LAW & JUSTICE INSTITUTE (QLD) Inc
Level 19, 179 Turbot Street Brisbane Q 4000

Patron: The Honourable James Thomas AM QC

Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

18 July 2014

Dear Sir / Madam,

Re: Inquiry on strategies to prevent and reduce criminal activity in Queensland.

Thankyou for the invitation to prepare a submission to this inquiry. The Law and Justice Institute (Qld) Inc. (LIJ) was formed in 2013 with a view to furthering dialogue between academic and practising lawyers and ensuring that the concerns of both branches of the profession are aired. We aim to foster and advocate law reform consistent with the rule of law, the Common Law, independent and principled reasoning, empirical data and the separation of powers, in particular, the preservation of judicial independence and discretion.

This submission is presented in the following parts:

1. Introductory points: Common misconceptions.
2. Strategies to prevent and reduce criminal activity in Queensland.
3. Court based rehabilitation programs.
4. Imprisonment.
5. Community based sentences.
6. Decriminalisation of minor drug possession.
7. Building safer communities.
8. Recommendations.

Please do not hesitate to contact us via [redacted] if you wish to discuss the contents of this submission.

Yours Sincerely,

Peter Callaghan SC
President , Law and Justice Institute (Qld) Inc

Submission of Law and Justice Institute (Qld) Inc.

To: Inquiry on strategies to prevent and reduce criminal activity in Queensland.

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Contents

1. Introductory points: Common misconceptions:

> "Crime is the only problem in the world that we consider 'solved' when we've found someone to blame for it"
>
> Professor Leslie Wilkins, British criminologist, 1970.

Before reviewing the evidence of 'what works' (and what doesn't) with respect to prevention and reduction of crime and recidivism, and community safety, we would like to caution the Committee against the following common misconceptions:

1 (a) The assumption that there is a 'crisis' of crime and disorder in Queensland

There isn't. Although there is evidence of increases of concern in certain kinds of crime in certain communities (e.g. the recent, as yet not publicly released "Smallbone Report" on sexual offending in some remote Aboriginal communities), the best evidence indicates that overall in the State, recorded crime in all the major categories (against the person, against property, etc.) has been declining in the last twenty years. This is the same across Australia.

1 (b) The belief that there are generic, 'global' 'solutions' to 'the crime problem'

There is not a single 'crime problem' and therefore no single, 'one-size-fits-all' sensible response to 'crime' and disorder. The nature, circumstances, perpetrators and effects of crime vary enormously - consider the difference, for instance, between domestic child abuse and car theft. Probably the only thing these two behaviours have in common is that they are illegal. To have any possibility of preventing or reducing crime and disorder, responses therefore need to be calibrated to particular forms of crime and disorder, and their particular characteristics. Distinctions need to be recognised between, for instance: 'street crime', corporate or 'white collar' crime, and domestic crime; 'career' or 'professional' criminals and occasional or 'opportunistic' offenders; urban and rural crime; 'ordinary' crime and terrorism or other 'politically' or ideologically motivated crime (such as hate crime), etc.

1 (c) Assuming that the best responses to crime are criminal justice responses

The criminal justice system is only one among many formal and informal, public and private institutions and resources through which crime may be successfully addressed. Don Weatherburn's recently published book, *Arresting Incarceration* (2014), based on a review of some 40 years of relevant Australian research, for instance, includes a suite of recommendations for non-criminal justice responses which have plausible (and in some cases demonstrated) potential to successfully address over-incarceration and recidivism of Aboriginal people in Australia. We recommend that the Committee pays careful attention to Weatherburn's analysis and recommendations, and more generally to the potential of non-criminal justice institutions to address various kinds of crime in Aboriginal and non-Aboriginal communities in Queensland.

1 (d) Regarding incarceration as a crime or recidivism prevention or reduction strategy

All the best criminological evidence around the world indicates that it is not. In fact, it suggests that profligate resort to incarceration as a response to crime is highly likely to exacerbate rather than abate these problems. John Pratt and Anna Eriksson, in their book *Contrasts in Punishment: An Explanation of Anglophone Excess and Nordic Exceptionalism* (2013), have shown that 'higher incarceration' societies do not have lower crime and recidivism rates than 'low(er) incarceration" societies, and that in fact the opposite appears to be true. Whatever may be the justifications for, and merits of, incarceration, reducing or preventing crime and recidivism is not one of them.

1 (e) The belief that more police will lead to less crime

Good research throughout the Western world has demonstrated the fallacy of this belief (see e.g. Sherman, 2009 & 2013). It is not supported either by analysis of recorded crime statistics or victimisation survey results. What the research on the police-crime nexus clearly suggests is that, to the extent that police and policing can affect crime levels and prevalence, *smarter policing* (such as targeted policing), not more police, may be able to prevent or reduce some kinds of crime in some places. It will always be possible to make a case that the police should have more resources. That is different from a simplistic assertion that we need more police.

2. Strategies to prevent and reduce criminal activity in Queensland

2 (a) The need for accurate and reliable information

In the last 50 years or so, there has been a plethora of research, particularly in the United States and Great Britain, which has evaluated the success or otherwise of programs and initiatives to prevent or reduce crime and recidivism. One of the earliest reviews of these studies was Lawrence Sherman's report entitled ***Preventing crime: what works, what doesn't, what's promising: a report to the United States Congress*** **(Sherman, 1997; see also Sherman 2002).** Much less original research along these lines has been conducted in Australia; one of the reasons for this is that the kinds of data that such research requires have been far less available here than in those other two jurisdictions. But what 'works' in these other jurisdictions may not 'work' here in Australia, either because the conditions are different, or because programmes and initiatives which are compatible with core values and traditions in those countries may not be suited to Australian cultural, social and political traditions and expectations. A key recommendation of the Committee, therefore, should be that **robust mechanisms to collect data necessary to effectively evaluate crime control and criminal justice policies, programs, initiatives and practices are essential for effective decision-making and investment in this policy arena**. Furthermore, qualified researchers need to be given access to these data in formats that allow them to conduct credible evaluations while respecting accepted privacy, confidentiality and other ethical requirements. The growing calls throughout liberal democracies for credible, contestable, evidence-based policy demand no less. And Australian crime and corrections challenges require responses that are tailored to Australian conditions. The same, of course, goes for Queensland. See also Part 7 of this submission.

2 (b) Some findings from meta-analyses

Particularly in the last 15 years, broad meta-analyses of research on prevention and reduction of crime and recidivism have been published which seek to summarise what kinds of initiatives and programs have been shown to work well, what kinds are 'promising', and what kinds have been shown not to produce expected results and/or not to be cost-effective.

