



September 2018

Issues Paper

Imprisonment and Recidivism



© Queensland Productivity Commission 2018

The Queensland Productivity Commission supports and encourages the dissemination and exchange of information. However, copyright protects this document.

The Queensland Productivity Commission has no objection to this material being reproduced, made available online or electronically but only if it is recognised as the owner of the copyright and this material remains unaltered.

Imprisonment and recidivism

Have your say

The Queensland Productivity Commission has released this issues paper to assist interested parties to prepare submissions to the inquiry. It outlines the scope of the inquiry and provides background material. It also asks questions about matters the Commission is seeking comments and information on.

Participants should feel free to comment on any matters that are relevant to the inquiry's terms of reference, whether they are raised in this issues paper or not.

Make a submission

The Commission invites all interested parties to make a submission to the inquiry.

Submissions are due by close of business **26 October 2018**. They can be lodged online or via post:

<http://www.qpc.qld.gov.au/inquiries>

Imprisonment and recidivism inquiry

Queensland Productivity Commission
PO Box 12112
George St,
Brisbane 4003

Submissions will be treated as public documents and published on the Commission's website. If your submission contains genuinely confidential material, please provide the confidential material in a clearly marked separate attachment.

Register your interest

You can [register your interest](#) to ensure you receive our email alerts on key developments, including release of reports, call for submissions and details of public consultation.

Contact us

Enquiries regarding this inquiry can be made by telephone (07) 3015 5111 or online at <http://qpc.qld.gov.au/contact-us/>

Key dates

September 2018 Terms of reference

13 September 2018 Issues paper released

26 October 2018 Due date for submissions

1 February 2019 Release of the draft report

February 2019 – Further consultation

1 August 2019 Final report submitted to the Queensland Government

About us

The Queensland Productivity Commission provides independent advice on complex economic and regulatory issues.

The Commission has an advisory role and operates independently from the Queensland Government—its views, findings and recommendations are based on its own analysis and judgments.

After undertaking a public inquiry, the Commission provides a written report to the Treasurer, who must provide a written response within six months. Following this, the Commission publishes the final report.

Further information on the Commission and its functions is on the Commission's website, www.qpc.qld.gov.au

Contents

Imprisonment and recidivism	1
1. About the inquiry	3
What has the Commission been asked to do?	3
The scope of the inquiry	4
2. Background	5
3. Trends and causes	6
Crime rates	6
Imprisonment	7
4. Recidivism	10
5. Costs and benefits of imprisonment	11
6. Reducing imprisonment	12
7. Preventing recidivism	14
8. Governance	16
Appendix A: Terms of reference	18

1. About the inquiry

In September 2018, the Queensland Government asked the Commission to undertake an inquiry into imprisonment and recidivism in Queensland.

The inquiry has been commissioned in response to concerns about increases in prisoner numbers and high rates of recidivism. The number of people in Queensland prisons has risen by more than 50 per cent in the five years to 2017, and more than half of prisoners reoffend and are given a new sentence within two years of their release. The rate of imprisonment for Aboriginal and Torres Strait Islander people continues to outstrip the rate for the rest of the population, and imprisonment rates for women have been increasing faster than for men.

The growth in prisoner numbers has significant social and economic implications for affected individuals and their families, the wider community and for the Queensland Government.

What has the Commission been asked to do?

The terms of reference for this inquiry ask us to examine how government resources and policies can be best used to reduce imprisonment and recidivism and improve outcomes for the community over the medium to longer term. The terms of reference ask us to consider:

- trends in the rate of imprisonment in recent years, including comparison with other sentencing options
- evidence about the causal factors underlying trends in the rate of imprisonment
- factors driving Aboriginal and Torres Strait Islander imprisonment and recidivism and options to improve matters
- factors driving the imprisonment and recidivism of women and options to improve matters
- factors affecting youth offending and corresponding imprisonment rates and options to improve matters
- measures of prisoner recidivism rates, trends in recidivism and causes of these trends
- the benefits and costs of imprisonment, including its social effects, financial costs and effectiveness in reducing/preventing crime
- the effectiveness of programs and services in Australian and overseas to reduce the number of people in prison and returning to prison, including prevention and early intervention approaches, non-imprisonment sentencing options, and the rehabilitation and reintegration of prisoners
- the efficacy of adopting an investment approach, whereby investments in prevention, early intervention and rehabilitation deliver benefits and savings over the longer term; and
- barriers to potential improvements and how these barriers could be lowered.

The terms of reference require that our recommendations are consistent with the *Queensland Government Policy on the Contracting-out of Services*, which states that there will be no contracting-out of services currently provided by the Queensland Government unless it can be clearly demonstrated to be in the public interest.

