



14 April 2023

Inquiry Secretary
Legislative Council Select Committee
Parliament House
Hobart TAS 7000
attn: Secretary

via email: csjs@parliament.tas.gov.au

To Simon Scott,

Re: Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters

Community Legal Centres Tasmania (CLC Tas) and JusTas welcome the opportunity to provide a response to the *Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters* ('the Inquiry'). The Inquiry is timely with Tasmania having the highest percentage of both Aboriginal and Torres Strait Islander persons and non-indigenous persons in Australia who return to prison within two years of their release. As a result, our submission focuses on two of the most significant factors giving rise to recidivism and recommends greater investment in evidence-based programs that have proven to reduce contact with the criminal justice system.

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

JusTas is an apolitical organisation striving for the implementation of policy that promotes social justice, a safe and supportive incarceration and rehabilitative strategies that ensure successful reintegration for returning citizens.

Our submission begins by highlighting the Tasmanian Prison Service's explicit recognition of rehabilitation and reintegration. We then provide an outline of trends in Tasmania's prison population before then reviewing two of the most significant factors leading to recidivism namely homelessness and alcohol and other drug abuse. Finally, we made recommendations that if implemented will reduce crime and increase community safety.

The Tasmanian Prison Service: Law, Policy and Strategic Plan

- The Corrections Act 1997 (Tas)

The *Corrections Act 1997* (Tas) ('the Act') is the overarching legislation for the Tasmanian Prison Service including the management, welfare and security of persons in prison, the granting of parole and the provision of community corrections programs. A guiding

principle of the Act is that persons in prison should be assisted to become socially responsible¹ with rehabilitation and reintegration, the maintenance of family ties and preparation of prisoners for release all themes noted throughout the Act.²

- ***Tasmanian Prison Service: Mission and Role***

The focus on rehabilitation and reintegration is reinforced in the Tasmanian Prison Service's own mission which notes as follows:

Our mission is to contribute to a safer Tasmania by providing a safe, secure and constructive environment for prisoners, encouraging them to address their offending behaviour, leading to rehabilitation, personal development and safer communities.

The Tasmania Prison Service (TPS) contributes to a safer Tasmania by keeping in secure custody those sentenced by the Courts, and providing the best opportunity for prisoners to stop re-offending within a secure, safe and decent environment that reflects the values and opportunities of the wider community it serves.

- ***Breaking the Cycle: A Strategic Plan for Tasmanian Corrections 2011-2020***

Tasmania's *Breaking the Cycle: A Strategic Plan for Tasmanian Corrections 2011-2020* was launched more than a decade ago with the then Director of Corrective Services noting that the Strategic Plan "will guide our direction in the area of corrections for the next decade".³ The Strategic Plan's vision was:

A reduction in reoffending and an increase in the ongoing safety of the Tasmanian community by providing a safe, secure, humane and effective correctional system with opportunities for rehabilitation, personal development, reintegration and community engagement.

Twenty-five years after the Act proclaimed that Tasmania's Prison Service would assist persons in prison with rehabilitation and reintegration and more than a decade after the *Breaking the Cycle Strategic Plan* was launched, it is useful to review the data and consider whether its rehabilitation and reintegration goals are being met.

The Australian prison population

Australia's prison population is not a microcosm of the broader Australian population with the research highlighting that our prison population counts amongst the most disadvantaged in Australia. Persons in prison are generally from lower socioeconomic backgrounds and there is a disproportionately high number of Aboriginal and Torres Strait Islander people.⁴ As well, persons in prison often have poor health and educational attainment as well as higher rates of mental illness and intellectual disabilities and alcohol and other drug abuse.

¹ Section 4(e) of the *Corrections Act 1997* (Tas).

² See, for example, sections 42(g), 72(4) and 87C(2) of the *Corrections Act 1997* (Tas).

³ Department of Justice, *Breaking the Cycle: A Strategic Plan for Tasmanian Corrections 2011-2020* (March 2011) at 3.

⁴ According to the Australian Bureau of Statistics, 23 per cent of the Tasmanian prison population is Aboriginal or Torres Strait Islander compared to 5 per cent in the broader Tasmanian population. ABS Prisoners in Australia, Table 15. Also see Tasmania 2021 Census All persons QuickStats.

In 2018, the Australian Institute of Health and Welfare (AIHW) released *The health of Australia's prisoners* which found:⁵

- 33 per cent of persons entering prison were homeless in the four weeks before entering prison;
- 40 per cent of persons entering prison and 65 per cent of women entering prison have a history of a mental health condition;
- 21 per cent of persons entering prison reported a history of self-harm;
- 65 per cent of persons entering prison reported using illicit drugs during the previous 12 months;
- 33 per cent of persons entering prison reported that their highest level of completed schooling was Year 9 or under;
- 54 per cent of persons entering prison reported they were unemployed during the 30 days before being imprisoned;
- 78 per cent of persons exiting prison expected to receive a Centrelink payment on release.