I. In 2011, for instance, Professor Friedrich Lösel and his team of researchers at Cambridge University in the UK published such a meta-analysis which focused particularly on programs to address young offenders, domestic violence offenders and substance abuse offenders in European jurisdictions (Lösel *et al.* 2011). Among other important findings in the report are: For young offenders "[B]ehavioural and cognitive-behavioural treatments were more effective than other types of treatments. The effectiveness of the various non-behavioural treatment types was lower and reasonably homogeneous. Purely punitive and deterrence-based measures showed no or even a slightly *criminogenic* effect." (p. 5)

II. "[D]rug treatment programmes…..have a substantial positive effect on reducing reoffending." (p. 8)

III. Because of high drop-out rates and methodological weaknesses, studies "do not allow us to conclude that these studies have a positive causal effect on domestic violence reoffending", and that "[f]or these reasons we need more and better research on the effectiveness of domestic violence perpetrator programmes." (p. 10)

In 2006, the Washington State Institute for Public Policy in the U.S. published a review of "Evidence-based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates" (Aos *et al.*, 2006). It conducted "a systematic review of all research evidence we could locate to identify what works, if anything, to reduce crime. We found and analyzed 571 rigorous comparison group evaluations of adult corrections, juvenile corrections, and prevention programs, most of which were conducted in the United States", and "estimated the benefits and costs of many of these evidence-based options." It found that "some evidence-based programs can reduce crime, but others cannot" and that "[p]er dollar of spending, several of the successful programs produce favorable returns on investment." It then projected "the long-run effects of three example portfolios of evidence-based options:

> a "current level" option as well as "moderate" and "aggressive" implementation portfolios", and concluded that if the State were to successfully implement "a moderate-to-aggressive portfolio of evidence-based options, a significant level of future prison construction can be avoided, taxpayers can save about two billion dollars, and crime rates can be reduced." ("Summary", p. 1)

In 2005, Travis Pratt and Francis Cullen published an article in which they conducted a meta-analysis of "over 200 empirical studies [which] explored ecological correlates of crime… to determine the relative effects of macro-level predictors of crime." From this review they concluded that:

> "Indicators of "concentrated disadvantage" (e.g., racial heterogeneity, poverty, and family disruption) are among the strongest and most stable predictors. Except for incarceration, variables indicating increased use of the criminal justice system (e.g., policing and get tough policy effects) are among the weakest. Across all studies, social disorganization and resource/economic deprivation theories receive strong empirical support; anomie/strain,

social support/social altruism, and routine activity theories receive moderate support; and deterrence/rational choice and subcultural theories receive weak support." (p. 373)

While of course these conclusions may not be applicable in a straightforward way to Australia or Queensland, given the different demographic and socio-economic conditions here, they nevertheless provide useful pointers to factors which might need to be considered in developing effective policies and programs to prevent or reduce crime and recidivism here. And most importantly, they suggest that we need to look well beyond the resources of the criminal justice system in devising such policies and programs.

In 2009, Guerette & Bowers published a review of situational crime prevention evaluations in which they identified promising and not so promising crime prevention programmes (see also Cozens *et al.*, 2005). The following year Weisburd *et al.* (2010) published the findings of a Campbell Collaboration systematic review of problem-oriented policing programmes. **A series of more than 70 guides showing how specific problems can be effectively addressed, drawing on the available evidence (often involving situational measures) is to be found at http://www.popcenter.org/library/scp/pdf/bibliography.pdf.**

3. Court-based rehabilitation programs

A number of innovative court-based programs have been developed over the past few decades to reduce recidivism among different categories of offenders. While these programs are relatively novel, the role of the courts in seeking to promote rehabilitation of offenders is not. Traditionally, the courts used the sentencing function to advance the most important of criminal justice objectives, viz, the prevention and punishment of crime. The rehabilitation of offenders is one means by which the former purpose is putatively advanced. Demonstrably, that function has failed in relation to significant numbers of offenders.

In this section we consider:

a) the courts' rehabilitative function and the movement to adopt evidence-based methods with proven efficacy;
b) court-based rehabilitation programs:
    I. those delivered through dedicated courts or dedicated court lists, usually referred to in Australia as solution-focused courts or programs, but sometimes also referred to as problem-solving courts; and
    II. court-based programs delivered through the general criminal lists, i.e., so-called mainstream court programs; and
c) the research which demonstrates that court-based rehabilitation programs can succeed in cost-effectively reducing recidivism.

The LJI submits that properly funded and implemented, court-based programs offer a range of benefits to government including reductions in recidivism and cost savings to the criminal justice system.

3 (a) What are solution-focused Courts

Solution-focused courts are one model of programmatic rehabilitation which has gained widespread international popularity over the past few decades (Schneider, 2010; King, 2011). Since the late 1990s, solution-focused courts have multiplied exponentially. In the US, as of 2013, there were 2800 drug courts and 397 Mental Health Courts (MHC) (Goodale and Steadman, 2013), with more in Canada, England, New Zealand, Brazil, and Europe. Drug courts operate in most Australian jurisdictions except for Queensland, Tasmania and the two Territories. The term MHC is not generally used in Australia. However, there are dedicated solution-focused court lists for offenders with mental impairments in Victoria, NSW, South Australia, Tasmania and Western Australia. Solution-focused court models are also in use in a number of jurisdictions for family violence cases, prostitution offences, war veterans courts, teen courts, truancy courts, welfare fraud (Porter *et al.,* 2010) and community courts. Western Australian Magistrate, Dr Michael King, has noted that solution-focused courts are now so widespread and that they have become "an established part of the court systems of Australia, New Zealand, the United States, Canada, the United Kingdom and other common law jurisdictions" (King, 2011).

The identifiable features of solution-focused courts include early intervention, voluntary participation, personalised assessment, referral to community-based services, case management or liaison by a court-based officer, multi-disciplinary team-based collaboration, use of evidence-based approaches, and monitoring of the offenders' compliance and progress towards agreed goals by a dedicated magistrate at regular review hearings (Thomson *et al*., 2007). In Australia, the preferred model has been a post-adjudication model which requires the defendant to plead guilty. Taking responsibility for offending conduct is an appropriate first step on the path to rehabilitation. If the offender substantially complies with and ultimately completes the program, his or her participation will be taken into account at sentencing to reduce or eliminate the need for a punitive sentence (Zafirikis, 2010).

