

## Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

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# Inquiry into Youth Justice Reform in Queensland

Submission to Youth Justice Reform Select Committee

**21 December 2023**

## Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.<sup>1</sup>

The ALA office is located on the land of the Gadigal of the Eora Nation.

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<sup>1</sup> [www.lawyersalliance.com.au](http://www.lawyersalliance.com.au).

## Introduction

1. The ALA welcomes the opportunity to have input the Youth Justice Select Committee's inquiry into Youth Justice Reform in Queensland.
2. The ALA believes that as Australian imprisonment and recidivism rates continue to rise, it is increasingly important to better understand how to support "returning citizens" to adequately prepare them for post-release life.
3. The ALA contends that much of the rise in imprisonment rates in Tasmania and Australia at large is attributable to public policy. We strongly oppose imprisonment as a viable option for deterring crime. Studies continue to suggest that imprisonment has no effect on reoffending and that there is a slight criminogenic effect to imprisonment. This finding aligns with evidence that 46% of released prisoners are back in corrections custody and control within 2 years and 56% who come back have been there before.<sup>2</sup>

## Factors influencing increases in Tasmania's prisoner population and associated costs

### Government expenditure in the sector

4. The ALA notes that total government expenditure for the justice services (less revenue from own sources) was almost \$22.0 billion in 2021-22,<sup>3</sup> an increase of 3.4 % from the previous year. Police services were the largest contributor (64.5 %), followed by corrective services (26.2 %) and courts (9.2 %). Nationally, expenditure per person on justice services was \$854 in 2021-22.<sup>4</sup> For the 2020-21 financial year (the most recent financial year for which data are available across all sections), this represented around 6.6 % of total government expenditure covered in this Report.
5. The ALA is concerned that over the last 20 years, Australia's imprisonment rates have increased by more than 35% and our imprisonment numbers are growing faster than any

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<sup>2</sup> Imprisonment and Reoffending, Daniel S Nargin, Daniel T Cullen, Cheryl Lero Jonson, Crime and Justice, Vol 38, No 1 (2009), pp. 115-200; The Effects on Re-offending of Custodial vs. Noncustodial Sanctions: An Updated Systemic Review of the State of Knowledge, Patrice Villettaz, Gwladys Gillieron & Martin Killias. Campbell Systemic Reviews (2015). DOI: 10.4073/CSR.2015.1

<sup>3</sup> [C Justice - Report on Government Services 2023 - Productivity Commission \(pc.gov.au\)](https://www.pc.gov.au/reports/2023/justice)

<sup>4</sup> Ibid.

other developed country. Importantly, the ALA emphasises that keeping people in prison is expensive, approximately \$330 per person, per day. The evidence suggests that many inmates are considered low risk to the community (42% non-violent offenders and 15% are low risk).<sup>5</sup> The ALA strongly believes that one major influence on having less incidents of crime yet more people in prison is a ‘tough on crime’ approach and policies that tighten bail laws and mandatory minimum prison sentences.

6. Given the high cost of imprisonment, the ALA contends that it is sensible to look at alternatives that can keep the community safe at a lower cost. A range of alternatives have been trailed in Australia and abroad and will be explored in this paper, including diversion strategies, rehabilitation, knowledge base, home detention/early parole, case management and system targets.
7. The ALA believes that in order to implement programs to reduce recidivism long-term, underlying structural factors that influence reoffending in society must first be recognised and addressed.<sup>6</sup> We also believe that the effective combination of criminal justice and social policies with local and community-orientated partnerships can create safer communities by preventing crime.

### **The use of evidence-based strategies to reduce contact with the justice system and recidivism.**

8. The ALA has long called for cost-effective alternatives to prison and more effective strategies to be implemented with the goal of diverting individuals from crime, rather than simply locking them up. Alternative procedures need to be established to help prevent young people in particular from re-offending.
9. The ALA notes that effective pursuit of risk-reduction sentencing strategies requires coordination between the court and other criminal justice agencies, especially prosecution, probation, and program providers.<sup>6</sup>
10. The ALA also recognises the need for more social support to be provided to ex-prisoners upon their release to reduce recidivism and that positive reintegration outcomes are more likely

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<sup>5</sup> Ibid.