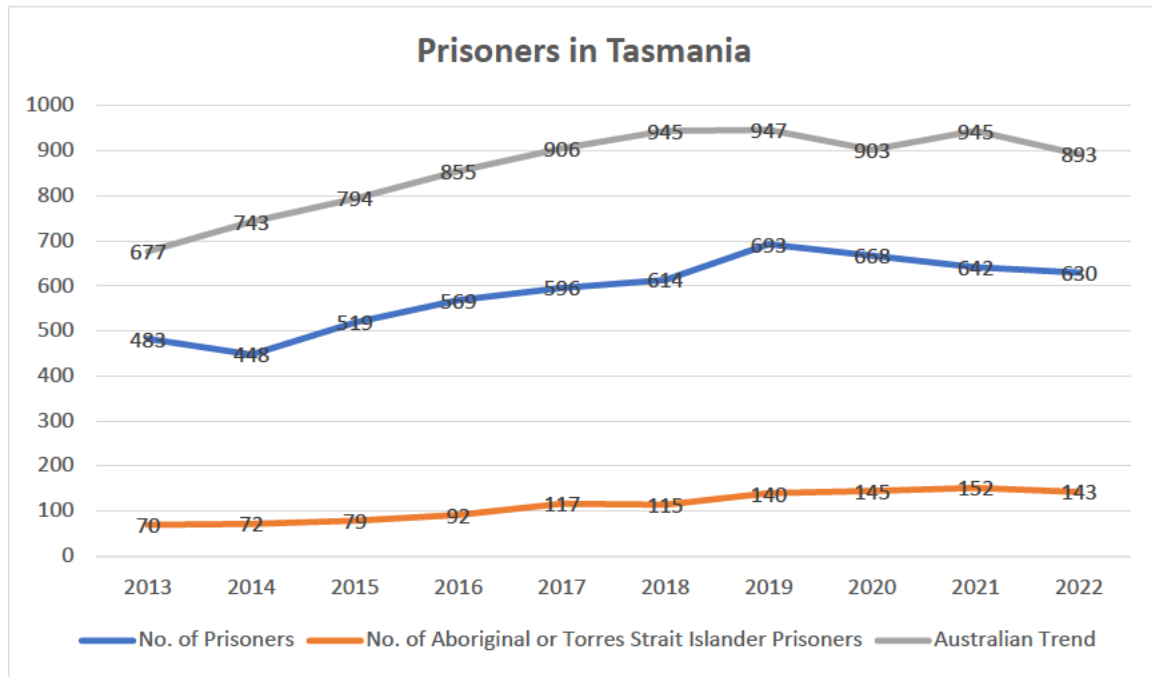
Tasmania's Prison Population

There is no publicly available data of the total number of persons imprisoned in Tasmania each year. However, the Australian Bureau of Statistics *Prisoners in Australia* series, publishes data on persons in custody around Australia on 30 June of each year.⁶ Although the data is only a snapshot of the total number of prisoners imprisoned each year, it does highlight trends.

Over the last decade, Tasmania's prison population has increased by 30 per cent and the Aboriginal and Torres Strait Islander prisoner population has almost doubled (98 per cent increase). Tasmania's prison population has broadly mirrored the Australian trend.

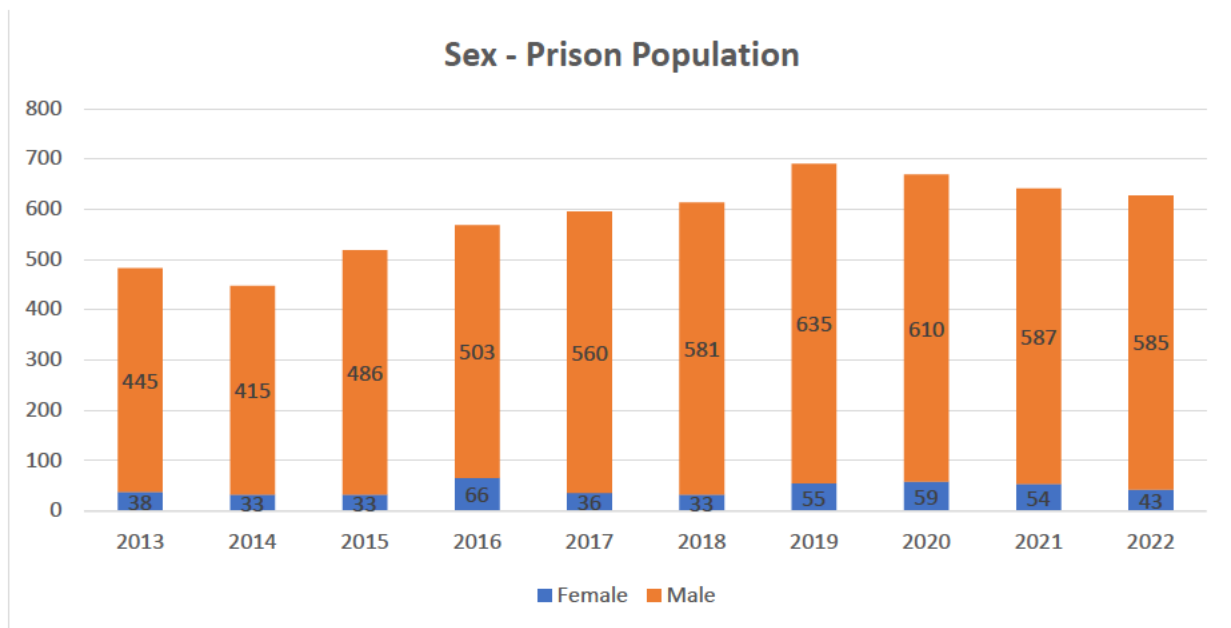
⁵ Commonwealth of Australia, *The health of Australia's prisoners 2018* (Australian Institute of Health and Welfare: 2019)

⁶ Australian Bureau of Statistics, *Prisoners in Australia 2022*.



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2022*, Table 14.

Over the same timeframe, there has been a 31 per cent increase in male prisoners and a 13 per cent increase in female prisoners. The prison population remains overwhelmingly male (92 per cent).



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2022*, Table 14.