These programs have been implemented in solution-focused courts or solution-focused court lists, rather than the general lists, because the court adopts a more relaxed, less-adversarial procedural approach, which would not be appropriate in mainstream court. The solution-focused approach usually involves a multi-disciplinary team led by the magistrate, which includes the offender's defence lawyer (often a dedicated Legal Aid lawyer who represents all or most defendants on the solution-focused list), a dedicated police prosecutor, and a forensic psychologist, social worker or corrections officer. In acknowledgment that rehabilitation of an offender is in everyone's interests, the team works together to recommend the most appropriate suite of interventions to achieve that goal. During the initial and follow-up hearings, the magistrate and the offender engage directly in two-way dialogue, even if there is a defence lawyer present. The magistrate uses the opportunity to motivate the offender to greater efforts to achieve his or her rehabilitative goals. This is not just small talk – the magistrate is applying evidence-based forensic psychological expertise to create a rapport, forge a therapeutic alliance and support the offender's reform efforts (Edgely, 2013). It is believed that magistrates are particularly well-placed to perform this role because of their social status and authority. Often, these offenders will never have experienced an authority figure taking a personal interest in their welfare. Accordingly, the magistrate's status enhances the subject's own feelings of self-worth. The subject will try harder to succeed because he or she wants to perform well for the magistrate, because that magistrate has treated the offender with respect and

compassion and demonstrated belief in his or her self-efficacy. Moreover, the magistrate has the power over the final sentence. The possibility of a reduced sentence can act as leverage, helping the offender to internalise the desire to turn his or her life around (Edgely, 2013).

3 (b) How effective are they in reducing recidivism?

There has been extensive research into the efficacy of solution-focused courts and, in particular, into drug courts and MHCs. For many years, researchers were saying that more research was needed to prove the effectiveness of the solution-focused model in reducing recidivism. Of the hundreds of research studies, many were criticised for poor methodological design which undermined their findings (Wundersitz, 2007). **But almost all experts now agree that the accumulated evidence is overwhelming - adequately funded and properly implemented drug courts and Mental Health Courts do indeed reduce recidivism** (Goodale et al, 2013). The American University Justice Programs Unit has collated the results (and methodologies) of 150 evaluations of US drug courts and has found that they support the general proposition that drug courts are effective in reducing recidivism when compared either to randomised control groups or to the offenders' own prior histories of offending (AUJPU, 2014). The US National Association of Drug Court Professionals has declared the evidence - that drug courts significantly reduce drug use and crime, and that they do so with substantial cost savings - to be proven 'beyond reasonable doubt' (Marlowe, 2010). **Independent research in Australia has also confirmed that drug courts do reduce recidivism** (eg Weatherburn *et al.*, 2008; Lind *et al.*, 2002), including Queensland's recently closed drug court (Payne, 2008; Makkai *et al.*, 2003).

One criticism of the body of evaluative drug court research was the wide range of effect sizes, which was interpreted in some quarters to mean that the overall body of research was insufficiently reliable (Gutierrez & Bourgon, 2009). Another criticism was that poor standards of treatment led to poorer than expected outcomes, which in meta-analyses would skew outcomes of programs which faithfully implemented evidence-based practices. A Canadian meta-analysis (Latimer et al, 2006) addressed these critiques by only including for analysis studies with an acceptably rigorous methodological design. The study found that the average effect size of these more rigorous studies was 8.4%, i.e., the drug court offenders reoffended at a rate 8.4% less than members of control groups who were processed as normal through the general criminal lists. The authors conclude that because of the rigour of their study, this statistic is a reliable measure of the overall average effectiveness of the drug courts under examination .

The Canadian researchers then assessed treatment quality in these drug courts by measuring the adherence of the drug courts' treatment programs to the Risk Needs Responsivity (RNR) model of offender rehabilitation. The RNR model features three defining principles:

- Risk – the intensity of intervention is matched to the offender's risk of reoffending;
- Needs – the program is customised according to the offender's areas of criminogenic need; and
- Responsivity – the program is customised according to the offender's personal learning style.

The drug courts in question varied according to whether they implemented none of the three RNR principles, or only one or two. In terms of reductions in recidivism, adherence to none, one or two of the RNR principles corresponded to 5%, 11% and 31% respectively. Clearly, adherence to the requirements of evidence-based programs results in increased efficacy.

The evidence in relation to MHCs, although less voluminous, is equally cogent. There are myriad studies of individual MHCs which demonstrate their effectiveness (Rosmann et al, 2012), along with meta-analyses (Sarteschi, 2009), and longitudinal studies (Steadman, 2011). Again, the Australian experience has been that, like their US counterparts, MHCs here have been effective in reducing recidivism (Skrzpiec, 2004).

3 (c) How cost effective are they?

Research has also demonstrated that drug courts and MHCs are cost effective (Carey & Waller, 2009). Although drug court and MHC programs can be expensive, they save money in the medium and long term. Many US studies have demonstrated that drug courts and MHCs are cost-effective because of the costs saved from reduced levels of offending. For example, the study of the cost-effectiveness of the Nevada County Drug Court measured the costs of drug court participation (including treatment, case management, drug testing, law enforcement agencies' and court time, and sanctions). The costs were calculated on a per graduate basis and per participant. In calculating the costs-savings, the value of saved imprisonment, probation, arrests, prosecutions and court processing was quantified and taken into account. Over a two year period, Nevada County Drug Court graduates had an 18% recidivism rate compared to a control group's recidivism rate of 67%. When the drop-outs were included, the drug court participant recidivism rate was 20%. Per participant (ie, including the drop-outs) the drug court costs were $9,429. The costs incurred by the control group were $25,673 (Carey & Waller, 2009). The drug court participants saved the community costs of approximately $16,000 per participant. The savings measured do not include savings to victims from reduced levels of crime, or other benefits that accrue to the community.

It may be that US costs are not directly comparable to the Australian context. Fewer detailed costs studies have been undertaken in Australia, however one detailed study of the NSW Drug Court was undertaken (Lind *et al.*, 2002). Like the US study referred to above, the NSW study calculated criminal justice agency and health costs per drug court participant (including drop-outs) and per offender processed and sanctioned in the usual way in the mainstream courts. The study found that drug court was more cost effective than traditional case processing and sentencing in preventing future offending, although the effect size, while significant, was not large. Subsequent amendments to the NSW Drug Court practice improved screening and lowered the threshold for removal of participants from the program if the court considers them unlikely to make further progress, and additionally, increased levels of monitoring and support. The result was that rates of recidivism improved. With the new practice protocols, the drug court participants were 17% less likely than controls to commit any offence; 30% less likely to commit a violent offence; and 38% less likely to commit a drug offence, during the follow-up period (Weatherburn *et al.*, 2008). A second cost-effectiveness comparison study in 2008 found that the changes in drug court practices resulted in savings of $2,465 per participant. Additionally, the improved recidivism outcomes further increased the savings across the criminal justice system. It is worth recalling that there are also significant gains which cannot be quantified, including improved health outcomes for participant offenders, reduced levels of victimisation and increased community amenity (Goodall *et al.*, 2008).

3 (d) How do rehabilitation programs work?

It is important that rehabilitative programs be targeted towards offenders based on their risk of reoffending. The types of programs suitable for high risk offenders will not work with low risk offenders and vice versa. It is known that the inappropriate use of intensive programs can actually

increase a low risk offender's risk of recidivism (Andrews *et al*., 2011). Conversely, placing a high risk offender on a low intensity program is unlikely to be effective and is therefore a waste of resources.

