

Queensland Productivity Commission
inquiry into imprisonment and recidivism

Queensland Government response

January 2020



**Queensland
Government**

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Introduction — Imprisonment and recidivism

In September 2018, the Queensland Government directed the Queensland Productivity Commission (QPC) to undertake an inquiry into imprisonment and recidivism (the Inquiry).

The commissioning of the Inquiry was part of a broader effort by the Queensland Government to improve the criminal justice system and ensure it operates to better serve the needs of Queenslanders and keep communities safe. The Queensland Government has demonstrated this commitment to improving the operation of the criminal justice system through activities such as:

- Action on ice: the Queensland Government's plan to address use and harms caused by crystal methamphetamine
- the Queensland Government response to the 2016 Queensland Parole System Review report
- the Queensland Government response to recommendations of the Crime and Corruption Commission's Taskforce Flaxton final report
- implementation of the Youth Justice Strategy 2019-2023 and the Queensland Government response to the Atkinson Report on Youth Justice
- implementation of the Domestic and Family Violence Prevention Strategy 2016-2026 and the Queensland Government response to the Not Now, Not Ever: Putting an end to Domestic and Family Violence in Queensland report
- the establishment of a new Department of Youth Justice, construction of a new youth detention centre at Wacol, and additional programs to help respond to the causes of youth offending and reoffending
- the construction of the new Southern Queensland Correctional Precinct prison incorporating therapeutic health and rehabilitation elements
- the Our Future State: Advancing Queensland's Priorities Keep Communities Safe priority.

After an Issues Paper, a draft report, and consultation involving more than 150 meetings with over 600 stakeholders, the QPC provided the Queensland Government with its final report on 1 August 2019.

The QPC makes 42 recommendations aimed at making individuals, families, and communities safer by implementing strategies that lower rates of recidivism while better managing justice system costs generally and imprisonment levels specifically.

The Queensland Government acknowledges the work of the QPC in undertaking a comprehensive examination of imprisonment and recidivism in Queensland.

The Inquiry constitutes a thorough exploration of Queensland's criminal justice system with a focus on the use of imprisonment and potential alternatives. The QPC has been rigorous in its analyses and in its assessment of potential ways forward.

The Queensland Government is committed to keeping Queenslanders safe both in the short and longer term and supporting criminal justice agencies to ensure the safety and security of the community, including through upholding the law, preserving the peace, preventing and detecting crime and bringing to justice people who offend.

The evidence clearly demonstrates the need to focus on better responding to the causes of crime and violence, and on delivering effective prevention strategies – particularly those concerned with education, employment, and other social services as these intervention avenues are consistently highlighted in national and international contexts as necessary for effecting long term change and improving outcomes.

This response sets out the Queensland Government's position in relation to the issues raised by the Inquiry and its recommendations. The response outlines the government's commitments to keeping communities safe by putting prisons to their best possible use, holding offenders accountable for their actions, providing police and courts with a range of options that allow them to best address offending behaviour, and improving outcomes for victims.

The government acknowledges that the causes of offending are multi-faceted and complex and typically have their origins long before any contact with the criminal justice system. This means that wide-ranging responses are required if we are to be successful in protecting communities from crime.

With a wider array of targeted responses, we can reduce offending and reoffending, and reduce the harms caused by crime on individuals, families, and communities, throughout the state.

This is a major undertaking involving a number of challenging issues and meaningful change will take time to achieve. However, by drawing on the work of the QPC and continuing to build on the justice system reforms already underway, we have started the journey to a safer Queensland.

To support this exercise, the government will appoint an Implementation Committee with the necessary expertise and experience to guide delivery of the necessary criminal justice system reforms. This response to the QPC report outlines how we will do this.

Context

QPC report that:

- Imprisonment rates are rising despite falling crime rates with the rate of imprisonment increasing by more than 160 per cent since 1992
- This increase has primarily been driven by policy and system changes and a focus on short-term risk, not crime rates
- Social and economic disadvantage is strongly associated with imprisonment. Around 50 per cent of prisoners had a prior hospitalisation for a mental health issue and/or were subject to a child protection order—for female Indigenous prisoners, this figure climbs to 75 per cent
- Each month, over 1,000 prisoners are released back into the community. Over 50 per cent will reoffend and return to prison or to a community correction order within two years
- Imprisonment is expensive. It costs around \$111,000 per year to house each prisoner and, on current trends, investments of \$3.6 billion will be required to ensure that prison capacity is able to meet demand in 2025
- The rate of imprisonment for Aboriginal people and Torres Strait Islander people continues to outstrip the rate for the rest of the population.