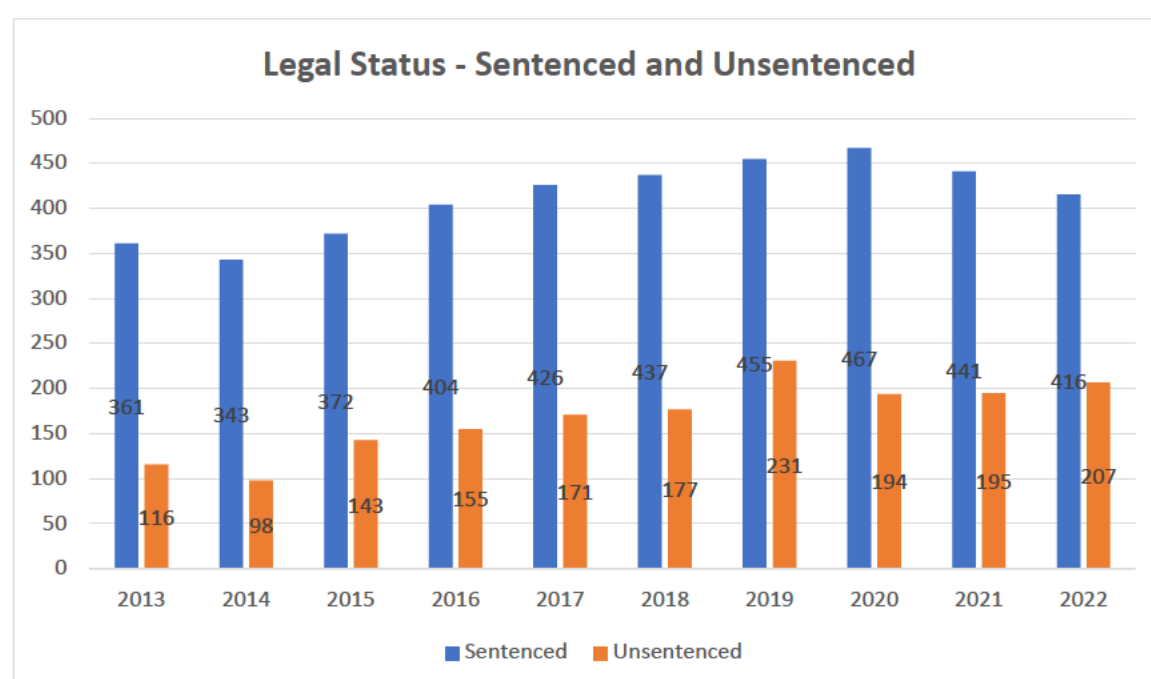
Remand and Prison

It is well established in Tasmanian case law “... that *prima facie* every accused is entitled to his freedom until he stands trial”.⁷ When a Magistrate or Judge is determining an application for bail, whether the accused will attend court to answer their bail is a primary consideration. The subsidiary considerations include the nature of the case, the probability of conviction and the severity of the punishment that may be imposed. In Tasmania, the significant delay in Supreme Court trials is a factor weighing heavily in

⁷ *R v Fisher* (1964) 14 Tas R 12.

favour of bail for serious matters where a trial is necessary. The right to liberty and its deprivation in only the most serious cases is also recognised in international human rights law with the *International Covenant on Civil and Political Rights* expressly stating that “[i]t shall not be the general rule that persons awaiting trial shall be detained in custody”.⁸

In Tasmania, the onus for bail shifts in instances where it is alleged family violence has occurred.⁹ A person charged with a family violence offence is not to be granted bail unless a Judge, Court or police officer is satisfied that the release of the person on bail would not be likely to adversely affect the safety, wellbeing and interests of an affected person or affected child. As well, many persons are remanded in custody because they are homeless or because of the alleged crime, can no longer continue residing at their last residential address. According to the Australian Bureau of Statistics, the number of persons in custody in Tasmania who have not yet been sentenced has grown significantly, from 32 per cent in 2013 to 50 per cent in 2022. Expressed in another way, in 2022 half of Tasmania’s prison population was awaiting trial or sentence.



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2022*, Table 14.

Persons exiting prison

Although there is no publicly available data of the total number of persons exiting prison, a recent Right to Information response confirmed that approximately 1550 persons exit Tasmania’s prison system each year.

Number of persons exiting prison

Year	Female	Male	Unknown	Total
2013	127	1,025		1,152
2014	149	1,120		1,269
2015	179	1,299		1,478
2016	235	1,321		1,556
2017	242	1,368		1,610

⁸ Article 9.3 of the *International Covenant on Civil and Political Rights*.

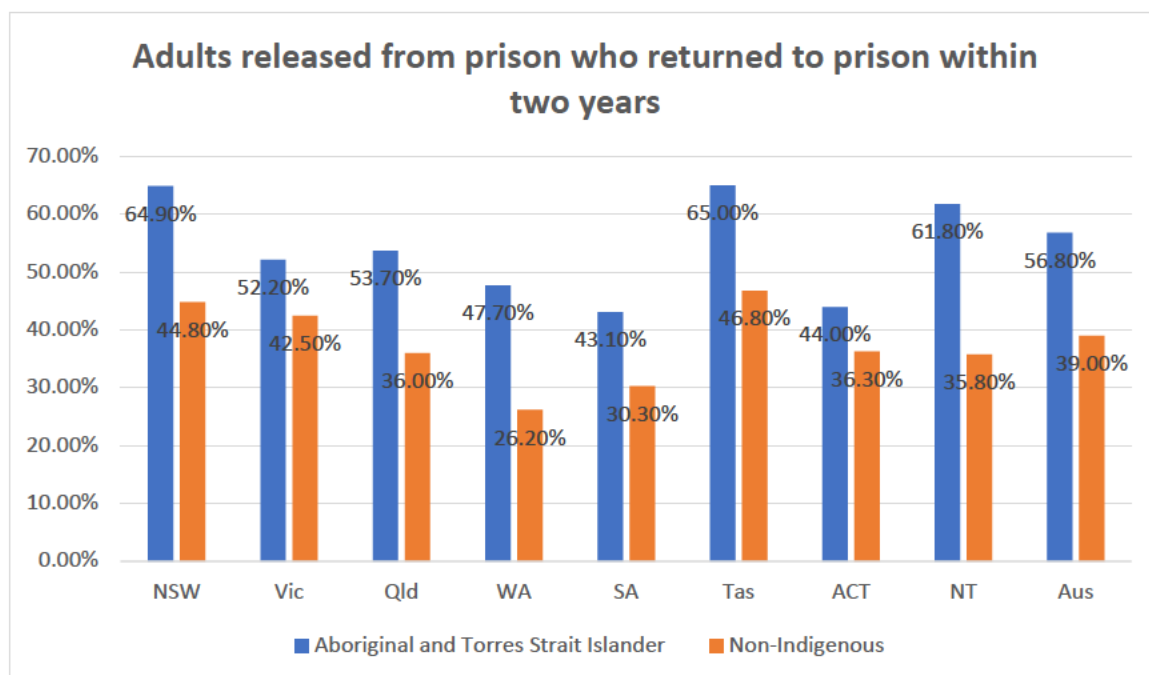
⁹ Section 12 of the *Family Violence Act 2004* (Tas).

2018	267	1,560		1,827
2019	266	1,601		1,867
2020	234	1,405		1,639
2021	246	1,356		1,602
2022	224	1,312	1	1,537
Total	2,169	13,367	1	15,537

Source: Department of Justice, Request under the *Right to Information Act 2009* (dated 13 April 2023)