The dominant theory of offender rehabilitation considered earlier - Risk Needs Responsivity (RNR) theory- has a proven track record of achieving significant reductions in recidivism (Andrews *et al.*, 2011). To recapitulate, the *Risk* principle requires that the level of program intensity be matched to an offender's individually assessed risk of reoffending. The *Needs* principle requires that the program target an offender's criminogenic needs, i.e. those needs that are functionally related to the offending behaviour. The *Responsivity* principle requires that the style and mode of intervention be matched to the offender's cognitive abilities, personality and learning style (Edgely, 2014).

It is widely believed that court-based solution-focused programs work for medium and high risk offenders because they bring together a number of important factors:

- The programs are properly targeted at offenders likely to benefit from the particular program. (Effectively, this is the *Risk* principle at work. The most intensive programs are suited to high risk recidivist offenders. First time offenders are better placed in low intensity programs.)
- The programs are customised according to the offender's criminogenic needs and personal learning style (i.e. *needs* and *responsivity*).
- The offender's overt or latent desire to change is coalesced because the threat of punishment can be leveraged against the implicit promise of a community-based sentence, provided the offender personally commits to follow a supervised program of reform.
- Where programs involve judicial monitoring, the role of the judicial officer is to motivate and supervise the offender and forge a therapeutic alliance. It is believed that a dedicated judicial officer is more likely to succeed because first, as the judicial officer gets to know the offender and his or her circumstances, that magistrate will be better able to judge what type of cognitive and affective tactics will be effective; second a dedicated magistrate is more likely to be successful at applying motivational interviewing and learnings from the trans-theoretical stages of change model, than magistrates who use these techniques less regularly (Edgely, 2014).
- Case management is provided which promotes the Needs and Responsivity principles by ensuring that the mix of services is appropriate to the offender's circumstances.
- Monitoring through random and regular drug screening helps keep offenders on track and aids accountability.
- Appropriate services are available. This is a vital element of success. It can be tempting to assume, for example, that one drug rehabilitation program is much like another. That is not the case. Drug treatment needs to be targeted depending on the type of drug/s involved and the nature of co-morbidities, if any. For instance, it is well-accepted that offenders with a mental illness or acquired brain injury will have much better outcomes with targeted drug treatment services.

In implementing these programs it is important not to skimp. For example, one of the more expensive aspects of delivering solution-focused programs is judicial time (Goodall *et al.*, 2013). Two new NSW programs, its CREDIT and Life-on-Track, have attempted to minimise that cost by transferring the role of forging a therapeutic alliance to a case manager. Early assessments have indicated poorer recidivism outcomes than otherwise similar programs. **Studies have shown that judicial supervision is a vital element of the court-based solution-focused approach**. A study of the NSW drug court showed that more frequent judicial supervision, the better the recidivism outcomes (Weatherburn et al, 2008).

The LJI recommends the re-introduction and expansion of specialist courts. In particular we recommend the establishment of a specialist court that assumes and improves upon the function previously performed by the Drug Court.

A wide range of therapeutic sentencing options coupled with decriminalization of minor drug offences (see part 6) will have a significant impact on drug crime and property crime rates. Using the Portuguese model (see part 6, Greenwald, 2009) as a guide, the drug court should have the following legislated powers:

a) to direct a person to engage in medical drug counselling;
b) to provide community support; education, housing and financial assistance;
c) to direct a person to engage in medical drug replacement therapy;
d) to monitor a person's intake of illicit substances through regular and random urine testing; and
e) to sanction failures to comply with court orders.

The LJI submits that if a greater focus is placed on drug rehabilitation; treating drug addicted offenders medically not criminally, and providing the appropriate community support, a significant reduction in drug offending rates and property offending rates will result.

4. Imprisonment

The effectiveness including cost effectiveness of imprisonment.

In 2013, the overall Queensland prison population increased 9 per cent (up by 483 prisoners) to 6,076 from 2012; and in the same year Aboriginal and Torres Strait Islander prisoners made up 3.6 per cent of the population but 31 per cent of the prison population (ABS, 2013). Prison is an expensive option, the total cost per prisoner per day is around $305 (combined operating expenditure and capital costs) (Govt Services, 2013: [8.23]). The high rate of imprisonment of Indigenous people is a continuing concern and greater attention should be given to alternative punishment options. **Imprisonment may be unjustified in many cases given its high cost, the lack of evidence that it deters crime and its association with increased recidivism.**

As noted earlier criminal behaviour is strongly associated with a number of demographic characteristics that are not addressed by imprisonment. A recent study of prisoners (Ministry of Justice, 2010) found that the following factors were associated with offending:

- Homelessness- 37% of prisoners have stated that they will need help finding a place to live when they are released from prison;
- Mental illness- 12% said they had a mental illness or depression as a long-standing illness, while 20% reported needing help with an emotional or mental health problem;
- Child protection history- 24% said they had been taken into care as a child;
- Lack of qualifications- almost half (47%) said they had no qualifications; and
- Lack of work experience- 13% said that they have never had a paid job.

Punishments should be crafted so that they attempt to address these underlying issues and traumas (see Part 3 and Part 5).

Links have been made between imprisonment and recidivism. Findings from a review of punishment in the United Kingdom published in 2010 (Ministry of Justice, 2010) found that nearly 50% of offenders released from prison re-offend within a year. Re-offending rates for short prison sentences of less than 12 months increased from 58% in 2000 to 61% in 2008

A similar study in Victoria (Holland & Pointon, 2007) found that the likelihood of recidivism and related return to prison was "strongly influenced by a prisoner's demographic characteristics, offence type, sentence length and imprisonment history. However, it is likely that some of these effects are the result of interactions between factors." (p. 17)

Studies undertaken in the United States suggest that there is little evidence that imprisonment reduces re-offending but there is evidence to show that it has a criminogenic effect (Cullen *et al*., 2011)

An Irish Study (Irish Prison Service, 2013) identified a recidivism rate of 62.3% within three years:

- Over 80% of those who re-offended did so within 12 months of release.
- The recidivism rate decreased as the offender age increased.
- Male offenders represented 92.5% of the total population studied and had a higher recidivism rate than female offenders (63% for males and 57% among females).
- The most common offences for which offenders were reconvicted was Public Order Offences.
- Burglary offenders, while a relatively small group within the study, had the highest rate of reconviction at 79.5%.

According to one study "the strongest predictor of returning to prison was the number of prior terms of imprisonment … followed by age at discharge and having a property offence as the most serious offence." (Holland & Pointon, 2007: 17).

Given the connection between property offending and returning to prison, it may be useful to consider, as leading criminal lawyer Andrew Ashworth has suggested, the principles applicable to the punishment of property offences (Ashworth, 2013).