<sup>6</sup> [Evidence-Based Practice to Reduce Recidivism: Implications for State Judiciaries](#)

where programs are holistic and continue in and outside prison, addressing the specifically social and physical needs of offenders.<sup>7</sup>

11. Furthermore, we note the importance of social support programs across government and its agencies including in health, education, prison administration and law enforcement, in addition to other community services. Also, we draw attention to the importance of vocational education training (VET) in facilitating prisoner education, encouraging future employment and accompanying prisoners on a path towards becoming contributing members of society and decreasing the likelihood of reoffending.<sup>8</sup>
12. VET provides prisoners with workplace experiences, employment stability and increased community trust and safety by building rapport, giving prisoners access to a greater range of services they might not otherwise appreciate are available to them or have access to them.<sup>9</sup> 35 Such services take a preventative approach to recidivism by equipping prisoners with the necessary resources to be able to cultivate new habits, experiences and understanding of the skills necessary to evolve away from the criminal justice system.<sup>10</sup>
13. The ALA believes that to reduce recidivism rates, programs must be implemented to empower communities in developing a relevant knowledge base about the causes of, and potential solutions for, recidivism; informed by the specific circumstances of the local community.<sup>11</sup>
14. We believe that individual responsibility for crime and empowered change can be simultaneously accomplished through innovative, rehabilitative programs that harness

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<sup>7</sup> United Nations, Introductory Handbook on The Prevention of Recidivism and the Social Reintegration of Offenders (Final Report, December 2018) 9.

<sup>8</sup> Susanne Bahn, 'Community safety and recidivism in Australia: Breaking the cycle of reoffending to produce safer communities through vocational training' (2011) 9(3) International Journal of Training Research 261, 266.

<sup>9</sup> Samantha Battams, et al, 'Reducing Incarceration Rates In Australia Through Primary, Secondary, And Tertiary Crime Prevention' (2021) 32(6) Criminal Justice Policy Review.

<sup>10</sup> Ibid.

<sup>11</sup> Australian Institute of Criminology, Justice Reinvestment in Australia: A review of the literature (Research Report 2018), <[https://www.aic.gov.au/sites/default/files/202005/rr09\\_justice\\_reinvestment\\_in\\_australia\\_160518\\_0.pdf](https://www.aic.gov.au/sites/default/files/202005/rr09_justice_reinvestment_in_australia_160518_0.pdf)>.

creativity.<sup>12</sup> Such programs provide therapeutic benefits that allow prisoners to explore their capabilities, talents and knowledge; leading to future employment opportunities.<sup>13</sup>

## **Innovations and improvements to the management and delivery of corrective services that may be applied in Queensland**

15. The ALA notes that Australian governments tend to focus on prevention of recidivism at this late stage, rather than primary crime prevention that would address the underlying social and situational causes of offending mentioned above.<sup>14</sup> This has largely been due to the political rhetoric of a ‘tough-on-crime’ approach to criminal justice which has led to increased spending on prisons rather than early intervention and social support programs that could prevent offending in the first instance.

### *Europe*

16. . Many countries differ from Australia in actively fostering ‘normalised’ custodial environments that are as similar to the general community as reasonably possible, with principles of resocialisation and rehabilitation at the core of prison design.<sup>15</sup>
17. For example, German and Dutch prisoners wear their own clothes and prepare their own meals, are allowed individual expression in their living environments and given the capacity to exercise a substantial amount of control over their daily lives. In both countries, prisoners retain their rights to vote and often receive social welfare benefits.
18. It is common for German and Dutch prisoners to spend time out of prison, including spending weekends with families, working on their relationships and practicing what they

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<sup>12</sup> Australian Institute of Criminology, Justice Reinvestment in Australia: A review of the literature (Research Report 2018),  
<[https://www.aic.gov.au/sites/default/files/202005/rr09\\_justice\\_reinvestment\\_in\\_australia\\_160518\\_0.pdf](https://www.aic.gov.au/sites/default/files/202005/rr09_justice_reinvestment_in_australia_160518_0.pdf)>.