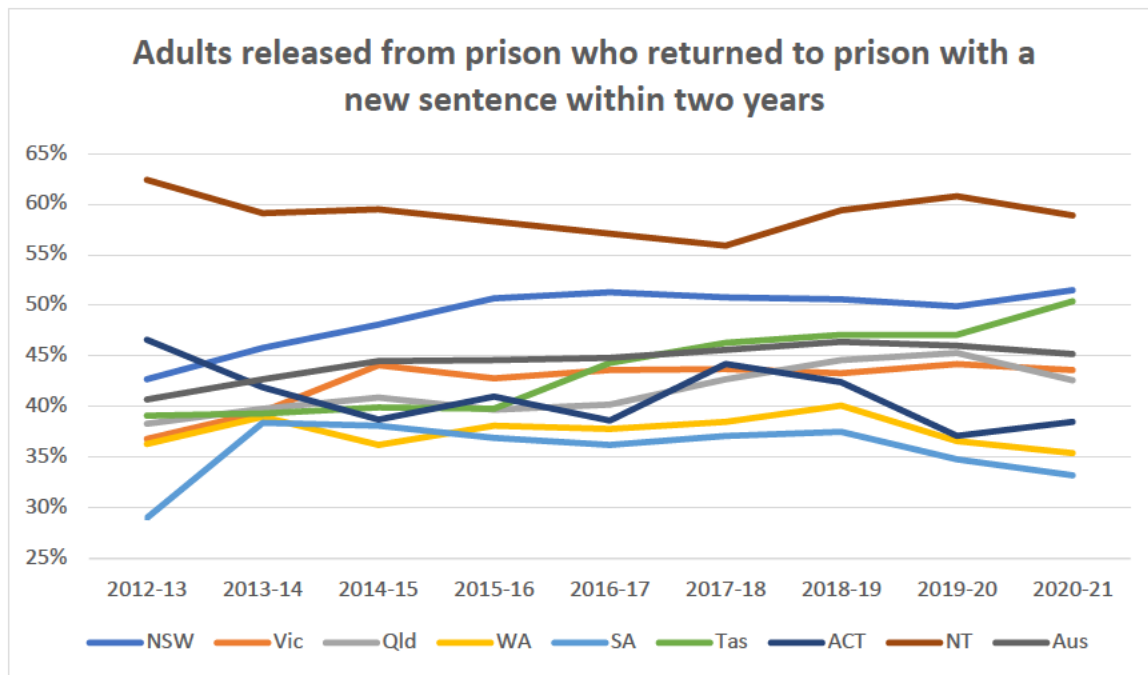
Recidivism

The Productivity Commission's most recent *Report on Government Services* notes that Tasmania has the highest percentage of Aboriginal and Torres Strait Islander persons in Australia who returned to prison within two years of their release. Tasmania also has the highest percentage in Australia of non-indigenous persons returning to prison within two years of their release from prison.



Source: Productivity Commissioner, *Report on Government Services 2022 - Justice*, Table CA.4.

Of most concern is the Tasmanian trend over the last decade. Whilst three jurisdictions (Western Australia, the Australian Capital Territory and the Northern Territory) have seen a decline in persons returning to prison within two years of being released, and the average increase across Australia is 4.5 per cent, in Tasmania, the increase is a significant 11.3 per cent, the highest in Australia and more than two and a half times higher than the national average.



Source: Productivity Commissioner, *Report on Government Services 2022 - Justice*, Table CA.4.

Rehabilitation and Reintegration

The reason that rehabilitation and reintegration are explicitly recognised as a key objective of the Tasmanian Prison Service is because successful rehabilitation programs reduce recidivism by addressing the underlying cause of the offending and lead to a safer community. However, the Tasmanian data clearly demonstrates that the Tasmanian Prison Service is not meeting its rehabilitation and reintegration objective. As we set out in the remainder of our submission, accommodation for persons exiting prison and increased investment in alcohol and other drug treatment will lead to better reintegration, less crime and a safer community.

Investing in homes for persons saves money and makes our community safer

In 2008 the Australian Government released a white paper entitled *The Road Home: A National Approach to Reducing Homelessness*.¹⁰ The report recognised the importance of homelessness prevention services to reintegrate people at relatively low cost:¹¹

homelessness prevention services and services which work with clients to end their homelessness are good investments of public money. Recent research confirms that homelessness programs produce positive outcomes for their clients at relatively low cost and deliver whole-of-government savings in avoidable health, justice and policy outlays.

That homelessness services produce positive health and criminal justice outcomes is demonstrated in a 2017 study involving residents of a supported social housing project in Brisbane. The study utilised data over a 24-month period comparing the services provided to the cohort in the 12 months prior to their tenancy when they were homeless as well as the 12 months after being housed. Even after accounting for the cost of providing the supported housing, the study found that there were health and criminal

¹⁰ Department of Families, Housing, Community Services and Indigenous Affairs, *The Road Home: A National Approach to Reducing Homelessness* (Commonwealth of Australia: 2008).

¹¹ *Ibid* at 10.

justice cost savings of \$13,100 per person per annum.¹² In short, it cost the government *less* to move a person into housing than to interact with them whilst homeless. The cost savings were not the only benefit however, with the authors also highlighting that “reduced criminal offences, time in police custody and incidences of victimisation clearly demonstrate positive life outcomes that have significance well beyond monetary value”.¹³ As the authors concluded, the provision of stable housing to formerly homeless people also ensures that people feel valued and provides the foundations from which they can influence positive change, with the observation made that they “went from being homeless clients, patients, offenders and inmates, to supportive housing tenants”.¹⁴

The link between homelessness and prison

The Australian Institute of Health and Welfare (AIHW) has found that more than half of persons exiting prison in Australia (54 per cent) expected to be homeless upon release from prison, with 44 per cent planning to sleep in short term or emergency accommodation, 2 per cent planning to sleep rough, and 8 per cent not knowing where they would sleep.¹⁵

That more than half of all persons exiting prison expect to be homeless is concerning given that government departments are aware months, if not years in advance, of when someone is expected to exit prison. However, the failure to provide stable accommodation to persons exiting prison amounts to a policy failing when it is recognised that stable housing has a positive influence on post-release behaviour.

In 2003, a study entitled *Ex-prisoners and accommodation: what bearing do different forms of housing have on social reintegration?* analysed data from around 300 persons released from prison in New South Wales and Victoria.¹⁶ The study found that 60 per cent of persons who had been required to move at least twice in the first nine months post-release had returned to prison, a reincarceration rate three times that of those persons either in stable accommodation or who had only been required to move once.¹⁷ The authors found that:¹⁸

stable, socially supported housing was clearly associated with staying out of prison and increased social integration. The converse, not having such housing, was associated... with slipping back into transitory life style, problematic drug use and being re-arrested and re-incarcerated.

More recently, a study carried out by the Australian Housing and Urban Research Institute compared persons who were moved into public housing after being released from prison with persons who received no housing but were provided with financial assistance to

¹² Cameron Parsell, Maree Petersen, and Dennis Culhane, Cost offsets for supportive housing: Evidence for Social Work’ (2017) 47(5) *British Journal of Social Work* 1534 at 1547.

¹³ *Ibid* at 1549.

¹⁴ *Ibid* at 1550.