A NSW study has shown that the severity of the sentence has little impact on the question of recidivism (Police Association of NSW, 2012). This suggests that the focus on mandatory sentences as a way of increasing the length of sentence will have little impact on deterrence. **The LJI does not accept that there is any evidence capable of justifying mandatory sentences of imprisonment.**

5. Community-based sentences

This section examines community-based sentences as an alternative to imprisonment and a measure to reduce recidivism. We submit that:

- community-based sentences should be used more widely and as a replacement for imprisonment, particularly short sentences of imprisonment.[1]
- the maximum length of an Intensive Correction Order should be increased from 12 months to three years.

5 (a) Community-based sentences in Queensland

The *Penalties and Sentences Act 1995* (Qld) (PSA) provides for a number of community-based sentences, including Intensive Corrections Orders (ICO), probation and community service orders (CSO).

5 (a) (i) Intensive Correction Order (ICO)

Under s 111 of the PSA, a court can make an ICO. An ICO can:

- be made for up to 12 months; and
- specify the amount of hours per week that the offender is required to perform community service and attend programs (up to a maximum of 12 hours) (PSA, s114(2)).

If the offender contravenes the ICO a court may require the offender to serve the remainder of their sentence in prison (PSA s115 (b)). The general conditions of an ICO are that the offender must:

- not commit another offence during the period of the order;
- report to an authorised corrective services officer on admission;
- report or receive visits from an authorised corrective services officer at least twice a week;
- reside if directed at a nominated community residential facility for up to seven days;
- notify every change of employment or residence within two business days;
- not leave Queensland without permission, and only under exceptional circumstances; and
- comply with every reasonable direction of an authorised corrective services officer (PSA s 114(1).

5 (a) (ii) Probation

A court may make a probation order under s 92(1)(a) of the PSA. A probation order can be made for a period between six months and three years (PSA s92(2)). Under a probation order the offender is released into the community under the supervision of an authorised corrective services officer (PSA s 92(1)(a)).

The general requirements of a probation order are that the offender must:

- not commit another offence during the period of the order;
- report to an authorised corrective services officer on admission;
- report and receive visits from an authorised corrective services officer, as directed;
- take part in counselling and satisfactorily attend other programs as directed;
- notify every change of residence or employment within two business days;
- not leave or stay out of Queensland without permission; and
- comply with every reasonable direction of an authorised corrective services officer (PSA s 93(1)).

[1] We take the view that a short sentence is one of three years or less, which is the maximum sentence for which a court can fix a parole release date: see s 160B(3) of the PSA.

5 (a) (iii) Community Service Order (CSO)

A court may make a CSO (PSA s100) which requires the offender to perform unpaid community service for the number of hours stated in the order (PSA s102). The number of hours an offender is required to perform may be between 40 and 240 hours and the community service must be performed within one year of the court making the order (or another time allowed by the court) (PSA s103(2)).

The general requirements of a CSO are that the offender must:

- report to an authorised corrective services officer on admission;
- report to, and receive visits as directed from, an authorised corrective services officer;
- perform in a satisfactory way community service as directed;
- notify any change of residence or employment within two business days;
- not leave Queensland without permission; and
- comply with every reasonable direction of an authorised corrective services officer (PSA s103(1)).

5 (b) Appropriate use of community-based sentences

The appropriate time to use community-based sentences as an alternative to imprisonment depends on the purpose for which a person is being sentenced. There are several purposes for which a person can be sentenced (PSA s9(1); *R v Dance* at [22]) and the appropriate purpose (or purposes) depends on the facts of each case. If a person is being sentenced for the purpose of incapacitation (e.g. because the court considers that there is a risk that they will re-offend (PSA s9(1)(e)) then it is unlikely that a community-based sentence is an appropriate alternative to imprisonment (depending on the other considerations).

However, we note that the Committee must recommend measures that reduce rates of recidivism. If this is the purpose for which a person is to be sentenced then we submit that imprisonment is of limited value and community-based sentences are an effective alternative. **In particular, there is evidence from other jurisdictions, discussed below, that:**

- **offenders given community-based sentences have lower rates of recidivism, when compared to offenders that are sentenced to terms of imprisonment, especially offenders sentenced to short terms of imprisonment; and**
- **community-based sentences cost less than imprisonment.**

5 (c) The use of community-based sentences in other jurisdictions

New South Wales

Like Queensland, a New South Wales sentencing court may impose an ICO. An ICO may be imposed if a court considers that the offender should serve a sentence of imprisonment for two years or less.[2] The NSW Bureau of Crime Statistics and Research (Bureau) has concluded that there is evidence that ICOs are more effective than periodic detention in terms of re-offending rates (Ringland & Weatherburn, 2013).

[2] *Crimes (Sentencing Procedure) Act 1999* (NSW) s 7.

Further, the Bureau has stated that if prison sentences of six months or less were abolished in favour of non-custodial alternatives (such as community-based sentences) then there would be savings of between $33 million and $47 million per year (Lind & Eyland, 2002). The Bureau also noted that for more than 90 per cent of prisoners serving sentences of six months or less the most serious offence was theft, breach of justice orders, assault or a driving/traffic offence (Lind & Eyland, 2002). It is unlikely that incapacitation would be a primary justification for imposing a sentence on offenders who commit these types of offences.

The NSW Department of Corrections also recognises that there is evidence that:

- the availability of community-based correctional programs reduces recidivism; and
- such programs are significantly cheaper than those provided in custody (New South Wales Department of Corrective Services, *Corporate Plan 2004-2007*, 8).

New Zealand

In New Zealand a sentencing court can make a home detention order, which is similar to an ICO.[3] The New Zealand Ministry of Justice has concluded that home detention orders are very successful sentences in terms of "reducing the likelihood of reconviction and imprisonment." (Ministry of Justice, 2011a: 28) Specifically:

- the proportion of offenders sentenced to home detention and who are reconvicted in the next 12 months is less than half that of those offenders who are released from a short-term prison sentence (Ministry of Justice, 2011a: 20); and
- the proportion of offenders sentenced to home detention who are imprisoned within the next 12 months of release is four times lower than those offenders who are released from a short-term sentence of imprisonment (Ministry of Justice, 2011a: 21).

Further, home detention orders are considerably cheaper than sending a person to prison; it is approximately four times as expensive to send a person to prison than to manage that offender on a home detention order (JustSpeak, 2014) .

Scotland

In 2010 Scotland introduced a presumption against short terms of imprisonment for low level offenders (Scottish Government, 2010) based on a recommendation made by the Scottish Prisons Commission (The Scottish Prisons Commission, 2008). In 2010-11, statistics revealed that the recidivism rate in Scotland had fallen to 28.4, a 4.5% decrease from the rate in 2002-03 (Scottish Government, 2013: 4).