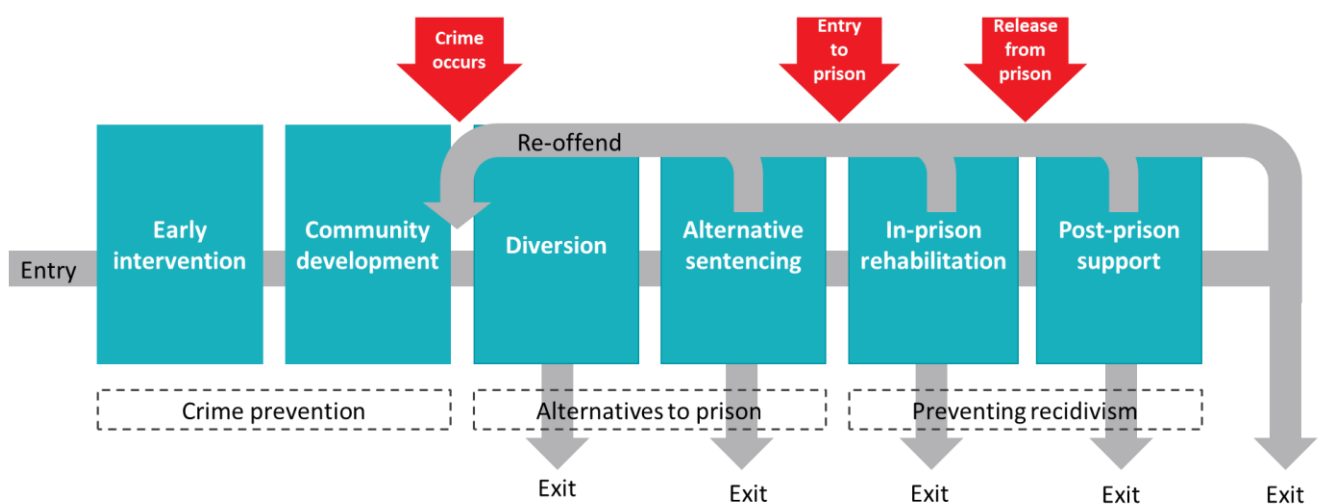
The full terms of reference are provided in appendix A.

The scope of the inquiry

There are many complex and interrelated issues that play a role in whether an individual commits an offence and is sentenced to a prison term, and whether that individual goes on to reoffend after their prison term has been served.

For this reason, the scope of this inquiry is wider than prisons and imprisonment and encompasses the broader areas and systems that influence imprisonment and recidivism—from early intervention to post-prison support (Figure 1).

Figure 1 Pathways in and out of prison



Although this inquiry is broad in scope—it involves many parts of the criminal justice system, as well as multiple other services—the focus of this inquiry is not a detailed operational review of each of these elements. Rather, the Commission will investigate those factors that are likely to have the greatest impacts on the social and financial costs (and benefits) of imprisonment and recidivism.

There have been at least 10 major reviews of aspects of the Queensland criminal justice system over the past decade, with many recommendations still being implemented today. This inquiry will need to build on and add value to these efforts.

2. Background

A range of institutions make up the criminal justice system, including:

- law enforcement agencies
- courts
- agencies and organisations responsible for detaining, supervising and rehabilitating offenders (including prisons)
- a range of advocacy and oversight bodies
- agencies involved in prevention and intervention.

These institutions work together to deliver the outcomes observed in Queensland but are bound by the purposes and objectives of the criminal justice system in which they operate.

Understanding those purpose and objectives is important to assess how well the system is performing and how things could be improved.

The purposes and objectives of the criminal justice system are largely determined by society's expectations; however, it can generally be said that the criminal justice system serves three key purposes:

- making the community safer—the criminal justice system provides various deterrents that help to prevent crime, and removes offenders from society or limits their interactions with others

- rehabilitating offenders so that they can lead more productive lives—to the extent that rehabilitation prevents reoffending, it can make the community safer
- enacting fair retribution for wrongs committed—while retribution may primarily meet society's sense that a serious wrong deserves an appropriate punishment, it also serves as a means for preventing victims and others affected by a crime from seeking personal retaliation.

These purposes are reflected in legislation, such as the *Penalties and Sentences Act 1992*, which outlines the purposes for which sentences may be imposed on offenders.

Achieving these purposes may involve trade-offs. For example, retributive punishments may make it difficult to rehabilitate prisoners, which makes them more likely to commit another offence after their release. Similarly, a focus on rehabilitation over punishment may weaken disincentives to commit crime.

Any analysis needs to recognise the tensions that exist between the different purposes (and the fact that society's expectations play a role in how our justice system works in practice). An important consideration will be the extent to which punishment and rehabilitation work to improve or reduce community safety.

Questions

- Does the criminal justice system make the community safer, rehabilitate offenders and enact fair retribution? Does it do it well?
- Does the criminal justice system achieve the right balance between the three purposes outlined above? If not, what purpose should be given more/less weight and why?
- How should competing interests and concerns (for example, the interests of victims, offenders and the broader community) be balanced?

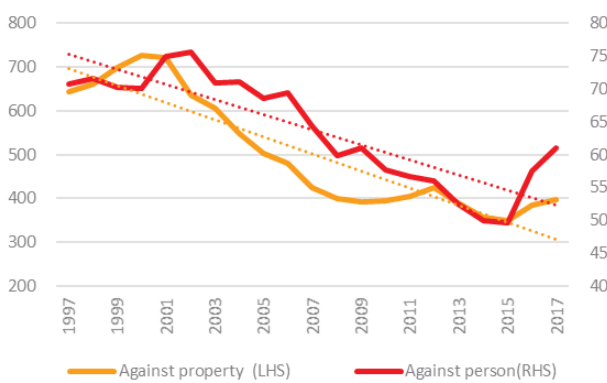
3. Trends and causes

Crime rates

Data show that most crime rates in Queensland have trended downward over the last two decades, with rates for property crime, violence and murder all declining.