The report also concludes that these challenges are not unique to Queensland and reflect wider Australian and international trends.

The causes of crime are complex and multifaceted. There is no single simple response that will reduce offending and the harms it causes to individuals, families and communities. Effectively responding to offending in Queensland will require comprehensive, targeted, responsive and nuanced whole of government efforts.

Coordinated multi agency approaches guided by the evidence base and a real understanding of offenders' trajectories and communities' circumstances will be critical to implementing the new approaches necessary to keep communities safe both now and into the future.

Build a better decision-making architecture

Recommendations one to four propose implementation of overarching criminal justice system objectives, and the creation of a new statutory body — the Justice Reform Office — to oversee criminal justice system reform and introduction of a justice impact test for policy proposals.

The Queensland Government agrees that establishing whole-of-criminal justice system objectives, measures, and decision-making architecture, is a foundational component of a more effective criminal justice system.

The Queensland Government is committed to implementing a whole of system approach to criminal justice system reform that brings agencies together to drive the necessary changes in policies and practices. As part of this work, the government will:

- Develop and operationalise whole-of-system key performance indicators and measures
- Develop and operationalise a criminal justice system demand and financial forecasting model to support pre-implementation testing of criminal justice policy initiatives so that decision makers can more fully understand the potential impact of policy proposals
- Firmly embed a whole-of-system monitoring and decision-making architecture as a core feature of the Queensland criminal justice system.

The final form of the decision-making architecture for Queensland's criminal justice system will be developed through consideration of a range of innovative reform options, including the QPC's proposal for the establishment of a Justice Reform Office.

Reducing the stock of criminal offences

Recommendation five proposes reducing the number of offences in law through a review of existing criminal offences, with a view to recommending the removal of offences in circumstances where the benefits of inclusion outweigh the costs.

The Queensland Government agrees with the QPC that there is value in examining whether the state's criminal law is best positioned to deliver on the objectives of increased community safety, and the upholding of community standards.

There are no legislative amendments planned or plans to remove offences. The Queensland Government will explore opportunities to increase the capacity of the criminal justice system to provide a broader range of available responses to low-harm offending. This will be pursued with a view to ensuring that in each case, effective and appropriate responses are available and that the system concentrates the resources of courts and prisons on the most serious matters.

Illicit drug reform

Recommendations six and seven propose the establishment of a reform taskforce to oversee a staged transition from the criminalisation of illicit drugs to an overarching policy of legalised and regulated supply and possession.

The Queensland Government is committed to reducing the harmful impacts of illicit drug use on the Queensland community. The Government also acknowledges that there have been many in the public debate who have called for an alternative to the strict criminalisation of drug users, including leaders from our Police Service with long-standing experience fighting drug trafficking and use on our streets. The Queensland Government has no intention of altering any drug laws in Queensland.

In recent years the Government commitment to reducing the harmful impacts of illicit drug use has been demonstrated through initiatives including:

- Implementation (from January 2018) of the Drug and Alcohol Court Queensland which provides an intensive and targeted response to adult offenders with severe drug and alcohol use directly associated with their offending with the goal of reducing future offending
- *Action on ice: The Queensland Government's plan to address use and harms caused by crystal methamphetamine* which supports diversion of minor or moderate illicit drug offenders from the criminal justice system for assessment, education and treatment through intervention programs.

Underpinning these approaches is the understanding that while illicit drugs do have the potential to cause harm to users, health-based responses to drug use are an important part of addressing potential harm. This is reflective of a broader evolution in the way governments across Australia and further afield are now responding to illicit drug use.