Further, offenders in Scotland sentenced to a community-based sentence have a reconviction rate that is approximately 10% lower than that of offenders released from custody. For example:

- in 2010-11 offenders sentenced to community-based sentences had a reconviction rate of 31.6%, while offenders released from custody had a reconviction rate of 43.5%; (Scottish Government, 2013) and

[3] *Sentencing Act 2002* (NZ) ss 15A, 80A-80ZI.

- in 2011-12 there was a similar difference between the reconviction rates for offenders given a community-based sentence (32.5%) and those released from custody (43.8%) (Scottish Government, 2014: 27) .

England and Wales
In England and Wales court ordered community sentences are more effective by 8.3% at reducing reoffending rates than custodial sentences of less than 12 months (Ministry of Justice, 2011c; Prison Reform Trust, 2013: 1).

5 (d) Increasing the use of community-based sentences

We submit that the Committee should recommend the use of community-based sentences as a measure to reduce rates of recidivism. We submit that the terms upon which existing community-based sentences may be imposed might be expanded, but we do not identify any need for new community-based sentences to be introduced.

The LJI recommends that community-based sentence replace short sentences of imprisonment. The use of community-based sentences in place of short sentences could be implemented by introducing legislation that requires a sentence judge who would have otherwise imposed a short sentence to instead impose a community-based order. The presumption would be displaced if the sentencing judge is satisfied that a custodial sentence should be imposed having regard to the following factors:

- the nature of the offence and whether it raises significant concerns about a risk to the community;
- whether the offender is already subject to a community-based sentence;
- whether the offender has a significant history of failing to comply with community supervision or conditional sentences; and
- any other sentence of imprisonment being served, or to be served, by the offender.[4]

We note that this proposal is adapted from that recommended by the Scottish Prisons Commission (The Scottish Prisons Commission, 2008).

The LJI recommends that the maximum term of an ICO be increased to three years. An ICO is only available if a court sentences an offender to a term of imprisonment of 1 year or less (PSA, s112). If a sentencing court reasons that a sentence of longer than 12 months is appropriate then an ICO cannot be used and the community-based sentencing options are limited. By increasing the length of time for which an ICO can be imposed, the use of community-based sentences may be expanded.

6. Decriminalisation of minor drug possession

The decriminalization of minor drug possession will have a significant positive impact on drug offending and property offending rates in Queensland.

[4] For example, if the offender is to be sentenced for another offence, for which a long term of imprisonment will be imposed, or if the offender is currently serving a term of imprisonment.

Significant to this submission is the correlation between drug addiction and property offending, such as breaking and entering, fraud and stealing, and the correlation between drug addiction and drug offending, such as possessing drugs, supplying drugs and trafficking drugs.

The community is better served by the rehabilitation of drug-addicted offenders (see out discussion of Drug Courts in Part 3 of this submission). Successful rehabilitation results in a reduction in recidivism, saving the community significant expense and resources. The application of strict criminal sanctions, on the other hand, results in an increase in the prison population and an attached stigma that can hamper future employment prospects and rehabilitation.

Benefits of this strategy include:

a) reduction of the drug black market;
b) reduction in prison populations; and
c) reduction in police hours policing minor offences.

A case study can be seen in Portugal. On 1 July 2001 Portugal decriminalized drug possession. People caught with small amounts of cannabis, heroin, amphetamines and cocaine are, under the Portugal model, directed to small administrative health tribunals that deal with the intervention on a community health basis, rather than a criminal sanction basis. The object is to try and guide offenders towards treatment.

Prior to the implementation of the drug reform in Portugal critics cited concerns that included:

a) Portugal becoming a drug tourist destination; and
b) people being more inclined to experiment or start regular recreational drug use.

Neither criticism materialized (Greenwald, 2009).

The LIJ recommends consideration of the decriminalisation of minor drug possession.

7 Building Safer Communities

7(a) Knowledgeable communities and evidence-based research

The Institute believes that the scope of the terms of reference for this inquiry have raised a broader and unresolved issue within Queensland which is the need for Queensland to establish an independent criminal research and statistics body.

It is imperative that policy be developed from evidence-based research - research which is conducted rigorously and independently.

As a result of amendments to the *Crime and Corruption Act 2001*, the research function of the CCC has been narrowed significantly. The narrowing of the research function was, to an extent, consistent with the Callinan-Aroney report (2013: 159 & 207). There is no capacity under the Act for the CCC to undertake research which is not related to its functions and which is not approved by the Attorney-General.[5] In our view, the research function of the CCC has been politicised.

It is important to recognize that a community properly informed about its criminal justice system, including sentencing trends, can formulate informed perceptions about crime. As a result of the Tasmanian Jury Sentencing Study, it was concluded that "there is value in engaging jury members by

[5] *Crime and Corruption Act 2001* s.52.

giving them more information about sentencing patterns and crime trends and by informing them of the judges' reasons for the sentences that they have imposed" (Warner *et al.*, 2011: 1). In circumstance where public opinion is swayed by political perception of the need for tougher penalties, the existence of this research and the conclusions which can be drawn from it highlight the importance of disseminating knowledge about trends in crime.

For the purpose of building a safer community it is important to distinguish between the actual risk of crime and the perception of criminal activity (Tulloch *et al.*, 1998: 9). Addressing the fear of crime for the purpose of creating a safe community will contribute to a decrease in the level of anxiety felt by individuals. By developing informed public opinion about and allowing open access to research and reports, perceptions and fears of community safety can be addressed (Warner *et al*., 2011: 1).

The Institute believes that Queenslanders would benefit from an independent research body reporting on criminal justice policy akin to the functions undertaken by the Australian Institute of Criminology and the New South Wales Bureau of Crime Statistics and Research. By establishing a body dedicated to promoting justice and reducing crime by undertaking and communicating evidence-based research to inform policy and practice, a safer community can be created. In addition, once research is collated, appropriate cost-benefit analysis can be undertaken.

The LJI recommends that Queensland establish an independent criminal research and statistics body.

7(b) Community safety outside the criminal justice system

In addition, a safer community can be served by investing in solutions to crime prevention which are found outside the criminal justice system. The Safer Streets Programme developed by the federal Attorney-General's Department recognizes the importance of improving community safety both in reality and by addressing community perceptions. That program is in the process of being implemented with the first stage, calling for applications, closing recently.[6]

It is recognized that situational crime prevention has a focus on preventing opportunities for crime by addressing conditions that give rise to a crime hotspot and characteristics that make people more vulnerable to crime (NSW Department of Attorney General and Justice, 2011). In 2003, Cornish and Clarke identified 25 techniques for situation crime prevention which are outside of the criminal justice realm. Those strategies include:

- assisting natural surveillance by improving street lighting and neighbourhood watch hotlines;
- discouraging imitation by rapid vandalism repair; and
- assisting with compliance by installation of litter bins and public lavatories.

By undertaking some of these situational crime prevention initiatives as part of broader safer community strategy, local governments and councils are provided with an opportunity to build and invest in a safer community without recourse to a criminal justice system.

