12 August 2022

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Ms Lynda Pretty
Acting Committee Secretary
Community Support and Services Committee

By email: ***cssc@parliament.qld.gov.au***

Dear Ms Pretty

Thank you for the opportunity to make a submission to the *Inquiry into the decriminalisation of certain public offences, and health and welfare responses*.

AMA Queensland supports health-based approaches to alcohol and other substance abuse problems. These issues should be treated in a health context and not via the criminal justice system.

Attached is our *Position Statement on Drug Law Reform* which, whilst directed at substance use rather than alcohol abuse, has significant parallels directly relevant to your Inquiry (confidential, not for publication or distribution).

As noted by the Queensland Parliamentary Mental Health Select Committee in its report from the *Inquiry into the opportunities to improve mental health outcomes for Queenslanders*, strategies that provide people who use alcohol and other drugs with early support and divert them away criminal responses are beneficial for individuals and more cost effective than punitive responses.

Taking this approach to minor offences which are often related to alcohol and other substance abuse problems such as public intoxication, begging and public urination will also ensure more Queenslanders suffering these issues get the health treatment they need.

We welcome the inquiry and look forward to the report.

Yours sincerely

Dr Maria Boulton
President
AMA Queensland

Dr Brett Dale
Chief Executive Officer
AMA Queensland

Enclosed: AMA Queensland, *Position Statement on Drug Law Reform* (confidential, not for publication or distribution)

AMA Queensland

Position Statement on Drug Law Reform

Updated June 2022

A call for action

1. In July 2021, AMA Queensland invited a multi-disciplinary team of experts to collaborate in the AMA Queensland Drug Law Reform Roundtable.

2. Experts included medical professionals, officials from law enforcement and corrective services, members of the legal profession, representatives from the health and community services sectors, and people with lived experience of drug use.

3. There was overwhelming consensus among the Roundtable's members that existing legal settings inhibit health outcomes, and that reform is essential to help curb the human and financial costs of incarceration for drug use and to reduce the profound, intergenerational impacts on people who use drugs, families and communities.

4. The review of current evidence found that existing punitive policy and legislative approaches to drug use and possession warranted urgent and practical action to treat drug use as a health issue.

5. AMA Queensland supports diversion for *personal drug use or possession* only.

6. AMA Queensland's support for drug law reform does not extend to any policy or legislative change to repercussions for supply and distribution offences, or any contemporaneous offending committed under the influence of drugs or in association with the possession or use of drugs.

7. This position on drug law reform is informed by the insights and experiences of the experts on the Roundtable, and calls for an expansion of the Police Drug Diversion Program to –

    - treat substance use as a health issue
    - address the underlying causes of substance use
    - encourage help-seeking behaviours
    - increase contact with the health system.

8. The need for reform has also been recognised the Queensland Parliamentary Mental Health Select Committee. In its report from the *Inquiry into the opportunities to improve mental health outcomes for Queenslanders*, the Committee notes[1] –

    > The committee understands that strategies that provide people who use alcohol and other drugs with early support and divert them away from the criminal justice system are beneficial for individuals and are more cost effective than punitive responses.

9. The report recommends the Queensland Government reviews illicit drug diversion initiatives, including the Policy Drug Diversion Program and the Illicit Drugs Court Diversion Program, and identifies opportunities to strengthen the initiatives (Recommendation 13).

[1] *Inquiry into the opportunities to improve mental health outcomes for Queenslanders*, Report No. 1, 57th Parliament Mental Health Select Committee, June 2022, page 75.

Current policy and practice in Queensland

10. In the introduction to its comprehensive 677-page report on its Inquiry into Imprisonment and Recidivism, the Queensland Productivity Commission (QPC) aptly summarises Queensland's current approach to drugs policy.

> *After many decades of operation, illicit drugs policy has failed to curb supply or use. The policy costs around $500 million per year to administer and is a key contributor to rising imprisonment rates (32 per cent since 2012). It also results in significant unintended harms, by incentivising the introduction of more harmful drugs and supporting a large criminal market. Evidence suggests moving away from a criminal approach will reduce harm and is unlikely to increase drug use.'*[2]

11. This failed approach to drug policy has resulted in some alarming outcomes in Queensland.

Arrests for drug consumption compared with drug supply

12. Current law enforcement activity in Queensland results in high arrest rates for people who use, rather than supply, drugs. This distinction is conspicuous when compared with other jurisdictions.

