief summary of my experience and qualifications relevant to my submission.

Respectfully,



Dr Mark Rallings

DRAFT REPORT – INQUIRY INTO IMPRISONMENT AND RECIDIVISM

Submission of Dr Mark Rallings

Summary of relevant experience and qualifications.

I am a part-time Professorial Research Fellow at the Centre for Forensic Behavioural Science at Swinburne University of Technology, and an Adjunct Professor at University of Queensland and Griffith University.

I was Commissioner of Queensland Corrective Services until I resigned in 2017 after 14 years with the agency. Much of my work at Queensland Corrective Services related to offender rehabilitation and management.

Previously I was head of research and evaluation of the Sex Offender Treatment Programme, HM Prison Service, UK, for two years.

I am a psychologist, now non-practising, and I hold a PhD from the University of Queensland which I completed in the Department of Psychiatry.

I am on the board of directors of a medium-sized not-for-profit organisation which delivers rehabilitation and reintegration services to offenders in several states in Australia.

Responses to questions and requests for further information.

Does criminalisation impede a health-based response to the problem of illicit drug usage?

I will respond to this question in the context of illicit drug use by prisoners, although I acknowledge this is not quite the intention of the question.

I believe there will be little improvement in prisoner rehabilitation and offending desistance outcomes until there is an effective health-based response to illicit drug use in prisons.

Illicit drug use in prison is a pervasive and ubiquitous problem for correctional agencies. It compromises staff and prisoner safety and centre security, and has been linked to staff corruption. It also impedes rehabilitation and offending desistance efforts.

Correctional agencies rightly invest a lot of time and resources to control illicit drugs in prison. They mainly do so by focusing on supply and in detecting users. Other than general deterrence through punitive consequences to detection, demand mitigation is limited and tends to rely on generic substance abuse programming and makeshift treatment units with questionable effectiveness.

Anecdotally, prisoners use illicit drugs for myriad reasons, most of which are unsurprisingly relevant to rehabilitation. These include, among others, addiction, self-medication, and boredom. Many institutional responses to illicit drug use in prison don't address these reasons, and instead are punitive and antithetical in effect to rehabilitation.

Clearly safety and security considerations are paramount, but more attention needs to be given to the intersection of drug control strategies and prisoner rehabilitation. More research involving prisoners and staff is needed to inform better screening and assessment tools, and more effective health-based interventions.

What arrangements would best encourage continuous improvement and effective and efficient rehabilitation and reintegration of prisoners?

Suggested arrangements to encourage better rehabilitation and reintegration of prisoners include adoption of an evidence-based prison quality framework, professionalisation of the custodial officer role, extended correctional centre and Probation and Parole Service operating hours, and redesign of the Integrated Offender Management Strategy and System.

Professor Alison Liebling, Director of the Prisons Research Centre, University of Cambridge, is a leading expert in the quality of prison life. Her work demonstrates strong links between systemic measures of prison quality and outcomes such as safety, security, and rehabilitation.

Queensland Corrective Services partnered with Professor Liebling and Griffith University in conducting one of the first prison quality evaluations of a correctional centre in Australia at Brisbane Correctional Centre. This work could readily provide the basis of a validated theoretical and measurement framework for continuous improvement of prisoner rehabilitation in Queensland.

Professor Liebling asserts that the custodial workforce underpins prison quality. In Australia correctional officers are under-valued. Relatively poor employment conditions and pay reflect negative community perceptions of their roles. These perceptions are unfair and an impediment to prisoner rehabilitation through their effects on prison quality.

Investment in infrastructure and prisoner services should be complemented by increased professionalisation of the custodial officer role. Of course, better pay and conditions would need to be matched by greater officer accountability for centre and prisoner outcomes, including rehabilitation.

There may also be improvement opportunities in extending prison operating hours and through greater management oversight. Currently, centre staffing levels reduce significantly outside of weekday business hours, as does management presence. This greatly limits prisoner access to rehabilitation services during those times.