Reported offences against the person—which include offences such as murder, assault and rape—have declined significantly, with trend rates¹ falling by almost a third between 1997 and 2015. Offences against property—which include burglary, car and other theft—fell by a similar rate.

Figure 2 Reported offence rates in Queensland, per 100,000 people



Source: Queensland Government data, Qld reported offences rates, 2018.

Although reported crime rates have fallen, perceptions about crime do not reflect

this—surveys regularly show that most people believe that rates of crime are increasing.

While regional trends are similar to average trends for the state, some regions experienced increases in reported offence rates for serious crimes.

Offence data suggest that criminal activity tends to be highest in those regions with the highest levels of socio-economic disadvantage.

Influences on crime rates

There are many possible influences on crime rates. For example, research suggests that:

- Increases in police manpower and targeted deployments to crime 'hot-spots' may deter crime from occurring—some policing programs have led to large decreases in offence rates.
- Stronger sentencing may do little to deter criminal activity, other than in certain limited circumstances.
- Economic opportunity reduces criminal activity, with both higher employment rates and higher wages linked to lower criminal activity.
- Factors like low self-control, mental impairment, and drug and alcohol abuse are risk factors for criminal behaviour.
- Offenders are more likely to be victims of crime themselves—offenders are not only likely to be from the same socio-economic group as their victims but are frequently also victims of crime.

Questions

An analysis of imprisonment needs to understand the factors influencing the demand for prison services, including crime rates.

- What factors are important to consider when thinking about crime trends and their impact on imprisonment? Are there other factors relating to crime rates that are important for this inquiry?

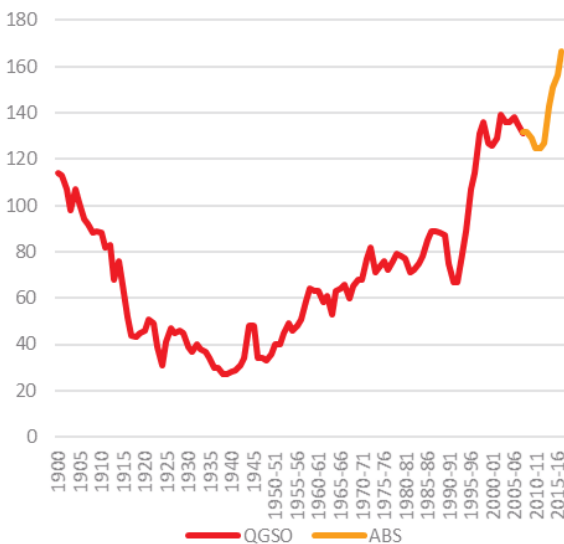
¹ Some caution is necessary when interpreting reported offence rates—changes may reflect the rate at which crimes are reported or policed rather than a change in the rate at which crimes are committed.

Imprisonment

Between 2012 and 2017, the number of people in Queensland prisons grew by 52 per cent—faster than the general population growth.

Although the recent rise in prisoner numbers has been rapid, it continues a long-term trend towards higher rates of imprisonment—the rate has increased from a low of around 27 people per 100,000 population in 1939 to around 166 today, an increase of 516 per cent.

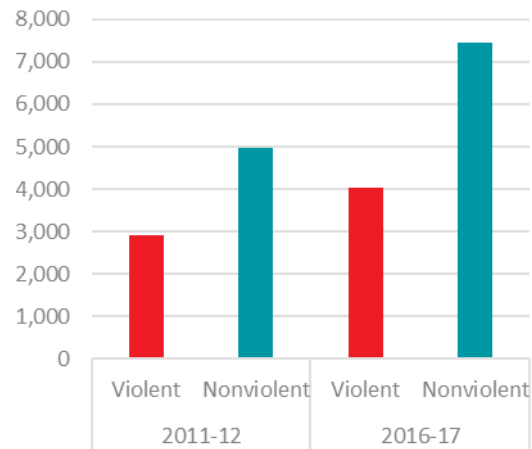
Figure 3 Imprisonment rate in Queensland, per 100,000 population



Source: Queensland Government Statistician's Office, *Prisons and prisoners, Queensland, 1859 to 2007–2008*; ABS, *Prisoners in Australia, 2017*; ABS, *Australian demographic statistics, 2017*.

The majority (65 per cent) of prisoners in Queensland are imprisoned for non-violent offences, with this proportion increasing in recent years. Between 2011–12 and 2016–17, imprisonment for non-violent offences increased by 50 per cent, compared to 39 per cent for violent offences.

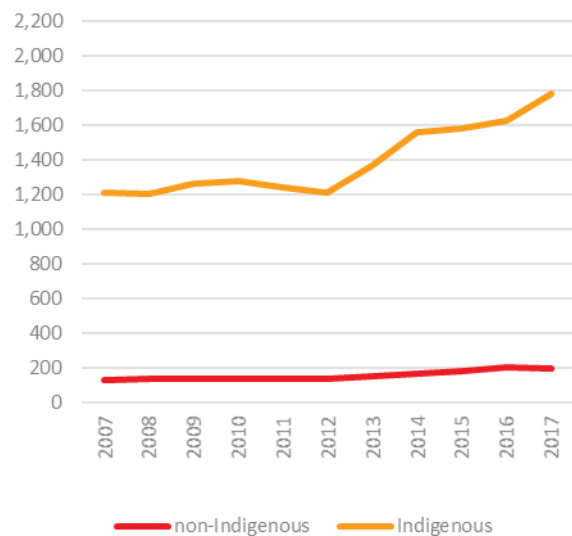
Figure 4 Sentences involving custody in correctional institutions, Queensland



Source: ABS, *Criminal courts 2011–12, 2016–17*.