13. The Australian Criminal Intelligence Commission reported that in 2018-19, there were –
    - In Queensland, 40,132 arrests of consumers and 4,160 arrests of providers
    - In New South Wales, 27,816 arrests of consumers and 4,777 arrests of providers
    - In Victoria, 28,739 arrests of consumers and 2,200 arrests of providers.[3]

14. Even when arrests do not result in imprisonment, low harm/minor offences can lead to escalation of interactions with the criminal justice system[4].

Queenslanders in prison

15. Queensland imprisons the greatest number of people for drug possession in Australia. QPC reports that 295 out of 395 sentenced prisoners across Australia are in Queensland[5] and Queensland imprisons more than twice as many people for drug possession/use as the rest of Australia combined[6].

16. Illicit drug offences account for the largest contribution to growth in imprisonment rates in Queensland. From 2012 to 2018, Queensland's total sentenced prisoner rate increased by 40.2%. Approximately one third of this growth was due to illicit drug offences, which accounted for 32% of the increase. The next highest contributor to this growth was acts intended to cause injury at 16.3%).[7]

17. During the same period, 2012 to 2018, the number of women imprisoned in Queensland increased by 219%, with drug offences comprising the largest contributor to this increase.[8]

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[2] Queensland Productivity Commission, 2019, Final Report Inquiry into Imprisonment and Recidivism, page x
[3] Australian Criminal Intelligence Commission, Illicit Drug Data Report 2018-19, Page 151
[4] Queensland Productivity Commission, 2019, Final Report Inquiry into Imprisonment and Recidivism, page xli
[5] ibid, page 160
[6] ibid, page 222
[7] ibid, page 38
[8] ibid, page 222

18. The QPC report contends that the 'high use of imprisonment [in Queensland] appears to be a policy choice, rather than due to differences in drug usage'[9] and that system and operational changes have driven rising imprisonment rates, not an increase in crime.[10]

Vulnerable population groups

19. People with mental health conditions are 1.7 times more likely to use illicit substances[11] and research shows that almost half of all Queensland prisoners are likely to have been previously hospitalised for mental health issues and/or have a history of child neglect.[12]

20. Indigenous incarceration rates are more than ten times the non-Indigenous rate, and 31% of Queensland's prisoners are Indigenous, despite comprising only 4.6% of the population.[13]

21. Compared to the general population, people in prison are less likely to have finished school and less likely to have been employed. They are more likely to have been homeless, experience high psychological distress and be taking mental health medications.[14]

Costs to individuals and families

22. The personal costs of imprisonment are both financial and non-financial, and include the lost opportunity to engage with health services.

23. The financial cost of imprisonment to an individual is estimated to be $48,300 per year. The non-financial costs are immense and compounding. They include time costs, social capital costs, lost productive capacity, increased risks to health and mental well-being, disqualification from some types of employment, increased reliance on welfare, and increased likelihood of unemployment, social exclusion, homelessness and future offending.[15]

24. Imprisonment also disrupts parent-child relationships, alters networks of familial support, and especially with respect to the imprisonment of women, has been shown to impact children's welfare in both the short and long term.[16]

Costs to Government

25. To enforce drug laws, the Queensland Government funds police activity to catch people who use drugs, courts to prosecute people who use drugs and prisons/community corrections to punish people who use drugs.[17] This enforcement activity is estimated to cost $500 million per year, with $222 million of this spent on enforcement of drug *possession* offences, as opposed to supply.[18]

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[9] ibid, page 222
[10] ibid, page xx
[11] Australian Institute of Health and Welfare, 2020, National Drug Strategy Household Survey 2019, page 69
[12] Queensland Productivity Commission, 2019, Final Report Inquiry into Imprisonment and Recidivism, page 62
[13] ibid, page xliii
[14] Queensland Productivity Commission, 2019, Final Report Inquiry into Imprisonment and Recidivism, page 64
[15] ibid, page 520
[16] ibid, page 90
[17] ibid, page 499
[18] ibid, page 501

26. The Queensland Police Service estimates that each diverted matter would save police up to 90 minutes for a plea of guilty or nine hours for a contested trial. Additional savings would flow for front-line officers from the reduced need to handle, transport, test and store drug exhibits to support a prosecution. Based on an assumption of 28,750 diversions per year, this is thought to equate to 258,000 police officer hours that could be re-invested into other police responsibilities.