The LIJ recommends that Queensland invest in solutions to crime prevention outside the criminal justice system including assisting natural surveillance by improving street lighting and neighbourhood watch hotlines; discouraging imitation by rapid vandalism repair; and assisting with compliance by installation of litter bins and public lavatories.

[6] The closing date for applications was 12 June 2014.

Recommendations

The *Law and Justice Institute (Qld) Inc*. recommends:

1. **the re-introduction of 'solution based courts' and in particular establishment of a specialist court that assumes and improves upon the function previously performed by the Drug Court (part 3 and 3(e));**
2. **that imprisonment should not be used or considered as a crime reduction strategy (part 1(d) and 4(a));**
3. **consideration of the removal of mandatory sentences of imprisonment where they exist in legislation (part 4);**
4. **greater use and resourcing of community based sentences (part5(f));**
5. **community-based sentences replace short sentences of imprisonment (part5(f));**
6. **that the maximum term of an ICO be increased to three years (part5(f));**
7. **consideration of the decriminalisation of minor drug possession (part 6);**
8. **that Queensland develop robust mechanisms to collect data necessary to effectively evaluate crime control and criminal justice policies, programs, initiatives and practices. We recommend that Queensland establishes an independent criminal research and statistics body (see part 2(a) and part 7(a));**
9. **that Queensland invest in solutions to crime prevention outside the criminal justice system including: (see part 7(b))**
    a. **assisting natural surveillance by improving street lighting and neighbourhood watch hotlines;**
    b. **discouraging imitation by rapid vandalism repair; and**
    c. **assisting with compliance by installation of litter bins and public lavatories.**

List of references:

ABS, 2013: Australian Bureau of Statistics, Prisoners In Australia, 2013, Queensland.

Andrews, D.A., James Bonta and J.S. Wormith, 'The Risk-Need-Responsivity (RNR) Model: Does Adding the Good Lives Model Contribute to Effective Crime Prevention?' (2011) 38(7) *Criminal Justice and Behavior* 735

Aos, S. M. Miller & E. Drake (2006) *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates* (Olympia, WA: Washington State Institute for Public Policy) - accessible online at http://www.wsipp.wa.gov/ReportFile/952

Ashworth, Andrew, 'What if Imprisonment were abolished for property offences? '(2013) http://d19ylpo4aovc7m.cloudfront.net/fileadmin/howard_league/user/online_publications/What_if_imprisonment_were_abolished_web.pdf

AUJPU 2014: American University Justice Programs Unit, 'Recidivism and Other Findings Reported in Selected Evaluation Reports of Adult Drug Court Programs Published: 2000 – Present' (American University Justice Programs Unit, 2014) <http://jpo.wrlc.org/handle/11204/34>

Callinan, Hon. Ian AC and Professor Nicholas Aroney, 'Review of the Crime and Misconduct Act and Related Matters: Report of the Independent Advisory Panel', 28 March 2013

Carey, Shannon and Mark Waller, 'California Drug Courts: Costs and Benefits: Phase III: DC-CSET Statewide Launch Superior Court of Nevada County Nevada County Drug Court Site-Specific Report', (California Administrative Office of the Courts 2009);

Cozens, P., G. Saville & D. Hillier (2005) 'Crime Prevention through Environmental Design (CPTED): A Review and Modern Bibliography' *Property Management* 23(5): 328-356.

Cullen, F, 2011, 'Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science' 91 (3) The Prison Journal 48-65.

Department of Attorney-General (W.A.), 'A Review of the Perth Drug Court ' (Department of Attorney-General (W.A.), 2006)

Edgely, Michelle, 'Solution-Focused Court Programs for Mentally Impaired Offenders: What Works?' (2013) 22(4) *Journal of Judicial Administration* 207

Edgely, Michelle, 'Why do Mental Health Courts Work? A Confluence of Treatment, Support & Adroit Judicial Supervision' (2014) *International Journal of Law and Psychiatry*

Goodale, Gregg, Lisa Callahan and Henry Steadman, 'What Can We Say about Mental Health Courts Today?' (2013) 64(4) *Psychiatric Services* 298

Guerette, R. & K. Bowers (2009) "Assessing the extent of crime displacement and diffusion of benefits: A review of situational crime prevention evaluations" *Criminology* 47(4); 1331-1368.

Govt Services, 2013 Report on Government Services, (Chapter 8) http://www.pc.gov.au/__data/assets/pdf_file/0008/121769/11-government-services-2013-chapter8.pdf

Greenwald, G. (2009) *Drug decriminalization in Portugal: lessons for creating fair and successful drug policy*, (Washington, DC: CATO Institute).

Gutierrez, Leticia and Guy Bourgon, 'Drug Treatment Courts: A Quantitative Review of Study and Treatment Quality' (Public Safety Canada, 2009) <http://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/2009-04-dtc/2009-04-dtc-eng.pdf>

Holland, S and Pointon, K, (2007) *Who returns to prison? Patterns of recidivism among prisoners released from custody in Victoria in 2002-03* (Corrections, Victoria, Melbourne).

Irish Prison Service (2013) *Irish Prison Service Recidivism Study 2013* (Dublin: Irish Prison Service) accessible online at http://www.irishprisons.ie/images/pdf/recidivismstudyss2.pdf

Judicial Commission of NSW, 'Judicial Views About Pre-Sentence Reports' (Judicial Commission of NSW, 1999)

JustSpeak, *Unlocking prisons: How we can improve New Zealand's prison system* (2014) 38

King, Michael, 'Therapeutic Jurisprudence Initiatives in Australia and New Zealand and the Overseas Experience' (2011) 21 *Journal of Judicial Administration* 19-33.

Latimer J, Kelly Moreton-Bourgon and Jo-Anne Chretien, 'A Meta-Analytic Examination of Drug Treatment Courts: Do they reduce recidivisim' Research and Statistics Division, Department of Justice Canada, 2006, http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr06_7/rr06_7.pdf

Lind, Bronwyn and Simon Eyland, 'The impact of abolishing short prison sentences' (2002) 73 *Crime and Justice Bulletin*

Lösel, F., J. Koehler, L. Hamilton, D. Humphreys & T. Akoensi (2011) *Strengthening Transnational Approaches to Reducing Reoffending Final Report* (the STARR Report) (Cambridge, UK: Institute of Criminology, University of Cambridge) - accessible online at http://www.cepprobation.org/uploaded_files/Rep%20STARR%20ENG.pdf

Magistrates Court of Victoria, 'Guide to Court Support & Diversion Services' (Magistrates Court of Victoria, 2011)

Makkai, Tony and Keenan Veraar, 'Final Report on the South East Queensland Drug Court' (Australian Institute of Criminology, 2003)