¹⁵ Short-term or emergency accommodation figured particularly strongly in the plans of persons exiting prison who identified as Indigenous (52 per cent), and persons 18–24 years old (50 per cent): Commonwealth of Australia, *The health of Australia’s prisoners 2018* (Australian Institute of Health and Welfare: 2019) at 24.

¹⁶ Eileen Baldry, Desmond McDonnell, Peter Maplestone and Manu Peeters, *Ex-prisoners and accommodation: what bearing do different forms of housing have on social reintegration?* (AHURI Final Report No. 46, Australian Housing and Urban Research Institute Limited: 2003).

¹⁷ *Ibid* at 11.

¹⁸ *Ibid* at ii.

assist in their search for housing in the private rental market following their release from prison.¹⁹ The analysis of the two cohorts highlighted the significant benefits in providing public housing to persons exiting prison:²⁰

- **Police incidents:** down 8.9 per cent per year; and
- **Court appearances:** down 7.6 per cent per year; and
- **Proven offences:** down 7.6 per cent per year; and
- **Time in custody:** down 11.2 per cent per year; and
- **Time on supervised orders:** following an initial increase, down 7.8 per cent per year.

The provision of public housing to persons exiting prison results in a safer community. It also reduces criminal justice costs with the report finding that “in dollar terms, housing an ex-prisoner in a public housing tenancy generates, after five years, a net benefit of between \$5,200 and \$35,000 relative to the cost of providing them with assistance in private rental and/or homelessness services”.²¹ In summary, the report concluded that:²²

the evidence strongly supports the need for much greater provision of social housing to people exiting prison, particularly for those with complex support needs. Relatively secure, affordable public housing is a steady ‘hook for change’ that a person exiting prison can hold onto as they make changes in their circumstances, and in themselves, to desist from offending. It is also a stable base from which to receive and engage with support services.

Despite decades of research highlighting the link between stable accommodation and post-release behaviour, there continues to be a lack of housing options for persons exiting prison. The lack of a coordinated government response is highlighted in a Right to Information response that less than 10 Tasmanians exiting prison, youth detention or remand were housed in public or community housing over the last three years and none in the last year.²³

People on the Housing Register exiting custodial arrangements and housed into public or community housing

	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Housed	7	14	6	<5	<5	0

The lack of stable housing is also borne out in the Office of the Custodial Inspector’s *Prison Survey* which found that 52 per cent of persons who were in the process of exiting prison were very worried (35 per cent) or somewhat concerned (17 per cent) about finding suitable accommodation and 40 percent were not receiving any assistance in their search for housing.²⁴

¹⁹ The financial assistance included bond assistance and loans to pay rent in the private rental market: Australian Housing and Urban Research Institute, *Exiting prison with complex support needs: the role of housing assistance* (Final Report No. 361).

²⁰ Ibid at 75.

²¹ Ibid at 1.

²² Ibid at 1.

²³ Communities Tasmania, Right to Information Request. Response received from Kylie Fidanza, Acting Manager, Performance and Advice with Communities Tasmania on 9 November 2022.

²⁴ Custodial Inspector of Tasmania, *Prison Surveys 2020* (July 2021) at 73 and 75.

The lack of housing also means that people remain imprisoned for longer than necessary. Anecdotally, we are aware that the Parole Board of Tasmania are on occasion refusing to list persons able to apply for parole unless they have a guaranteed address. As well, in the most recent *Parole Board of Tasmania Annual Report*, the Parole Board found that over the last year, almost 1 in 4 parole applications (24 per cent) are "adjourned" because the applicant does not have access to suitable accommodation²⁵ and over the last four years the number of adjournments has increased by more than 125 per cent:²⁶

<u>Parole applications adjourned due to lack of suitable accommodation</u>				
	2018-19	2019-20	2020-21	2021-22
Parole applications	232	224	283	303
Applicants adjourned due to not having access to suitable housing	32	61	73	73
Applications refused (%)	14%	27%	26%	24%

The case study below, highlights the lack of housing options available to persons who would otherwise be eligible for parole and the additional time in prison that people are forced to endure.

Case Study: Tim Macdonald

Tim Macdonald was sentenced to 25 years in jail. After 16 years he was eligible to apply for parole. Tim put his name down for public and community housing in every available suburb and town. Four years later he had still not received an offer of housing. Without housing, the Parole Board would not grant Tim parole, and without parole, no public or community housing provider would provide him with housing.*

Tim also had difficulties accessing housing because all the friends and acquaintances he had known before he went to prison lived in a region of Tasmania that the Parole Board would not release Tim into. And all the friends Tim had met after going into prison were former prisoners and the Parole Board would not let Tim live with them. Tim eventually found a house through a friend of a friend but believes that he would have been granted parole four years earlier if there had been a public or community housing property available.

Ensuring stable accommodation for persons exiting prison and those eligible for parole means that people are returned to their families, friends and social networks sooner. It also leads to reduced overcrowding in prison which in turn leads to less stress, prison assaults and worker compensation claims by correctional staff. The research also highlights that stable accommodation for people exiting prison costs less than providing homelessness services, reduces crime and leads to a safer community. When it is acknowledged that the overwhelming majority of persons entering prison will also exit prison, and that the provision of stable accommodation upon exiting prison results in a safer community, it is perplexing that there remains no coordinated response to the provision of housing for all persons exiting prison.

Summary

We are safer when people exiting prison are provided with housing upon their release. As well as guaranteeing a safer community, housing also results in significant savings in both

²⁵ Parole Board of Tasmania, *Annual Report 2021-2022* at 12.

²⁶ Parole Board of Tasmania, *Annual Report 2021-2022* at 15.

health and criminal justice costs. We therefore strongly recommend that the Tasmanian Government commit to a policy of no exits from prison into homelessness including the provision of funding to build the homes required.

Recommendation: That the Tasmanian Government commit to a policy of no exits from prison into homelessness.

Problematic drug use and prison

The prevalence of alcohol and other drug use amongst persons entering prison is significantly higher than the general population as the following national data highlights:

- 34 per cent of persons entering prison were at high risk of alcohol-related harm during the previous 12 months;²⁷ and
- 65 per cent of persons entering prison reported use of an illicit drug in the previous 12 months²⁸
- 46 per cent of persons entering prison reported a history of injecting drug use including 63 per cent of that group who had injected drugs in the month prior.²⁹

There are also three studies specific to Tasmania that highlight the disproportionately high number of persons in prison with problematic drug use.