Indigenous imprisonment rates are higher and are increasing more quickly than the non-Indigenous rate—the age-standardised rate of imprisonment for Indigenous Queenslanders (1,583 per 100,000 adult persons) grew by 39 per cent over the last decade, compared to 23 per cent for non-Indigenous Queenslanders (161 per 100,000 adult persons).

Figure 5 Age standardised imprisonment rate in Queensland by Indigenous status, per 100,000 adult population

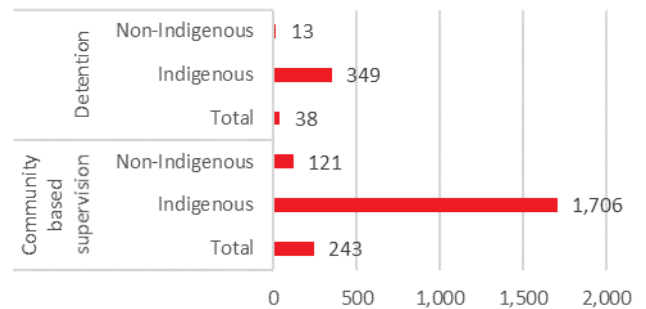


Source: Productivity Commission, *Report on government services, 2018*.

While women are less likely to be imprisoned than men, the female imprisonment rate has increased faster in the last decade—by 40 per cent, compared to 25 per cent for males.

Although the number of young people in detention is small (186 on average throughout 2015–16), the rate of youth detention has increased 32 per cent since 2011–12, to 38 per 100,000 young people in 2015–16. The majority (69 per cent) of detainees are young Indigenous people. Community-based supervision is used more frequently than detention, with around 1,184 youths under supervision on a typical day in 2015–16.

Figure 6 Youth detention in Queensland, rate per 100,000 people aged 10–17 years, 2015–16



Source: Productivity Commission, *Report on government services, 2018*.

Box 1 Are imprisonment rates higher than they should be?

An increase in imprisonment rates does not necessarily mean they are too high. The important question is whether the increase in the prison population provides net benefits to the community, relative to alternative options. Considerations might include:

- how the change in imprisonment has affected community safety and criminal activity
- the economic and social costs of imprisonment
- how the various benefits that prison may provide (deterrence, retribution, rehabilitation and incapacitation) should be valued
- whether the current use of imprisonment for certain offences is the most appropriate sentencing option
- what alternative options could be used and whether these would provide greater net benefits to the community than prison.

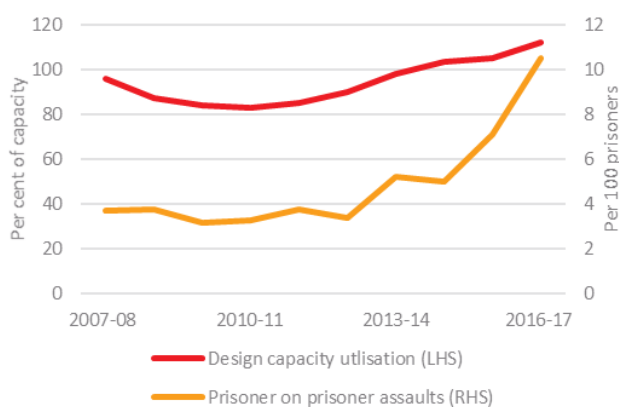
According to statistics from the OECD, adult incarceration rates vary considerably across countries. Amongst OECD countries, the United States' incarceration rate is the highest, at 698 incarcerated people per 100,000 population, while Iceland's rate is low, at 45 (2016 rates). Australia's incarceration rate is listed as 152, slightly higher than the OECD average of 147. Our nearest neighbour, New Zealand, has a rate of 202 incarcerated people per 100,000 population.

Although Australia's incarceration rate is not high by international standards, incarceration rates in some geographical regions and for some population groups are. For example, imprisonment rates in remote Aboriginal and Torres Strait Islander communities are very high by international standards.

The number of prisoners who have not been sentenced (that is, who are on remand) is also increasing faster than the general prison population—the proportion of unsentenced prisoners increased from 23 per cent in 2007 to 30 per cent in 2017.

Prison capacity has not kept up with the growth in prisoner numbers—in 2016–17, prisons across the state were 12 per cent above their design capacity. While we have not established causality, increased overcrowding has coincided with a significant increase in prison assaults.

Figure 7 Prison design capacity utilisation and rates of prison assaults, Queensland



Source: Productivity Commission, *Report on Government Services 2018*.

Data suggest courts are becoming less likely to use non-custodial sentencing options—between 2011–12 and 2016–17, custodial orders increased 39 per cent, while non-custodial orders increased by only 0.6 per cent.

Key contributors to the changes to sentencing over this period include:

- a decline in the use of monetary orders
- increases in both custodial and non-custodial sentences for non-violent offenders.