The Queensland Government is committed to further developing health-based approaches to illicit drug use within current legislative and policy frameworks, including through progressing:

- The development of a therapeutic health and rehabilitation model for the new Southern Queensland Correctional Precinct prison
- The delivery of appropriate Alcohol and Other Drug screening, assessment, referral pathways, and treatment programs for offenders referred from the criminal justice system
- The continuation of the foundation initiatives included in the *Action on ice* plan, including:
 - enhancing public awareness of the nature and effects of ice and how to find help
 - supporting families involved in the child protection system to overcome ice issues

- enhancing the capacity of the Alcohol and Drug Information Service by:
 - expanding regional services provided by Family Drug Support
 - delivering more training and resources to frontline services
 - supporting Aboriginal and Torres Strait Islander communities to develop community-led responses to ice and other drugs of concern.
- expanding roadside drug testing up to 75,000 tests within the next four years
- establishing a new 42-bed residential drug rehabilitation and treatment facility in Rockhampton which will improve access to specialist alcohol and other drugs service for people living in central Queensland affected by ice and other substances
- trialing a youth residential care service in Brisbane for high-risk young people in out-of-home care to provide intensive support for their complex needs, including mental health and substance use.
- Supporting additional investment in alcohol and other drug treatment services, including:
 - increasing access to an expanded range of alcohol and other drug treatment services provided through the non-government sector
 - supporting targeted service responses in prevention, community engagement, and specialist alcohol and other drug treatment and interventions, across six Queensland Health Hospital and Health Services.

Restorative justice

Recommendation eight proposes the introduction of victim focused restitution and restoration into sentencing process.

The Queensland Government acknowledges the potential for restitution and restorative justice approaches to improve outcomes for victims, offenders, and communities.

The Queensland Government currently supports Adult Restorative Justice Conferencing in selected locations across the state. These conferences provide an opportunity for victims to tell their story and to hold the person who caused the harm accountable for their actions. Adult Restorative Justice Conferencing also provides an opportunity for the person who caused the harm to take responsibility for their actions and take steps towards repairing that harm. Restorative justice allows both the victim and the offender to have a more meaningful engagement and understanding of the justice process they are participating in.

Consistent with the QPC's call for an expansion in the use of restitution and restorative justice, the Queensland Government will develop an updated Adult Restorative Justice Conferencing model and will consider opportunities to expand the use of restorative justice conferencing in Queensland with a view for improving outcomes for victims of crimes and offenders.

Specific QPC proposals will be considered as part of this process.

Increase sentencing options

Recommendations nine to thirteen propose the adoption of sentencing options including a new community corrections order, better rehabilitation options for offenders with cognitive impairment, mental illness and drug problems, including residential supervision, exploration of making monetary penalties more effective, a review of judicial discretion and enhancements to the Queensland Sentencing Advisory Council (QSAC).

The government is committed to broadening the capacity of Queensland's justice system to deliver the most effective and appropriate sanctions to offenders through an expanded range of sentencing options that:

- Provide meaningful and proportionate sanctions
- Target the causes of offending
- Support community safety.

Opportunities to expand sentencing options will be explored in the context of QSAC's *Community-based sentencing orders, imprisonment and parole options final report*. QPC's recommendations complement the work of QSAC. The QSAC Report also makes recommendations in relation to the introduction of community corrections orders, the use of home detention, reviewing legislated restrictions on judicial discretion, and arrangements to adequately resource the implementation of new sentencing options (including the introduction of services to assess and treat offender circumstances such as alcohol and drug problems, mental illness and other relevant issues).

Additionally, the government will continue to explore options to keep communities safe now and into the future, including exploring the extent to which sentences appropriately respond to harms to individuals and communities. This will include ensuring that the criminal justice system delivers effective responses to offending that do not jeopardise community safety and do not impose unnecessary cost burdens on communities.

Improve the use of remand

Recommendations 14 to 17 propose a series of measures to increase the efficient and effective use of bail and remand, including new risk assessment tools, increased support services, increased non-custodial options including electronic monitoring and home detention, bail accommodation for homeless offenders, amendments to the *Bail Act 1980*, investigation of opportunities to reduce system delays and increased access to programs for prisoners on remand.

The Queensland Government recognises that the efficient interaction of the bail and remand systems is crucial to the effective functioning of the criminal justice system and the productive use of prison as an element of that system.