Marlowe, Douglas, 'Research Update on Adult Drug Courts' (2010) *Need to Know* 1
Ministry of Justice, 2010, *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* (London)
Ministry of Justice, *Home Detention: A review of the sentences of home detention 2007-2011* (2011a) 28.
Ministry of Justice, Compendium of reoffending statistics (2011b); Prison Reform Trust, *Prison: the facts* (2013) <http://www.prisonreformtrust.org.uk/Portals/0/Documents /Prisonthefacts.pdf> 1.
Ministry of Justice, Compendium of reoffending statistics (2011c) https://www.gov.uk/government/publications/2013-compendium-of-re-offending-statistics-and-analysis 1.
National Association of Drug Court Professionals, Drug Court Standards Committee, *Defining Drug Courts; The Key Components* (Bureau of Justice Assistance (US), 2nd ed, 1997)
New South Wales Department of Attorney-General and Justice (2011). *Factsheet: Situational Crime Prevention* - accessible online at http://www.crimeprevention.nsw.gov.au/agdbasev7wr/_assets/cpd/m660001l2/situationaldevelopmentfactsheet_nov2011.pdf
New South Wales Department of Corrective Services, *Corporate Plan 2004-2007*
Payne, Jason, 'The Queensland Drug Court: A Recidivism Study of the First 100 Graduates' (Australian Institute of Criminology, 2008)
Police Association of NSW, 2012, *Sentencing and its effect on crime rates* https://www.pansw.org.au/sites/default/files/public/Sentencing%20_Effects_on_Crime_Rates_ExecSummary.pdf
Porter, Rachel, Michael Rempel and Adam Mansky, 'What Makes a Court Problem-Solving? Universal Performance Indicators for Problem-Solving Justice' (Center for Court Innovation, 2010) <http://www.courtinnovation.org/sites/default/files/What_Makes_A_Court_P_S.pdf>
Pratt, J. & A. Eriksson (2013) *Contrasts in Punishment: An Explanation of Anglophone Excess and Nordic Exceptionalism* (Abingdon, UK/New York: Routledge)
Pratt, T. & F. Cullen (2005) "Assessing macro-level predictors and theories of crime: A meta-analysis" - in Tonry, M. (ed.) *Crime and Justice: A Review of Research* Vol. 32, pp. 373–450 (Chicago, ILL: University of Chicago Press).
Prison Reform Trust, *Prison: the facts* (2013) <http://www.prisonreformtrust.org.uk/Portals/0/Documents /Prisonthefacts.pdf>
R v Dance [2009] QCA 371
Ringland, Clare and Don Weatherburn, 'The impact of intensive correction orders on re-offending' (2013) 176 *Crime and Justice Bulletin*
Sarteschi, Christine M., *Assessing the Effectiveness of Mental Health Courts: A Meta-Analysis of Clinical and Recidivism Outcomes* (Doctor of Philosophy Thesis, University of Pittsburgh, 2009) <http://d-scholarship.pitt.edu/9275/1/CMSarteschiAug2009Dissertation.pdf
Schneider, Richard, 'Mental Health Courts and Diversion Programs: A Global Survey' (2010) 33(4) *International Journal of Law and Psychiatry* 201
Scottish Government, *Community punishments to replace shortest prison sentences* (23 June 2010) The Scottish Government <http://www.scotland.gov.uk/News/ Releases/2010/06/23153353>.
Scottish Government, *Reconviction rates in Scotland: 2010-11 cohort* (9 September 2013) The Scottish Government http://www.scotland.gov.uk/Resource/0043/ 00433504.pdf
Scottish Government, *Reconviction rates in Scotland: 2011-12 cohort* (10 June 2014) The Scottish Government <http://www.scotland.gov.uk/Resource/0045/ 00452150.pdf>
Sherman, L. (2002) *Evidence-based Crime Prevention* (New York: Routledge)
Sherman, L. (2009) "Evidence-based policing: what we know and how we know it" - in Fyfe, N. (ed.) (2014) *Policing: Connecting Evidence and Practice - SIPR Annual Lectures 2007-2012* (Dundee: Scottish Institute for Policing Research), pp. 19-33.
Sherman, L. (1997) *Preventing crime : what works, what doesn't, what's promising : a report to the United States Congress / prepared for the National Institute of Justice by Lawrence W. Sherman ... [et al.] in collaboration with members of the graduate program, Department of Criminology and Criminal Justice, University of Maryland* (Washington, DC : U.S. Dept. of Justice, Office of Justice Programs)
Sherman, L. (2013) 'Targeting, Testing and Tracking Police Services: The Rise of Evidence-Based Policing,1975-2025', in M. Tonry (ed.) *Crime and Justice in America 1975-2025* (*Crime and Justice - A Review of Research*, Vol. 42) (Chicago, ILL: University of Chicago Press).
Simpson, S; Rorie, M; Alper, M; Schell-Busey, N 'Corporate Crime Deterrence: A Systematic Review (2014, The Campbell Collaboration)
Steadman, Henry et al, 'Effect of Mental Health Courts on Arrests and Jail Days - A Multisite Study' (2011) 68(2) *Archives of General Psychiatry* 167

The Scottish Prisons Commission, *Scotland's Choice: Report of the Scottish Prisons Commission* (July 2008).

Tulloch, J, D. Lipton, W. Blood, M. Tulloch, C. Jennett & M. Enders (1998) *Fear of Crime Volume 1, Audit of the Literature and Community Programs* (Canberra: criminology Research Council) - accessible online at http://www.crimeprevention.gov.au/Publications/PublicSafety/Documents/Fear_of_Crime_Volume%201.pdf

VîlcicĂ, E. Rely et al, 'Exporting Court Innovation from the United States to Continental Europe: Compatibility between the Drug Court Model and Inquisitorial Justice Systems' (2010) 34(1) *International Journal of Comparative and Applied Criminal Justice* 139

Warner, Kate; Julia Davis, Maggie Walter, Rebecca Bradfield and Rachel Verney, "Public judgement on sentencing: Final result from the Tasmanian Jury Sentencing Study" (2011) 407 Australian Institute of Criminology: Trends & issues in crime and criminal justice 1.

Weatherburn, D. (2014) *Arresting Incarceration: Pathways out of Indigenous Imprisonment* (Canberra: Aboriginal Studies Press)

Weatherburn, D et al, 'The NSW Drug Court: A Re-evaluation of its Effectiveness' (2008) 121 *Crime and Justice Bulletin* 1

Weisburd, D., C. Telep, J. Hinkle & John Eck (2010) "Is problem oriented policing effective in reducing crime and disorder? Findings from a Campbell systematic review" *Criminology & Public Policy* 9(1): 138-172.

Wundersitz, Joy, 'Criminal Justice Responses to Drug and Drug-Related Offending: Are They Working?' (Australian institute of Criminology, 2007) <http://www.aic.gov.au/publications/current%20series/tbp/21-40/tbp025.html>