Recommendations

27. AMA Queensland calls for a phased approach to drug law reform involving –
    - changes to legislation, policy and practice to facilitate appropriate diversion of instances of drug use/ possession away from the judicial system and increase contact points with the health system
    - efforts to shift sentiment among the community and relevant professions
    - expansion of evidence-based health supports and treatments and sufficient capacity increases to support their use.

28. A survey of drug diversion schemes in Australia showed consistent reductions in recidivism for those who complete diversion interventions, reduced contact with the criminal justice system, and harm reduction through reduced consumption and referral to treatment.[19]

29. **An expansion of the Police Drug Diversion Program** (PDDP) to address the underlying causes of substance use, encourage help-seeking behaviours, increase contact with the health system, and reduce costs to the justice system.

30. The expanded PDDP would facilitate diversion for all illicit drugs up to a specified quantity, and controlled and restricted drugs.

31. A two-tiered model is proposed, with eligible people being diverted towards health resources in line with the following –

    - Tier 1: on a first occasion, an individual receives a drug diversion warning and health service information
    - Tier 2: on a second occasion, an individual receives a direct referral to a health service under a deferred prosecution agreement that requires the person to desist from further behaviour for a specified period, and comply with conditions relating to assessment, referral and treatment to address substance use.

32. The Tier 2 process should use a triage model to inform the level and path of treatment. It would facilitate assigned case managers, education and training for medical professionals, a range of therapeutic and treatment programs, and regular meeting with counsellors.

33. The expanded PDDP would require a **training program and police manual** to underpin its use. The Roundtable recommends that these materials be developed in collaboration with the health sector and people with lived experience of drug use.

[19] ibid, page 165

34. **Legislative amendments** would be required to facilitate the expanded PDDP, including amendments to the *Youth Justice Act 1992* and the *Penalties and Sentences Act 1992* relating to minor drugs offences and quantity thresholds.

35. Effective diversion would require an **expansion of evidence-based health** supports and treatment services with appropriate resourcing to ensure service capacity.

36. A **review of Queensland's needle and syringe program**, with a view to expanding the program to corrective services facilities and adopting complementary harm minimisation strategies.

37. A **suite of training, education, consultation and communication measures** to support the changes in practice, culture and community sentiment required for effective reform.

38. Recommended **threshold quantities** for eligibility for diversion are –

Drug	Proposed quantity for diversion eligibility[i]
Drugs Misuse Regulation 1987, Schedule 1, Part 1 (other than drugs specified below)	1.0g or ml
Drugs Misuse Regulation 1987, Schedule 2 (other than drugs specified below)	1.0g or ml
4-Bromo-2,5-dimethoxyamphetamine	0.02g
4-Bromo-2,5-dimethoxyphenethylamine	0.02g
Cannabis	50.0g
Fentanyl	0.0025g
Ketamine	0.2g
Lysergic acid (LSD)	3 tickets or tabs[ii]
Lysergide (LSD)	3 tickets or tabs
3,4-Methylenedioxymethamphetamine (MDMA)	1.0g or ml, or 4 pills or tablets or capsules[iii]
Phencyclidine	0.2g
Psilocin	0.04g
Psilocybin	0.04g
Drugs Misuse Regulation 1987, Schedule 1, Part 2 Steroid drugs	Personal use amount
Health (Drugs and Poisons) Regulation 1996 Appendix 9 (Definitions) – ***controlled drug*** means an S8 substance, ***restricted drug*** means an S4 substance	Personal use amount

[i] Most proposed quantities are based on quantities eligible for diversion under Penalties and Sentences Regulation 2015.

[ii] *Ticket or tab* means the amount of the dangerous drug, not greater than 0.000040g, that is prepared or apparently prepared to be administered as a single dose.

[iii] *Pill or capsule or tablet* means the gross amount of the dangerous drug, not greater than 0.7g that is prepared or apparently prepared to be administered as a single dose.