- In 2003, the Australian Institute of Criminology surveyed 150 Tasmanian inmates. More than one-third of those surveyed (35 per cent) believed that were experiencing substance misuse with at least one illicit drug immediately prior to their arrest/incarceration. It was estimated that almost half of Tasmanian inmates (49 per cent) used illicit drugs on a 'high frequency' basis leading the authors to conclude that "illicit drug use was endemic in the inmate population".³⁰
- In 2017, the Tasmanian Law Reform Institute and the Tasmanian Institute of Law Enforcement Studies reviewed all recidivist drink drive offenders sentenced to custodial sentences between 2008-09 and 2013-14. The research found that nearly 85 per cent of offenders had a history of alcohol abuse and almost 75 per cent had a history of illicit drug use.³¹

²⁷ Australian Institute of Health and Welfare. *The health of Australia's prisoners 2018* (Canberra: 2019) at 101.

²⁸ *Ibid* at 92.

²⁹ Tony Butler and Melanie Simpson, *National Prison Entrants' Bloodborne Virus and Risk Behaviour Survey Report 2004, 2007, 2010, 2013 and 2016* (Kirby Institute, UNSW Australia: November 2017) at 9.

³⁰ Toni Makkai and Jason Payne, *Key findings from the drug use careers of offenders (DUCO) study* (Australian Institute of Criminology: Trends & Issues in Crime and Justice, No. 267. Canberra 2003). As found in Tasmanian Law Reform Institute, *The Establishment of a Drug Court Pilot in Tasmania* (Research Paper No. 2) at 13.

³¹ As found in Tasmanian Law Reform Institute, *Responding to the Problem of Recidivist Drink Drivers* (Issues Paper No 23) at 12-13. These statistics are similar to those found in other studies. For example, research conducted in Western Australia found that 90 per cent had a defined alcohol-related disorder: Simon Lenton, James Fetherston and Rina Cercarelli, 'Recidivist Drink Drivers' Self-Reported Reasons for Driving Whilst Unlicensed – A Qualitative Analysis' (2010) 42 *Accident Analysis and Prevention* 637 at 639.

- In 2021, the Office of the Custodial Inspector released the results of a prison survey. The survey found that almost two-thirds of persons in prison reported that they had alcohol (63 per cent) or illicit drugs and/or prescription medication (60 per cent) issues upon their entry into prison. As well, just under one-third of persons in prison (30 per cent) indicated that they have developed a problem with illicit drugs and prescription medication since they came into prison.³²

Problematic drug use is a motivating factor in many crimes, with Australian studies finding that almost half (47 per cent) of all detainees surveyed in 2021 reported that use of alcohol and/or other drugs was a contributing factor to their most recent offending.³³ Similar findings have also been found in Tasmania, with around two-fifths of persons in prison reporting that the main reason for committing the most serious offence for which they were currently incarcerated was drug related.³⁴

Given the high proportion of persons entering prison with problematic drug use and the likelihood that if untreated, offending behaviour will continue after their release, imprisonment should be seen as an opportunity to deliver treatment.

The Tasmanian Prison Service and AOD Programs

In Tasmania, there are a number of alcohol and other drug (AOD) programs and other supports available for persons in prison who identify with problematic drug use, including EQUIPS Addiction, Alcohol and Other Drug Counselling and the Apsley Alcohol and Drug Treatment Unit.

- EQUIPS Addiction

In 2017, the Department of Justice introduced Explore, Question, Understand, Investigate, Practice, Succeed (EQUIPS) programs including EQUIPS Addiction, EQUIPS Aggression and EQUIPS Domestic Violence. The three programs seek to reduce re-offending caused as a result of addiction, aggression and domestic abuse and all contain a module on alcohol and other drug use.

EQUIPS Addiction runs over 10 weeks with up to 12 participants who meet the eligibility criteria of within the last twelve months having been “assessed as having a high level of drug or alcohol abuse”.³⁵ Participants are encouraged to “share their experiences with each other and to develop future focused plans and strategies to address their addictive behaviour”.³⁶ In a Right to Information response, the Department of Justice confirm that in the two years pre-Covid-19 there were around 18 participants each year who completed the EQUIPS Addiction course.³⁷

³² Custodial Inspector of Tasmania, *Prison Surveys 2020* (July 2021) at 55-56.

³³ Alexandra Voce and Tom Sullivan, *Drug use monitoring in Australia: Drug use among police detainees 2021* (Australian Institute of Criminology Statistical Report 40: 2021) Table D2.

³⁴ Toni Makkai and Jason Payne, *Key findings from the drug use careers of offenders (DUCO) study* (Australian Institute of Criminology: Trends & Issues in Crime and Justice, No. 267. Canberra 2003). As found in Tasmanian Law Reform Institute, *The Establishment of a Drug Court Pilot in Tasmania* (Research Paper No. 2) at 13.

³⁵ Community Corrections, *EQUIPS programs*. As found at <https://www.justice.tas.gov.au/communitycorrections/programs/equips-programs> (accessed 14 April 2023).

³⁶ Custodial Inspector of Tasmania, *Inspection of Adult Custodial Services in Tasmania 2017 - Care and Wellbeing Inspection Report* (October 2018) at 101.

³⁷ In a Right to Information response received from the Department of Justice it was noted that in 2019-20 and 2020-21 the program was severely impacted by Covid-19 which resulted in program participation

Tasmanian Prison Service EQUIPS Addiction

	2017-18	2018-19	2019-20	2020-21	2021-22
Commenced	29	15	2	3	
Completed	22	14	2	3	

- ***Alcohol and other Drug Counselling***

The Tasmanian Prison Service provides 1:1 alcohol and other drug counselling for those assessed at high risk, or 1:1 brief intervention for those assessed at moderate risk.³⁸ In a Right to Information response, the Department of Justice notes that counselling is provided to around 70 persons each year:³⁹

	2017-18	2018-19	2019-20	2020-21	2021-22
Commenced	81	103	54	40	68
Completed	80	92	42	22	51

- ***Apsley Alcohol and Drug Treatment Unit***

The Apsley Alcohol and Drug Treatment Unit ('Apsley') which opened in 2015, is a twelve-week ten-bed facility located within maximum security. Apsley is only available to male prisoners⁴⁰ and is focused on offenders "who have struggled with drug abuse for a long time".⁴¹ The Apsley model is a form of residential treatment, often called a 'therapeutic community' in which participants are separated from the wider prison population in order to receive treatment:⁴²

The treatment model is based on the idea that an individual with a substance abuse program needs to address broad psychological programs beyond its drug dependence. A therapeutic community is a phased program and participants become increasingly involved in helping run the program as they progress through stages. The therapeutic approach is confrontational with both staff and clients actively confronting the dysfunctional behaviours and attitudes of others in the program in daily group therapy sessions.