Influences on imprisonment

There are many possible influences for the observed changes in incarceration rates, including:

- increased apprehension of offenders
- changes in offending behaviour, and/or changes in community expectations about what people should be imprisoned for
- sentencing laws, including mandatory sentencing and non-parole periods, and a lack of sentencing options for breaches of suspended sentences
- high recidivism rates
- slower processing of offenders
- reduced use of parole, and/or increases in the number of parole breaches.

Questions

- What are the main factors that are driving rising imprisonment rates in Queensland?
 - What are the key factors that have driven the increase in Indigenous incarceration rates?
 - Why have female imprisonment rates increased relative to male rates?
- Has sentencing changed over the last ten years? What are the key factors that have driven these changes? What is driving the shift from non-custodial sentences?
- Many prisoners are imprisoned for non-violent offences. Why is this the case? What are the pathways which lead to non-violent offences and low-level violent offenders being imprisoned?
- Is the severity of sentencing outcomes broadly reflective of—or proportional to—the harm done to victims of crime?

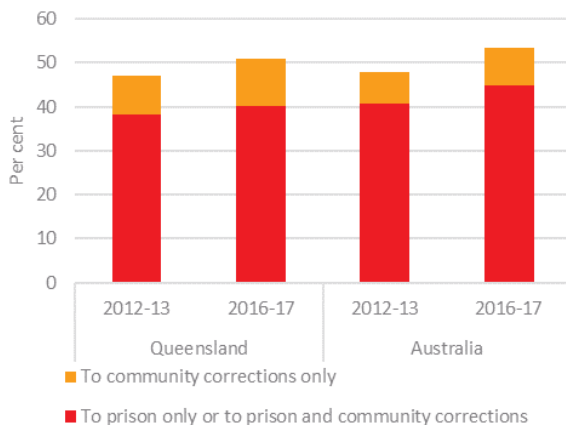
4. Recidivism

There are two common measures of recidivism—the proportion of prisoners who return to prison within two years of their release, and the proportion of prisoners who have previously been in prison.

Both measures suggest that recidivism rates are high.

Productivity Commission data show more than half (51 per cent) of prisoners reoffend and are given a new community corrections or prison sentence within two years of their release.

Figure 8 Proportion of prisoners returned to corrective services with a new sentence within two years of release



Note: Community corrections includes a range of supervised, community-based sentences.

Source: Productivity Commission, Report on Government Services 2018.

At the same time, almost 64 per cent of Queensland's prison population have been previously imprisoned. This rate has been relatively stable over the last decade but is higher than the Australian average (56 per cent).

The data also show that a high proportion of individuals who commit offences are likely to do so multiple times. For example, around 34 per cent of all offenders in 2016–17 were proceeded against on more than one occasion during that year—more than 6 per cent were proceeded against five or more times.

It is likely that a range of issues are affecting the high rate of reoffending. Possible causes include:

- untreated mental, drug or other issues that result in a high predisposition to offend
- a loss of skills, support networks and financial assets that make it difficult for prisoners to reintegrate into society after their release
- difficulty finding employment after being released
- a lack of housing and other support services for offenders leaving prison.

Box 2 Measuring recidivism

A better indicator of recidivism might include an assessment of the nature of any reoffending. For example, recidivism might be considered more of a problem if subsequent offences were becoming more serious.

Questions

- What principal factors influence recidivism? What evidence is available to support an analysis of the causes of recidivism?
- Do recidivism rates vary between different classes of prisoners (type of crime, age, ethnic or cultural differences)?

5. Costs and benefits of imprisonment

A key task for this inquiry is to assess the costs and benefits of imprisonment. The aim is to provide information that will assist policy formation by identifying approaches that provide the greatest benefits to the community.

Imprisonment may provide a range of benefits to the community including:

- making the community safer
- rehabilitating prisoners
- providing a means for victims of crime to feel safer or to feel that retribution has been served.

However, prisons also have large costs. According to the Productivity Commission's 2018 report on government services, it costs \$107,300 per year to keep a person in prison in Queensland, broadly in line with the Australian average.

Prisons and community corrections in Queensland cost more than \$950 million in 2016–17.

To keep pace with the expanding prisoner population, expenditures have had to grow faster than other government expenditures—expenditures on prisons² grew almost twice as fast as general government expenditures over the period 2011–12 to 2016–17.

Even with rapidly growing expenditures, prison capacity has not kept pace with the prison population, and future investments are likely to be needed.

The cost of imprisonment goes beyond the direct financial cost of keeping an offender in jail. These additional costs might include:

- costs to offenders (loss of liberty and income) and their families
- economic losses from reduced labour market participation during imprisonment
- long-term costs, such as from ongoing social stigma that affects future employment prospects and makes an ex-prisoner more likely to be reliant on welfare
- long-term health costs, where these can be attributed to imprisonment
- the possibility that prison institutionalises prisoners and/or further hardens criminal behaviour.

The costs and benefits of imprisonment need to be compared against alternative options. For example, some researchers argue that it would be more beneficial to manage offenders through greater use of community supervision.

Questions

- What costs (including non-financial costs) does imprisonment impose, and who bears these costs? What evidence is available about the magnitude of these costs?
- What benefits does imprisonment provide to the community? How should these be measured, and what evidence is available to support this?
- What factors have influenced the cost of imprisonment and how might these change in the future? Do the costs and benefits of incarceration vary according to the class of prisoner and type of prison? If so, why do these costs and benefits differ?
- How do the costs and benefits of prison compare to alternatives?

