



27 May 2019

Queensland Sentencing Advisory Council

Review of Community Based Sentencing Orders, Imprisonment and Parole Options

Dear Sir or Madam

Thank you for the opportunity to provide a submission on the draft report to the Queensland Sentencing Advisory Council review of Community Based Sentencing Orders, Imprisonment and Parole Options. The Queensland Network of Alcohol and other Drugs (QNADA) submission is attached. QNADA represents a dynamic and broad-reaching specialist network within the non-government alcohol and other drug (NGO AOD) sector across Queensland. We have 53 member organisations, representing the majority of specialist NGO AOD providers. This submission is made following consultation with QNADA members.

QNADA is pleased to provide further information, or discuss any aspect of this submission. Please don't hesitate to contact me at .

Yours sincerely

Rebecca Lang

CEO



Queensland Sentencing
Advisory Council Review of
Community Based Sentencing
Orders, Imprisonment and
Parole Options

May 2019

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). The content of this submission is informed by consultation with QNADA member organisations providing treatment services in Queensland.

QNADA welcomes the opportunity to provide a submission on the options paper to the Queensland Sentencing Advisory Council review of community based sentencing orders, imprisonment and parole.

At June 2017 'possess illicit drugs' was the most commonly sentenced offence in Queensland Magistrates Courts.¹ In order to create an efficient and flexible sentencing system, legal frameworks must balance sentencing for offences against the risk of inadvertently increasing harm and / or contributing to reoffending by way of involving people in the justice system.

In its consideration of the *Penalties and Sentences Act 1992 (the Act)*, there is an opportunity for the Queensland Sentencing Advisory Council to extend the scope of its review to consider the impact of the Act on the ability of all courts to respond to community needs appropriately, flexibility, efficiently.

The National Drug Law Enforcement Research Fund commissioned research to assess cannabis diversion outcomes and cost-effectiveness, which found that people who were diverted from the criminal justice system experienced similar outcomes to those subjected to a traditional criminal justice system approach. Significantly, 'the mean cost for the charge group was six to 15 times more than that of the diversion group' yet both groups achieved a similar reduction in their level of offending.² The diversion group also expressed more trust in police and held improved perceptions of police legitimacy.

For the vast majority of people who use drugs and become involved in the justice system, current sentencing practices are inefficient and likely to be increasing harm with little community benefit.

For example:

- Global research indicates that 88-89% of people who use illicit drugs do not experience dependence or problems that would indicate benefit from a treatment intervention, which means that for many people who use illicit drugs, the most significant risk of harm arises from involvement in the justice system, not substance use.³
- Sentencing for drug offences disproportionately impacts already vulnerable and disadvantaged populations. For example, while 'Aboriginal and/or Torres Strait Islander [peoples] represent approximately 3.8 per cent of Queensland's population aged 10 years and

¹ Queensland Sentencing Advisory Council, "Sentencing Spotlight on Offence and Sentencing Trends: Magistrates Court of Queensland," (Brisbane: Author, 2018).

² Marian Shanahan, Caitlin Hughes, Tim McSweeney. (2016). Australian police diversion for cannabis offences: Assessing program outcomes and cost-effectiveness. National Drug Law Enforcement Research Fund. Accessed March 1, 2019 <http://www.ndlerf.gov.au/sites/default/files/publication-documents/monographs/monograph-66.pdf>

³ United Nations Office on Drugs and Crime. World Drug Report 2017. accessed March 1, 2019 https://www.unodc.org/wdr2017/field/Booklet_2_HEALTH.pdf

over, they accounted for 9.4 per cent of all offenders sentenced for possessing dangerous drugs as their MSO' (most serious offence) between 2005-06 to 2015-16.⁴

- In Queensland, people who use illicit drugs are almost nine times more likely than dealers or traffickers to find themselves facing action in the criminal justice system (39,099 and 4,385 respectively in 2016-17).⁵
- The most common offences sentenced in association with drug possession as the most serious offence are additional drug offences (75.2%), with possession of utensils accounting for 48% of associated offences between 2005-06 and 2015-16.⁶
- Recidivism data indicates that for people with prior or subsequent offending histories charged with drug possession as their most serious offence, 'possess illicit drugs' is the most common offence.⁷
- The impact of a high rate of sentencing for drug possession offences in Queensland is compounded by a declining rate of police proceedings resulting in non-court action.⁸

Changing practice around illicit drugs could have a profound impact on the system and the community. There were 77,217 unique offenders with 'possess illicit drugs' as most serious offence in Queensland Magistrates Courts from 2005-06 to 2016-17.⁹ The criminalisation of drug possession for personal use in Queensland inhibits the ability of magistrates and judges to provide fair and just sentencing, which properly meets the needs of a significant number of people appearing before the court. It can also inhibit appropriate health responses, and discourage people with problems to seek help when they need it for fear of getting into further trouble with perceived authorities.

We believe any sentence applied to people whose most serious offence is 'possess illicit drugs', and other possession offences such as 'possession of drug utensils', is ineffective, inefficient and counterproductive to community safety.

A community based sentencing order should always be considered as a first option for people who commit more serious offences and who have issues related to problematic alcohol or other drug use. This may be most relevant where their offending can be directly related to problematic substance use and most effectively treated by providing a health response such as specialist alcohol and other drug treatment.

⁴ Queensland Sentencing Advisory Council, "Sentencing Spotlight on Possession of Dangerous Drugs," (Brisbane: Queensland Sentencing Advisory Council, 2017).

⁵ Australian Criminal Intelligence Commission. Illicit Drug Data Report 2016-17. (2018). https://www.acic.gov.au/sites/default/files/iddr_2016-17_050718.pdf?v=1536906944

⁶ Queensland Sentencing Advisory Council, "Sentencing Spotlight on Possession of Dangerous Drugs."

⁷ Ibid.

⁸ Arie Freiberg et al., "Queensland Drug and Specialist Courts Review: Final Report," (Brisbane: Queensland Courts, 2016).

⁹ Queensland Sentencing Advisory Council, "Sentencing Spotlight on Offence and Sentencing Trends: Magistrates Court of Queensland."