Therapeutic communities have been found to be the most effective treatment model in a prison setting with studies finding "relatively consistent reductions in recidivism and

ceasing for a period of time and group sizes being reduced due to room capacity restrictions: Email correspondence received from Department of Justice Deputy Secretary Kristy Bourne on 23 September 2021.

³⁸ Department of Justice, *Budget Estimates Brief* (June 2022) at 3.

³⁹ Email correspondence received from Department of Justice, Deputy Secretary Kristy Bourne on 23 September 2021 and email correspondence from Tasmanian Prison Service, Intervention and Reintegration Services Assistant Director Sarah Peart on 9 September 2022.

⁴⁰ Custodial Inspector of Tasmania, *Inspection of Adult Custodial Services in Tasmania 2017 - Care and Wellbeing Inspection Report* (October 2018) at 101.

⁴¹ Sentencing Advisory Council, *Mandatory Treatment for Alcohol and Drug Affected Offenders* (Draft Research Paper No. 2).

⁴² David Wilson, 'Correctional Programs' in David Weisburd, David Farrington and Charlotte Gill (eds), *What Works in Crime Prevention and Rehabilitation: Lessons from Systematic Reviews* (Springer, 2016) 193 at 205.

alcohol and other drug use”.⁴³ Therapeutic communities also have a positive impact by “reducing inmate infractions and reducing staff absenteeism”.⁴⁴

Although therapeutic communities are recognised as the most effective way to reduce recidivism, the following right to information data highlights that less than one-third (29 per cent) of all referrals resulted in commencement.⁴⁵

Apsley Alcohol and Drug Treatment Unit

	2017-18	2018-19	2019-20	2020-21	2021-22
Referrals	49	91	69	N/A	N/A
Commenced	29	24	8	N/A	N/A
Completed	23	21	6	N/A	N/A

Almost two years ago, the Minister for Corrections announced that “the alcohol and drug therapeutic program known as Apsley was suspended in February 2020.”⁴⁶ Despite Apsley’s suspension, components of the therapeutic community program continue to be offered, with the Minister for Corrections noting that “alcohol and other drug support services are in fact being provided to prisoners on a one-on-one basis, delivered by alcohol and drug counsellors as well as other therapeutic staff”.⁴⁷

It is also worth noting that in 2021 the Minister for Corrections also announced that Apsley was in the process of being transferred to the Ron Barwick Prison, “to facilitate a larger residential therapeutic program, specifically delivered to medium- and minimum-security rated prisoners. This expanded program will accommodate 34 participants (compared to the previous 10 places)”.⁴⁸ Whilst we strongly support the intention to increase the number of participants who will be accommodated within the new Alcohol and Drug Treatment Unit it is nevertheless half of those who were assessed as eligible for the program between 2017-18 and 2019-20.

Finally, we would observe that despite the Government’s efforts to improve alcohol and other drug treatment within the Tasmanian Prison Service many persons continue to miss out. For example, a review of decisions of the Parole Board of Tasmania during 2022 found that 20 per cent of successful applications had not received alcohol and other drug treatment whilst in prison (see Annexure A).⁴⁹

⁴³ Jarryd Bartle, Steven Bothwell, Nicole Lee and Linda Jenner, *What Works. Alcohol and other drug interventions in prisons* (360Edge: 2021) at 25. Also see David Wilson, ‘Correctional Programs’ in David Weisburd, David Farrington and Charlotte Gill (eds), *What Works in Crime Prevention and Rehabilitation: Lessons from Systematic Reviews* (Cambridge: 2016) 193 at 205.

⁴⁴ David Wilson, ‘Correctional Programs’ in David Weisburd, David Farrington and Charlotte Gill (eds), *What Works in Crime Prevention and Rehabilitation: Lessons from Systematic Reviews* (Springer, 2016) 193 at 205.

⁴⁵ In a Right to Information response received from the Department of Justice it was noted that in 2019-20 and 2020-21 the program was severely impacted by Covid-19 which resulted in program participation ceasing for a period of time and group sizes being reduced due to room capacity restrictions: Email correspondence received from Department of Justice Deputy Secretary Kristy Bourne on 23 September 2021.

⁴⁶ Tasmanian Parliament, *House of Assembly Hansard*, 29 June 2021.

⁴⁷ Minister for Corrections, ‘Drug and alcohol treatment services continue within the TPS’, Media Release, 2 August 2021.

⁴⁸ *Ibid.*

⁴⁹ Of the 80 successful applications to the Parole Board of Tasmania during 2022, 16 applicants were granted parole despite the Board noting that they had not received any alcohol and other drug treatment: ‘Parole Board of Tasmania – Decisions for 2022’. As found at

Recommendation: That alcohol and other drug treatment including therapeutic communities is available for all those with problematic drug use.

Exit Planning

There are very few persons who will not need stable accommodation or alcohol and other drug treatment or other supports upon their release from prison. Tasmania's Prison Service recognises the need for ongoing support through its commitment to providing persons exiting prison with an exit plan coordinated by a case manager. Exit plans are defined as:⁵⁰

basic reintegration plans for sentenced prisoners which are to be reviewed only as required up until six weeks before a prisoner's scheduled release. Within six weeks of scheduled release, the review is to occur weekly to assist the prisoner to access relevant services upon their release.

In practice, the Office of the Custodial Inspector has reported that there is a significant wait list for case management and "it is a common occurrence that prisoners are released before reaching the top of the waiting list and therefore receive no assistance prior to release".⁵¹ This was corroborated in the 2020 *Prison Survey* which found that 55 per cent of persons who were due to be released within three months were not receiving any assistance.⁵²

It is also of concern that "there is little to no case management of remand prisoners and prisoners who are serving a sentence of six months or less",⁵³ and that correctional officers are responsible for exit plans for this cohort. As the Custodial Inspector has noted, correctional officers are not trained as case managers, may be redeployed making it difficult to access assistance and often "did not encourage and were not encouraged to undertake case management work".⁵⁴ With more than 3 out of 5 (63 per cent) of Tasmania's prison population either on remand or serving sentences of less than six months,⁵⁵ we strongly recommend that everyone exiting prison is provided with a case manager to assist with accommodation, alcohol and other drug treatment.