² Excluding capital costs.

6. Reducing imprisonment

Prevention and early intervention

One way to reduce imprisonment rates is to prevent crime from happening in the first place. Evidence suggests that prevention and early intervention strategies can reduce the risk that individuals will commit crimes.

The National Crime Prevention Framework recommends using the following strategies:

- Design and/or modify the physical environment to reduce crime opportunities—such as through urban renewal projects.
- Focus on risk and protective factors at key transition points in a person's life—such as by identifying and dealing with mental health issues.
- Strengthen at-risk communities—such as by improving educational or work opportunities.
- Enhance criminal justice processes to reduce offending behaviour—such as correctional rehabilitation programs.

Youth justice

In Queensland, offenders aged 10–17 years are dealt with in the youth justice system.

Offending rates are higher in young people than adults, particularly between the ages of 15–19 years. There is some evidence that juveniles who remain involved in crime commit more serious offences as they age.

As such, the youth justice system has a key influence on the proportion of young offenders who go on to become adult offenders.

In Queensland, police administer options to divert young people who have committed (or allegedly committed) relatively minor offences from further involvement in the youth justice system—options include informal cautions, formal cautions, and infringement notices.

As outlined in the Government's 2017 response to the *Independent Review of Youth Detention*, the Queensland Government is implementing a range of reforms to the youth justice system.

Diversionsary programs

At different points in the criminal justice system, authorities can divert offenders away from the courts system towards appropriate remedial programs. In Queensland, these include:

- drug diversion—eligible offenders may be offered an opportunity to participate in a drug diversion assessment program, as an alternative to prosecution
- justice mediation—a form of restorative justice where the complainant and the defendant attempt to reach an agreement about the offence and how amends could be made
- Murri courts—For Aboriginal and Torres Strait Islander defendants who plead guilty, Elders or respected community member work with defendants and magistrates to develop suitable outcomes.

Sentencing

Queensland prisoners are primarily convicted of an offence defined under the *Criminal Code (Qld) 1899*. The acts defined as offences are a societal choice—different choices would result in a different demand for prison services.

For most types of offences, the *Penalties and Sentences Act 1992 (Qld)* requires that courts impose a prison sentence as a last resort.

The extent that judges are able uphold this requirement is dependent on the sentencing options available to them. These include:

- good behaviour bonds, non-contact orders and restitution or compensation orders
- fines and community service orders
- probation and intensive correction orders
- suspended sentence of imprisonment.

Courts are restricted in their ability to make certain orders—for example, there are mandatory minimum prison sentences for murder, repeat serious child sex offences and certain offences associated with serious organised crime.

Box 3 Some options considered or used in other jurisdictions

In 2015, the South Australian Government consulted the community on the possibility of broadening its range of sentencing options. The options considered included:

- Home detention—courts would have the option of sentencing offenders to home detention rather than imprisonment. Home detention does not allow the offender to leave their homes other than for reasons of employment, education or emergency. South Australia legislated an extension of its then-existing provisions for home detention in 2016.
- Forfeiture and restitution—rather than fraud offenders being sentenced to lengthy terms of imprisonment, a scheme could be adopted whereby not only proceeds of crime and instruments of crime are confiscated, but other assets can also be seized to better compensate victims of fraud.
- Restorative justice—this generally involves a facilitated, safe and structured encounter between the victim and the offender, providing an opportunity to repair the harm caused by the offending.

‘Circle sentencing’ of Aboriginal offenders is a form of restorative justice that has been applied in New South Wales, in which the offender, magistrate and community Elders (and potentially the victim and others) discuss the circumstances and impact of the offence. With the full sentencing powers of the court, the circle determines an appropriate sentence, often not involving imprisonment.

Academics from Swinburne and Deakin Universities propose that technological incarceration (real-time monitoring and remote immobilisation) could result in the total closure of all but a fraction of existing prisons.

Source: Bagaric et al, Technological Incarceration and the end of the Prison Crisis, 2017; NSW Courts, Circle Sentencing Forum Sentencing and the MERIT program, 2014; South Australian Government, Transforming Criminal Justice, 2015.

Questions

- What strategies are most effective in permanently reducing crime that leads to imprisonment?
- Are there early intervention, diversionary or sentencing options that the Commission should consider? What evidence of their effectiveness is available? Are there any barriers to providing these programs? If so, how might these be addressed?
- Does the youth justice system effectively steer young offenders away from becoming adult offenders? If not, how could the system be improved?
- Are current strategies appropriate for the diverse communities across Queensland? If not, how should current approaches be modified for these places or groups?
- How do non-prison sentencing options and/or diversionary programs impact on victims of crime, offenders and the families of victims and offenders? How should these considerations be balanced?
- Are there any acts currently defined as offences that should not be, and/or that should be handled through alternatives to the criminal law? Are there any acts currently defined as offences where the harm caused by the offence can never justify the use of imprisonment as a form of penalty?
- How do sentencing outcomes perform against the legislated sentencing principles (to imprison only as a ‘last resort’ and a preference for penalties which allow the offender to stay in the community)?