Similarly, the Probation and Parole Service has a limited evening and weekend presence, despite the access difficulties this poses to employed offenders required to attend an office for an appointment. Overall, these restricted operating hours impede throughcare, particularly in the Queensland context of prisoner over-crowding and very high Probation and Parole caseloads.

The Integrated Offender Management Strategy is the blueprint for the Integrated Offender Management System, Queensland Corrective Services' now archaic computer-based case management system. The Strategy is derived from the evidence-based 'what works' principles and the concept of throughcare, which, while dated, remain broadly relevant to rehabilitation and reintegration. Although much of the Strategy is consistent with the recommendations in the draft report, the System itself is no longer fit for purpose and is unlikely to support the large-scale changes required to implement recommendations of the draft report.

What is the appropriate starting point for throughcare in the adult corrections system?

The starting point for throughcare in the adult corrections system should at least be the point at which a decision may be made to incarcerate someone. Accordingly, this is the point at which a court determines whether bail is to be granted or not, and at sentencing. Such decisions should, at a minimum, be able to be informed by throughcare considerations, and ideally include relevant assessment information. Throughcare planning could begin at that time.

The draft report defines throughcare as the process of managing the rehabilitation of offenders as they move through the criminal justice system until they are reintegrated into the community. Based on that definition, throughcare should in fact start before contact with the adult correctional system, perhaps at the time of arrest or charge.

The report's definition of rehabilitation as reform of offenders and prevention of reoffending potentially limits some of the value of investment in throughcare. An alternative definition of rehabilitation might be restoration to a normal non-offending life after imprisonment, and while necessarily including desistance from offending, it should also incorporate remediating any harm caused by imprisonment.

Given the established criminogenic effects of imprisonment, as well as the detrimental impacts on prisoners' health, wellbeing and social functioning, throughcare should have broader aims than prisoner reform and prevention of re-offending. It should be an integral element of all and any period of incarceration.

Careful thought should be given to the implications of throughcare for First Peoples prisoners. The assumption that prison is a comparatively healthy and safe environment for some prisoners is problematic for several reasons, including that it potentially normalises the prison experience and minimises its harmful effects. This may lead to underestimating throughcare needs of some prisoners.

I also reiterate my concern that Queensland Corrective Services' Integrated Offender Management System may not support large-scale changes to throughcare business processes in its current state.

How does QCS consider the impact on rehabilitation when designing its capital program?

Custodial infrastructure is designed to meet the system's security, safety and rehabilitation needs. Prisoners are predominately managed according to security classifications within the framework provided by the Integrated Offender Management Strategy. Security classification is influenced by rehabilitation needs, but is much more strongly driven by safety and security risk.

Ideally there should be a close match between infrastructure capacity and demand as determined by prisoner security classification. As the draft report notes, Queensland Corrective Services has more low security infrastructure capacity than required, but high security facilities are over-crowded.

Limitations of Queensland's security classification system exacerbate this problem of under-supply of high security infrastructure. In effect, there are only two security classifications; high and low. A third classification, maximum, is reserved almost exclusively for use with maximum security orders. There is also a reluctance to use low security classification unless a prisoner is also suitable for placement in a low security environment.

This means the cohort of high security classified prisoners includes an overly wide risk range, from ostensibly low risk through to very high risk. Women prisoners are classified in the same way. Over time, Queensland infrastructure and operating protocols have been hardened to safely and securely accommodate the highest risk element of the high security cohort.

Greater risk stratification through, for example, reestablishment of a medium security classification, would enable greater flexibility in managing prisoner safety and security without compromising throughcare and efforts to address prisoners' rehabilitation needs. There may also be opportunity to save costs in any new infrastructure designed for lower (medium) risk prisoners as it wouldn't require the same degree of security engineering as a high security facility.

The capital program is further influenced by the functions of correctional facilities within the system. Primary functions include remand, reception, placement, and reintegration. Custodial facilities may either have a specialised role or combination of roles, such as remand or remand and reception, or perform all functions. Location is relevant. Regional centres tend to necessarily perform all functions, whereas facilities in Brisbane can be more specialised. Of the high security facilities, only Borallon Correctional Centre has a dedicated rehabilitation role, complemented by its functions of placement and reintegration.