<sup>13</sup> Hannah Graham and Rob White, ‘Analysing Innovation’ in *Innovative Justice* (Routledge 2014) 3.

<sup>14</sup> Samantha Battams, et al, ‘Reducing Incarceration Rates In Australia Through Primary, Secondary, And Tertiary Crime Prevention’ (2021) 32(6) *Criminal Justice Policy Review*.

<sup>15</sup> Subramanian R & Shames A 2013. *Sentencing and prison practices in Germany and the Netherlands: Implications for the United States*. New York: Vera Institute of Justice, Center on Sentencing and Corrections.

have learned in rehabilitative programs.<sup>16</sup> Short-term or extended home leave to visit family or search for work and accommodation is routinely granted. Notably, the proportion of prisoners failing to return to prison from this leave is in the order of one percent.<sup>17</sup>

19. The ALA encourages the Tasmanian Government to consider creative solutions and similar practices of normalisation which have been found to leave little need for the provision of housing services for released prisoners.<sup>18</sup> In this regard, German and Dutch prisoners are given the opportunity to maintain pre-incarceration accommodation and relationships in preparation for their release. The ALA views such practices as preventative by increasing the likelihood of prisoners leaving with the life skills needed to maintain stable housing.

20. Another example to draw from is Prison SMART, a holistic program that prioritises rehabilitation, with a focused effort on reducing violence and aggression, improved physical and mental health, better relationships and reduced substance abuse. It aims to transform valuable human resources and strengthen these for the well-being of the individual and society through rehabilitation that focuses on mindsets, attitudes and behaviours of offenders.<sup>19</sup> It also supports professional excellence and stress management in correctional staff.

21. The ALA encourages the Queensland Government to consider the implementation of such programs in the design of prisons.

#### *Norway*

22. In the early 1990s, Norway implemented a unique approach to prison design with a particular emphasis on rehabilitation and principles of comfort, healing and inclusivity at the core.<sup>20</sup> Prison time is used to equip prisoners with the necessary skills to contribute to

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<sup>16</sup> Subramanian R & Shames A 2013. Sentencing and prison practices in Germany and the Netherlands: Implications for the United States. New York: Vera Institute of Justice, Center on Sentencing and Corrections.

<sup>17</sup> Ibid.

<sup>18</sup> Australian Institute of Criminology, Mathew Willis, 'Supported housing for prisoners returning to the community: A review of the literature', Research Report 07 (2018).

<sup>19</sup> 6 Prison SMART Europe, Stress Management and Rehabilitation Training For prisoners and prison personnel 15.

<sup>20</sup> Ibid.



business and other spheres of human endeavour such as gaining qualifications in a variety of fields (many walking away as qualified mechanics, chefs and carpenters<sup>21</sup>).

23. Notably, the training requirements for correctional staff are more stringent in Norway with officers taking 2-3 years to become qualified prison officers given that the training involves becoming a personal support, mentor and role model who will spend time nurturing friendships that will motivate and encourage prisoners onto a new path.<sup>22</sup>
24. Adoption of these principles has proven fruitful in systems that follow a strict retributive punishment model. For example, in North Dakota, the Department of Corrections and Rehabilitation adopted principles of personal choice and humane treatment which led to a significant reduction of violence there.<sup>23</sup>

#### *Canada*

25. Cognitive behavioural therapy (CBT) is the best example of the treatment-based approach, as it directly uses theoretical methods of implementation taken from psychology, which have yielded positive results on a broad spectrum of patients. The Counter-Point Program, which is delivered to released offenders in Canada, uses cognitive-behavioural principles of intervention through altering antisocial attitudes.
26. The program uses techniques including self-monitoring, self-management, perspective taking, generic problem-solving skills, sequential and structured learning, prosocial modelling, role play, rehearsal, and effective reinforcement and disapproval. Participants are given homework at the end of each session to apply the skills learned to “real life” events and situations.<sup>24</sup>
27. The advantage of an intervention program such as this is that it requires first identifying behaviours that are highly correlated with criminal conduct and addressing these delinquent behaviours directly through treatment that can be administered both inside and outside of

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<sup>21</sup> Emma Jane Kirby, ‘How Norway turns criminals into good neighbours’, BBC (online, 7 July 2019).