7. Preventing recidivism

More than half of released prisoners commit another offence that results in a new custodial sentence.

Programs that increase the chance that prisoners will successfully reintegrate into the community and adopt a law-abiding way of life can reduce recidivism and provide benefits to the broader community.

In-prison programs

Queensland Corrective Services (QCS) aims to address recidivism by providing education, work and rehabilitation programs for offenders. These include:

- the Borallan Training and Correction Centre, providing education, training and employment
- vocational training
- the Community Re-entry Services Team (CREST), an information and referral service to support prisoners approaching release; case management for prisoners assessed as at high risk of offending or with complex re-entry needs; and crisis support for offenders on parole
- MARA, a service for female prisoners in south east Queensland that prioritises issues such as reconnection with children, support for victims of domestic violence, mental health support and gender-focused substance abuse intervention
- Youth Justice programs designed to provide individualised support to young offenders to divert them from crime.

In 2016–17, QCS spent about \$7.5 million on re-entry support programs. During June 2017, 39.1 per cent of prisoners were in education programs and the prisoner employment rate was just under 70 per cent.

A range of rehabilitative programs may also be delivered in prison to address risk factors that are linked to criminal behaviour, including substance abuse and psychological disorders.

Prisoners on remand are not eligible for rehabilitation programs even where it involves material jail time (the prisoner census showed that at 30 June 2017, those prisoners without a sentence had spent, on average, six months on remand). This means that many prisoners are released back into the community without having undertaken any rehabilitation—of the 5,568 prisoners admitted to remand in 2015–16, around 60 per cent were released from prison immediately after sentencing, either without a custodial sanction or to court-ordered parole.

The parole system

The purpose of parole is to reduce prisoner reoffending by supervising prisoners' re-entry into the community prior to the completion of their prison sentence.

Best practice parole systems are generally considered to begin at the time of sentencing and include a risk and needs assessment when entering prison, training and rehabilitation in preparation for parole, assessment of suitability for parole and supervision in the community until the end of the sentence period.

In Queensland, parole can be court-ordered, where a prisoner is released on parole on a fixed date (for less serious offences) or can be approved through an application to the parole board (usually for more serious offences following a non-parole period). All sentences that include a period of imprisonment are eligible for parole.

The Queensland parole system was reviewed in 2016. In its response to the Queensland Parole System Review's recommendations, the Queensland Government committed to achieve a more contemporary and effective probation and parole system, including increased rehabilitation services; an independent, professional parole board; and expanded re-entry services.

Post-prison support

The support that prisoners receive after their prison sentence can help them reintegrate into society and can play a significant role in lowering the risk of recidivism.

Risk factors for recently released prisoners include:

- difficulty finding work
- a lack of stable housing
- untreated mental health and/or drug problems
- social exclusion.

In Queensland, post-prison support services are provided through a mix of government, community and private providers.

Prior to release, eligible prisoners identified by QCS staff are offered post-release managed services for a period of three months after their release. QCS works with the prisoner and their parole officer to support reintegration.

QCS relies on referral to non-government service providers. The Queensland Parole System Review found that non-government services are concentrated in south east Queensland, with far fewer services in other regions. The review observed that the relatively small number of providers, combined with a lack of coordination across government, was problematic in these regions.

There is limited evidence about the effectiveness of post-prison support programs in the Australian context. There is, however, some evidence that extended case management of recently released prisoners is beneficial.

For example, a recent evaluation of the ACT's Extended Throughcare pilot program—which offers person-centred case management and support over 12 months—found that recidivism rates for participants were more than 20 per cent lower than for non-participants.

Questions

- Are the right programs and support services available for prisoners to encourage their rehabilitation?
- Are sufficient support services available to prisoners after their release? Are these services effective? If not, how could they be improved?
- Do programs and services meet the needs of the diverse prisoner population, including the needs of male and female prisoners respectively, Aboriginal and Torres Strait Islander prisoners and people living in regional and remote parts of Queensland?
- For offenders who are not responsive to punishments, and are therefore not easily deterred by prison sentences, are there alternative approaches that would be more effective at reducing recidivism?
- What are the key barriers, if any, that prevent effective program or service delivery?
- What lessons can be learnt from practices in other jurisdictions? Which programs have been successful in reducing recidivism?

8. Governance

The effective use of government resources across the criminal justice system relies on the quality of decision-making about the allocation of these resources and how they are used.

Good practice

Governance is about the processes for making and implementing decisions, and the organisational structure within which decisions are made. Features of good governance arrangements include:

- a clear and well-understood purpose
- clearly and consistently defined roles and responsibilities
- measures (such as reporting requirements and performance agreements) to ensure accountability follows responsibility
- appropriate devolution of decision-making authority to managers, backed up by adequate resources and performance frameworks
- independent and public assessment to determine whether purposes have been achieved.

Corrections

The governance arrangements in place, and the incentives they provide, play a key role in determining the performance of the prison system and its effectiveness in meeting its objectives.

The *Corrective Services Act 2006* underpins the governance framework for prisons.

QCS is responsible for the state's 14 correctional centres (excluding work camps). In two of these, private operators deliver prison services.

While they must comply with state legislation, each prison would appear to have significant autonomy over its day to day operation, including the programs offered to prisoners.

Service agreements between public prisons and the QCS, and the contracts between QCS and the two private providers, are key accountability instruments. The extent to which these are subject to outside scrutiny may determine the degree to which they provide public accountability.