Parole

The failure to ensure an appropriate number of case managers means that persons exiting prison are not provided with the supports they need upon their release. This also extends to the parole process with the lack of assistance meaning that persons are being imprisoned for longer with individuals unaware of the restrictions likely to be imposed

<https://www.justice.tas.gov.au/paroleboard/decisions/2022> (accessed 14 April 2023). Also see the Custodial Inspector's most recent Annual Report where concern was expressed at "the lack of drug and alcohol treatment programs for all prisoners": Custodial Inspector of Tasmania, *Annual Report 2021-22* (August 2021) at 21.

⁵⁰ Office of the Custodial Inspector, *Rehabilitation and Reintegration Inspection Report* (March 2018) at 13.

⁵¹ *Ibid* at 15.

⁵² Custodial Inspector of Tasmania, *Prison Surveys 2020* (July 2021) at 71.

⁵³ Office of the Custodial Inspector, *Rehabilitation and Reintegration Inspection Report* (March 2018) at 13.

⁵⁴ *Ibid* at 13-14.

⁵⁵ According to the Australian Bureau of Statistics, in 2022 there were 416 persons in prison who had been sentenced and 207 that were unsentenced. Of those that had been sentenced, 58 persons were serving terms of imprisonment of six months or less: Australian Bureau of Statistics, *Prisoners in Australia, 2022*, Tables 14 and 26.

upon them by the Parole Board in their search for accommodation, employment and other supports.

Case Study: Olivia Montgomery

50-year-old Olivia Montgomery had her own home and full-time employment before having her life uprooted, losing both her home and job after being imprisoned for around two decades. On appeal, Olivia successfully had the sentence overturned with a lesser charge and sentence imposed in its place. As a result, Olivia was able to immediately apply for parole.*

Her first application for parole was pulled by the parole board seven days prior to the scheduled hearing and not heard as they would not approve her choice of accommodation and she was told they would not have time to assess another option in time. It then took three months to get another hearing date (total of six months after being granted eligibility by this point) even though she had alternate options within an hour of being told.

Olivia was not aware that as a result of the crime committed, it was very likely that she would have area restrictions put in place on where she could live, including a large municipality with 30 suburbs. Olivia was granted parole at the second hearing and at this point was informed about the area restrictions. Olivia was frustrated that no-one in the prison had let her know that she would probably be excluded from living in particular suburbs as this would have been valuable information in her search for appropriate accommodation.

Olivia believes that she is one of the lucky ones as she came from a relatively stable background with lots of family and friend support. She strongly believes that the lack of housing means that many women exiting prison are returning to violent relationships because they have nowhere else to go, taking drugs to medicate themselves and in some cases turning to sex work. Olivia strongly believes that accommodation must be available for all women exiting prison so that they can have their children returned to them and also sort out their lives.

Recommendation: That exit planning is provided by case managers and is available to all persons exiting prison including persons on remand.

That appropriate support is provided to persons applying for parole, to improve the chances of parole being granted

If we can be of any further assistance, please do not hesitate to contact us.

Yours faithfully,



Benedict Bartl
Policy Officer
Community Legal Centres Tasmania



Don McCrae
Chief Executive Officer
JusTas

**Case study names have been changed*

Annexure A
Successful parole applicants who had not received alcohol and other drug treatment in 2022

Cameron MacDonald	<i>Clearly, the major concern regarding the applicant's suitability for parole relates to his ability to remain drug free in the community and associated risk of re-offending. Due to the length of his sentence [20 months] and operational restrictions, the applicant has not been able to access any therapeutic intervention during incarceration.</i>
Robert Brown	<i>Unfortunately, due to waitlisting the applicant has not had access to any therapeutic intervention but has expressed a desire to engage with alcohol and drug counselling if released to parole.</i>
Jay Reed	<i>Efforts he has made to access therapeutic programs addressing his criminogenic risks have unfortunately been unsuccessful to date. He has been waitlisted for the EQUIPS Foundation, Addiction and Aggression groups, the Family Violence Offender Intervention Program and Alcohol and Drug Counselling.</i>
Mark Nicholas	<i>He has, however, been unable to access therapeutic courses remaining on the waiting list for Equips Foundation and Gottawanna courses.</i>
Mark Bird	<i>The applicant has been motivated to engage in therapeutic programs however, unfortunately, remains on the wait list for Gottawanna and Equips Foundation and Addiction programs.</i>
Nicholas Barrett	<i>It is unfortunate that due to his initial accommodation at the Hobart Reception prison and now in the medium precinct, the applicant has not been able to access appropriate therapeutic interventions to address his offending and drug use.</i>
Joshua Darling	<i>Although the applicant has not had access to therapeutic programs while in custody, he recently commenced individual alcohol and drug counselling...</i>
Mitchell Campbell	<i>He has not, however, had the opportunity to engage in any further therapeutic courses or release planning largely due to matters beyond his control.</i>
Scott Gazzignato	<i>The current application for parole first came before the board in September 2018. Since that time, it has intermittently come before the Boar over the years and been adjourned due to the lack of suitable accommodation and/or the need for the applicant to focus on good behaviour whilst in the custodial environment.</i>
Cody Cartledge	<i>Despite limited access to drug treatment in the past and in custody due to continuous lockdowns and COVID-19 responses, information provided to the Board suggests the applicant is motivated and willing to work with Community Corrections to improve his behaviour.</i>
Hayden Stone	<i>Due to COVID-19 related operational limitations and associated lockdowns, the applicant's current maximum classification and previous medium classification has affected his ability to participate in therapeutic interventions to</i>

	<i>address his aggressive behaviour and responses in the custodial setting.</i>
Dylan Cocker	<i>As a consequence of the applicant's security rating, he has not been able to access any therapeutic interventions but has participated in brief counselling from the prison's intervention officer and remains on the wait list for alcohol and drug counselling.</i>
Shaun Dennison	<i>He has remained on a wait list for Drug and Alcohol Counselling since June 2021.</i>
Jamie Clark	<i>The applicant has sought to engage in therapeutic courses in prison and had a brief intervention with Alcohol and Drug counselling but has otherwise remained on the waitlist for that intervention.</i>
Allan Blackberry	<i>The applicant has not engaged in any therapeutic input during this sentence. He has attempted to get access to drug and alcohol counselling but it was not available to him.</i>
Clint Stanisz	<i>He has requested to engage in therapeutic programs including alcohol and drug counselling and the family violence intervention program but they have not been available to him and he remains waitlisted for them.</i>

Source: Parole Board of Tasmania – *Decisions for 2022*. As found at <https://www.justice.tas.gov.au/paroleboard/decisions/2022>