The government is committed to improving the use of bail and remand and will implement a suite of measures including:

- Improving the capacity of courts to consider applications for remand by establishing a Remand Registrar and a dedicated, actively managed remand list
- Undertaking Magistrate-led training for prescribed police officers on granting police bail
- Delivering a Bail Bench Book to support consistent decision making on bail matters across the Magistracy
- Delivering a Rapid Remand Assessment process to fast-track applications for grants of aid for summary pleas by eligible applicants who are remanded in custody
- Expanding the operations of Court Link, which assesses defendants' suitability for a bail support program before they are remanded to more locations

- Establishing a bail service that assesses remandees for bail eligibility and supports defendants to meet bail conditions following release.

Specific QPC proposals will also be considered as part of this process.

Improve rehabilitation and reintegration

Recommendations 18 to 27 propose a range of changes in the operation and governance of corrective services with a view to improving rehabilitation and reintegration of offenders.

Proposals include publication of, and reporting against:

- A corrective services statement of intent
- Measures to address the impacts of overcrowding on rehabilitation
- Changes to improve rehabilitation outcomes
- Establishment of an Independent Inspectorate of Prisons
- Changes to support improved reintegration
- Transfer of responsibility for post-release mental health and substance abuse treatment
- Implementation of a minimum standard of post-release support
- Evaluation of contracted reintegration services
- Management of technical breaches of parole.

The Queensland Government acknowledges that to effectively support community safety, our correctional system needs to be focused on doing all that it can to reduce the risk of prisoners reoffending when they re-enter the community. The Queensland Government is committed to enhancing the provision of rehabilitation and reintegration services to offenders in order to reduce recidivism. This commitment sits within the government's broader commitment to enhancing Queensland's correctional system and is demonstrated and progressed through a range of initiatives including:

- Delivering a world-class probation and parole system in response to the Queensland Parole System Review
- Developing a mature, corrupting resistant culture in the correctional system in line with the recommendations of the Crime and Corruption Commission's Taskforce Flaxton report
- Transforming Queensland Corrective Services into a forward-thinking, top tier, public safety agency through implementation of a 10-year strategic vision *Corrections 2030*.

In light of the QPC's recommendations, the Queensland Government will undertake a range of activities targeted at improving rehabilitation and reintegration activities in the correctional system. This will include:

- Developing an enhanced throughcare service delivery model for rehabilitation programs and services for remandees, prisoners and offenders
- Developing an end to end case management system that supports prisoners to become parole-ready and then assists with the exit on parole
- Improving and extending re-entry services for women prisoners in South East Queensland and Townsville
- Providing housing reintegration responses to address the needs of people who would otherwise be ineligible for bail or exit prison into homelessness
- Continuing the Aurukun prisoner reintegration program
- Addressing the health needs of prisoners through initiatives including improved primary healthcare for prisoners, an expanded range of Alcohol and Other Drugs programs, continuation of the Indigenous Mental Health Intervention Program, and piloting an Aboriginal and Torres Strait Islander Women's Rehabilitation and Healing Program
- Establishing an Independent Inspectorate of Prisons to oversee certain primary places of detention (namely adult and youth correctional facilities and watch houses)

- Developing a therapeutic health and rehabilitation model for the new Southern Queensland Correctional Precinct prison near Gatton.

Develop an infrastructure plan

Recommendations 28 and 29 concern the development and implementation of a long-term correctional infrastructure strategy.

The Queensland Government has progressed several infrastructure reforms in both the youth justice and adult correctional systems in recent years, including the construction of a new 32 bed youth detention centre at Wacol, which will provide for better and safer conditions for both young people in detention and for youth detention centre staff.

The Queensland Government is committed to ensuring that the development of the correctional system's infrastructure portfolio is undertaken in the context of a whole of criminal justice system planning and decision-making processes. The government will embed a decision-making architecture that integrates whole of system forecasting, monitoring, and initiative testing, into criminal justice system decision making processes.

While the precise form of this architecture is yet to be developed, the specific recommendations of the QPC will be considered throughout this process to help inform strategies about correctional infrastructure.

In the immediate future, the commitment to applying whole of system thinking to the development of the correctional infrastructure portfolio will be demonstrated through the development of a therapeutic health and rehabilitation model for the new Southern Queensland Correctional Precinct prison.

Target prevention and early intervention

Recommendations 30 to 33 propose implementation of a number of early intervention initiatives including justice reinvestment approaches, exploring responses to disengagement from schooling, preventative approaches to child sex abuse and programs to support the children of prisoners.