The Office of the Chief Inspector (OCI), the Queensland Ombudsman and the Crime and Corruption Commission have oversight roles. The OCI's functions include inspecting corrective services facilities, reviewing their operations and services and coordinating the Official Visitor scheme, which investigates complaints made by prisoners. The most recent report about a prison's performance that has been published on the OCI's website was prepared in 2012. The OCI currently reports to the QCS Commissioner, but the government plans to establish an independent inspectorate of correctional services.

Other programs and services

As mentioned, flows of prisoners into the corrections system are heavily influenced by the effectiveness of programs and services in the broader criminal justice system and elsewhere.

There are a wide range of programs and services (some of which are discussed in this paper). They operate under various legislation, and are funded or managed by various agencies, community groups

and the private sector. While the Queensland Government is responsible for most government-funded services, the Australian Government is also an important player, particularly through the operation of the welfare system.

The governance arrangements for both individual programs and services, and for the system as a whole, will be an important determinant of their effectiveness and will influence the numbers of people flowing through Queensland prisons.

Questions

- Do the governance arrangements (including incentives)—from policymaking to service delivery—encourage the best outcomes (such as reducing recidivism)? If not, what changes should be made?
- Is the system sufficiently transparent and accountable to government, the community, victims and prisoners? Are programs and services measured and evaluated adequately, and are the outcomes of the evaluation used for improvement?
- How well do current institutional arrangements and practices support collaboration and cooperation between agencies, governments, providers and the community?
- To what extent are wider costs and benefits recognised in decision-making, including in the allocation of resources?
- Which barriers to reform exist, if any? How could they be removed to deliver better outcomes?

Appendix A: Terms of reference

Inquiry into imprisonment and recidivism

The growth in imprisonment rates, coupled with continued recidivism, is an important public policy concern. The Government would like the Commission to investigate this matter and suggest potential measures to improve outcomes for the community over the medium and longer term.

In accordance with section 23 of the *Queensland Productivity Commission Act 2015*, I direct the Commission to undertake an Inquiry into Imprisonment and Recidivism.

Context

The growth in prisoner numbers is a serious and growing public policy concern for Queensland:

- the imprisonment rate of people in Queensland prisons increased by 40 per cent in the five years from 2012 to 2017, around five times the population growth rate for Queensland
- the imprisonment rate of Aboriginal and Torres Strait Islanders increased by 50 per cent over the same period
- recidivism is high with more than 60 per cent of new prisoners having been in prison before
- of further concern is the real increase of imprisonment of women, especially Aboriginal and Torres Strait Islander women.

The growth of prisoner numbers has major social and economic implications for affected individuals and the wider Queensland community. It also has significant financial implications for government.

Change is necessary; however, the problem is complex. Prisoner numbers reflects underlying forces including long term social and economic factors and community views about criminal justice; but they also reflect the daily activity and decisions at key points within the criminal justice system, sentencing and legislative frameworks, police resourcing and decisions, sentencing practices, court workloads and access to support services including legal aid.

A system wide approach to change is essential—considering both the underlying forces and the practical operation of Queensland’s criminal justice system. Potential measures must be thoroughly worked-through and rigorously tested, including comprehensive public consultation.

The Queensland Government considers that the Queensland Productivity Commission, as the State’s independent public policy review body, is an excellent mechanism to undertake such innovative and evidence-grounded research, investigation, testing and consultation.

Terms of Reference

The Queensland Productivity Commission is directed to undertake an Inquiry into Imprisonment and Recidivism.

The central question is, how can Government resources and policies be best used to reduce imprisonment and recidivism and improve outcomes for the community over the medium to longer term?

In the context of the Government’s objective of ensuring a fair, safe and just Queensland, the Commission should consider:

- trends in the rate of imprisonment in Queensland in recent years, including comparison with other sentencing options
- evidence about the causal factors underlying trends in the rate of imprisonment

- the factors driving Aboriginal and Torres Strait Islander imprisonment and recidivism and options to improve matters
- the factors driving the imprisonment and recidivism of women and options to improve matters
- the factors affecting youth offending and corresponding imprisonment rates and options to improve matters
- measures of prisoner recidivism rates, trends in recidivism and causes of these trends
- the benefits and costs of imprisonment, including its social effects, financial costs and effectiveness in reducing/preventing crime
- 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
- the efficacy of adopting an investment approach, where investments in prevention, early intervention and rehabilitation deliver benefits and savings over the longer term
- barriers to potential improvements and how these barriers could be lowered.

The Commission's recommendations should be consistent with the 'Queensland Government Policy on the Contracting-Out of Services', which provides that services currently delivered in-house, including publicly operated prisons, will not be outsourced other than in certain limited circumstances.

Consultation

The Commission must undertake public consultation in relation to the Inquiry, including with peak bodies, experts, government agencies and other key stakeholders.

The Commission must consult with the Deputy Director-General Cluster Group for the 'Keep Communities Safe Priority' of 'Our Future State: Advancing Queensland's Priorities' and the Crime Statistics and Research Unit in the Queensland Government Statistician's Office.

Reporting

The Commission must publish a draft report (including interim recommendations) for consultation by 1 February 2019.

The Final Report must be provided to the Government by 1 August 2019.