With the rapid growth in the number of remanded prisoners and increased prisoner crowding, the longstanding roles and functions of Queensland facilities and their operation as a system may no longer be optimally effective or efficient. This could present an opportunity to reconfigure the custodial system with a particular view to improving throughcare. Any new or expanded infrastructure should be informed by these considerations.

What incentives should be considered for:

- Prison managers to encourage prisoners to participate in and complete programs within prisons and complete programs within prisons and to engage in meaningful employment?
- Prisoners to participate in and complete programs within prisons and to engage in meaningful employment?
- Course providers to encourage prisoners to participate in and complete programs within prisons?

Queensland Corrective Services has done considerable work in developing evidence-based contract and service delivery frameworks that could usefully inform rehabilitation incentives for managers and course providers. There are, however, readily apparent limitations to developing prisoner incentives around the activities of program participation and completion.

For one thing, participation in rehabilitation activities does not directly translate into desistance from offending. Furthermore, rehabilitation, desistance and recidivism are not equivalent concepts. Outcomes are obviously of much greater interest than activities, but they are inherently difficult to measure and attribute even when there are agreed measurement definitions, which is not the case with recidivism. There may however be some utility in focusing on outcomes associated with a broader definition of rehabilitation, and accepting that resultant benefits, real and valuable as they are, will not always translate into reduced recidivism.

Incentive regimes are also notorious for producing unintended consequences, particularly within complex and risky environments such as correctional centres. Robust natural justice processes, fairness, consistency and transparency are essential ingredients of any effective prisoner incentive strategy. Incentives and earned privilege schemes without those elements are mistrusted by prisoners and perceived as punitive and unfair. These rarely produce the effect of incentivising desired behaviours.

A prisoner incentive regime will have to operate separately and distinct from the prisons' breach of discipline processes. Punishment for an infraction should not result in a prisoner's suspension or expulsion from rehabilitation activities. Any safety or security issue impacting on rehabilitation participation should not also be punishment resulting from a breach of discipline. These are difficult distinctions to make in a custodial environment.

Breach of discipline processes often lack the characteristics of effective punishment; swift, certain, consistent and proportionate. Administrative processes are cumbersome and time-consuming, and uniformly disliked by officers and prisoners. It may be possible to firewall a prisoner incentive regime from breach of discipline, but as an over-haul of the breach regime is long-overdue it may be more effective in the long run to review it before attempting to establish a prisoner incentive scheme.

What changes to governance arrangements would improve rehabilitation and reduce recidivism?

What are appropriate governance mechanisms to improve policy and funding decision-making? In particular, what arrangements would best ensure that:

- Government is advised of priority criminal justice reform issues?
- Justice system reforms are implemented and coordinated?
- An environment conducive to evidence-based policymaking is fostered?

I can see no reason why a Justice Reform Office, as described in the draft report, would not be able to achieve those objectives. That model is certainly preferable to the status quo. The formation of a super Justice Department would require significant machinery-of-government structural changes, risking disruption to business-as-usual activities of the core agencies for some time. Consideration should be given to an independent board of the Office or at least an independent chair.

Recommendations:

1. Prioritise health-based responses to illicit drug use in prison.
2. Undertake research into illicit drug use in Queensland prisons to inform better screening and assessment tools, and more effective health-based interventions.
3. To encourage more effective rehabilitation and reintegration:
 - a. Adopt an evidence-based prison quality framework.
 - b. Professionalise the custodial officer role and improve pay and conditions.
 - c. Extend correctional centre and Probation and Parole Service operating hours and management presence.
 - d. Update the Integrated Offender Management Strategy and upgrade or replace the Integrated Offender Management System.
4. Make throughcare information, ideally based on validated assessments, available to courts making sentencing decisions and bail determinations.
5. Establish a medium security classification for prisoners.
6. Review the roles and functions of correctional centres within the overall custodial system, with a view to improving throughcare effectiveness and efficiency.
7. Review the breach of discipline regime before implementing any prisoner incentive scheme.
8. Establish an independent board to oversight the Justice Reform Office.