The Queensland Government is committed to reducing offending through prevention and early intervention initiatives, recognising that intervening early helps reduce the long term and life course costs of both victimisation and offending. Together with giving specific consideration to the recommendations from the QPC in this regard, the Queensland Government will:

- Continue to support place-based interventions to respond to and prevent crime and associated issues in locations including Rockhampton, Townsville, Mount Isa, and Cairns
- Ensure that monitoring and reporting mechanisms developed for the criminal justice system support place-based responses in communities with high levels of offending
- Continue to support justice reinvestment activities in Cherbourg, and explore opportunities to build on and expand justice reinvestment endeavours within other communities
- Explore education and family focused interventions to support the children of prisoners
- Continue to implement the Keeping us together parenting program for mothers on remand in Queensland correctional centres
- Implement *Prevent. Support. Believe. Queensland's Framework to address Sexual Violence* which includes a strategy to expand access to early intervention programs for children and young people displaying harmful sexual behaviours or who are at risk of experiencing sexual violence.

Expand diversionary options

Recommendations 34 to 36 propose increased and expanded use of diversionary options, including adult cautioning, deferred prosecution, local policing plans and exploration of the impacts of implementation of the Domestic and Family Violence Prevention Strategy.

The Queensland Government currently supports a range of diversionary options, including police drug diversion which allows police to refer an eligible person to a drug diversion assessment program, as an alternative to prosecution for being in possession of small amounts of cannabis.

The Queensland Government is committed to ensuring police and courts have a range of responses available to effectively address offending behaviour and will consider the specific recommendations of the QPC as part of this process. There are no legislative amendments planned. The government will continue to work towards this commitment by:

- Supporting all options available to police, including the increased use of existing adult cautioning options, facilitating more police referrals to Adult Restorative Justice Conferencing, and exploring implementation of deferred prosecution agreements
- Continuing to monitor and evaluate implementation of Queensland's *Domestic and Family Violence Prevention Strategy*.

Addressing the disproportionate representation of Aboriginal and Torres Strait Islander peoples (recommendations 37 to 42)

Recommendations 37 to 42 include proposals to address the overrepresentation of Aboriginal peoples and Torres Strait Islander peoples in the criminal justice system, including through service delivery reform, local justice agreements, supporting economic development and changes to alcohol management in discrete communities.

The Queensland Government is committed to addressing the disproportionate representation of Aboriginal peoples and Torres Strait Islander peoples across the criminal justice system and has placed this issue at the core of its criminal justice system reform efforts. Key initiatives currently being progressed in this space include:

- Continuing the Aurukun Restorative Justice and Aurukun prisoner reintegration programs
- Continuing to support organisations that assist Aboriginal and Torres Strait Islander people while in prison and throughout the reintegration process
- Continuing to implement its response to the QPC *Service delivery in Queensland's remote and discrete Indigenous communities* report through the Local Thriving Communities reform which will establish greater decision-making authority in service delivery and economic development through a collaborative approach between individual communities and the Queensland Government.

In response to the QPC recommendations, the government will consider the specific proposals of the QPC and will:

- Support the involvement of Aboriginal communities and Torres Strait Islander communities in decisions relating to justice system issues by:
 - enhancing the capacity of Community Justice Groups
 - recognising the status of Community Justice Groups as a community-specific input in the justice system
 - committing to the overarching framework provided by the Local Thriving Communities reforms.

- Include measures associated with impacts on Aboriginal and Torres Strait Islander Queenslanders as a key component in its criminal justice system initiative testing and reporting
- Continuing to work with communities to implement the renewed approach to alcohol management in Aboriginal and Torres Strait Islander communities.

The Queensland Government will also continue collaborating with Aboriginal peoples and Torres Strait Islander peoples on closing the gap targets, to reduce disadvantage and improve outcomes with respect to life expectancy, child mortality, access to early childhood education, educational achievement, and employment outcomes.

Next steps

The Queensland Government will appoint an Implementation Committee to guide delivery of its response to the QPC Inquiry. The Implementation Committee will consult with communities, stakeholders, and government agencies, and will provide practical input and advice to shape how the government progresses its response to individual recommendations and proposals of the QPC Inquiry.

The Implementation Committee will commence its work in early 2020.