<sup>22</sup> [How Norway turns criminals into good neighbours - BBC News](#).

<sup>23</sup> Cinnamon Janzer, ‘North Dakota Reforms its Prisons, Norwegian Style’, US News (online, 22 February 2019).

<sup>24</sup> Australian Institute of Criminology, Mathew Willis, ‘Supported housing for prisoners returning to the community: A review of the literature’, Research Report 07 (2018).

prison (e.g. while offenders are on parole, or conditional release), in order to gradually deter the offender from an environment that is inherently criminogenic.

### *Switzerland*

28. Switzerland provides a good example of the effectiveness of drug treatment programs in the pursuit of crime prevention. There, a heroin assisted treatment program demonstrates effective drug treatment as a crime prevention measure itself, having important implications for policies aiming to reduce recidivism. A multi-year trial of the program led to a 90% reduction in property crime in the region, demonstrating the effectiveness of heroin treatment as a measure of crime prevention.<sup>25</sup> At the beginning of the trial, 69.9% of participants had been involved in crime in the last 30 days, which dropped to 23.4% after 12 months.<sup>26</sup>

### *Example of Possible Support Program*

29. The NSW Post Release Support Program (PRSP) is favourably recognised for its impact with qualitative interviews among staff and offenders ‘overwhelmingly positive’. The diversion programs were also recognised as ‘invaluable for enabling youths to gain insight into their behaviour through meeting face-to-face with their victims and admitting their errors to their community’. The return of adults to detention that were in detention as youths demonstrated ‘the acute need for effective rehabilitation programs’, like the Te Whare Wakaahuru residential diversionary programs in New Zealand and Baund-a near the Clarence River in NSW.<sup>27</sup>

30. Peer Mentoring programs such as the Youth Justice Mentoring Scheme (YJMS) began by sending volunteers one day a week to Juniperina Juvenile Justice Centre in Lidcombe to run recreational activities with the all-female residents at the centre. The service provides

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<sup>25</sup> Uwe Verthein et al, ‘Long-term effects of heroin-assisted treatment in Germany’ (2008) 103(6) *Addiction* 960, 960–966.

<sup>26</sup> *Ibid.*

<sup>27</sup> [Chapter 7 The criminal justice system – Parliament of Australia \(aph.gov.au\)](#).

opportunities for young people in custody to redefine and develop their own positive and unique identities separate from the label of a juvenile prisoner.<sup>28</sup>

31. Australia has experimented with Youth Justice Conferencing to reduce youth reoffending with participants including the convenor, a police officer (either the arresting officer or a representative), the offender (who, as a condition of attending, must admit to the offence), the victim(s), and supporters for the offender(s) and victim(s). The offender's supporters are typically parents, while victim supporters may be parents or partners. It usually goes through an introduction, storytelling and agreement negotiation phase, which can include an apology and reparations. They also utilise the emotions of the offender to encourage them to take accountability for their actions and show remorse. This allows "for the resumption of normal social relations".<sup>29</sup>
32. The ALA believes that such initiatives can have a large impact on a young person and their decision to reoffend in the future.

## Conclusion

33. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the Youth Justice Reform Select Committee's inquiry into Youth Justice Reform in Queensland.
34. The ALA is available to provide further assistance to the Committee on the issues raised in this submission.



**Sarah Grace**

**Queensland Branch President**

**Australian Lawyers Alliance**

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<sup>28</sup> Sydney University Law Society. 'Youth Justice Mentoring Scheme.

<sup>29</sup> Hennessey Hayes (2006) Apologies and Accounts in Youth Justice Conferencing: Reinterpreting Research Outcomes , Contemporary Justice Review, 9:4, 369-385.